

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIUBUNAL
BENCH AT NAINITAL**

Present: Hon'ble Mr. Rajendra Singh,

.....Vice Chairman (J)

Hon'ble Mr. A.S.Rawat,

.....Vice Chairman (A)

CLAIM PETITION NO. 44/NB/DB/2023

Mohan Singh Mehra (male) aged about 61 years S/o Shri Aan Singh Mehra,
R/o Village Jainoli, P.O. Pilkholi, District Almora.

.....Petitioner

Vs.

1. State of Uttarakhand through its Secretary, Department of Rural Development, Dehradun.
2. Commissioner, Department of Rural Development, Pauri, Uttarakhand.
3. Deputy Commissioner (Administration), Department of Rural Development, Pauri, Uttarakhand.
4. Chief Development Officer, Bageshwar,
5. District Development Officer, Pithoragarh..
6. Block Development Officer, Block Kapkot, District Bageshwar.
7. Chief Agriculture Officer, Bageshwar
8. District Magistrate, Bageshwar.

..... Respondents

Present: Sri Anil Anthwal, Advocate, for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents

JUDGMENT

DATED: DECEMBER 08, 2025

Per: Hon'ble Sri A.S.Rawat, Vice Chairman (A)

By means of present claim petition, the petitioner seeks the following reliefs:

“(i) To quash and set-aside the impugned order dated 29.08.2014 passed by the Chief Development Officer, Bageshwar and the suspension order dated

07.09.2013 passed by the Chief Development Officer, Bageshwar and the order dated 05.12.2017 passed by Commissioner, Rural Development, Pauri as well as communication / letter dated 13.06.2019 issued by Deputy Commissioner Rural Development Uttarakhand, Pauri and further any proceeding to the communication dated 13.06.2019 so far relates to the petitioner (contained as Annexure No.1 to the claim petition).

(ii) To direct the concerned respondents to give the full pay and allowance for the post of Assistant Block Development Officer with all the consequential benefits to the petitioner in accordance with law with interest.

(iii) To pass any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.

(iv) To award the cost of the petition in favor of the petitioner."

2. The brief facts of the case are as under:

2.1 The petitioner was appointed on the post of Gram Sewak (now Village Development Officer) in Rural Development Department in the erstwhile State of UP. He was promoted as Assistant Block Development Officer by the department. On 20.06.2013, the petitioner submitted a letter /application in furtherance of letter No. 155/Stha/M.S.Mehra/ABDO/2013-14 dated 12.06.2013 to the Block Development Officer, Kapkot, Bageshwar i.e. Respondent No. 6 stating that grave mismanagement is being committed at the Departmental level in the District and the petitioner is being made a scapegoat and false and frivolous charges are being made against him in the name of bogus tours and also submitted that arrears of ACP Packages were not being paid in spite of his approximately 60-70 written representations submitted to Respondent No. 6 with copies served to the Respondent No. 2 i.e. the Commissioner, Rural Development and the Respondent i.e. the District Magistrate, Bageshwar despite the fact that in 94 areas payments of arrears were already been made before 5 to 6 months. Besides the above some other irregularities were pointed out by the petitioner and it was

pointed out that the system at the Block level was completely monopolized in one hand without any checks and balances.

2.2 On 12.07.2013 a letter no. 1234/2-2-to Chief Stha.(107)/Sahaa.Kha. Vi.Aa/was sent to Chief Development Officer, Bageshwar from the office of the Commissioner, Rural Development, Uttarakhand, Pauri and after giving reference to the letters submitted by District Magistrate, Bageshwar (Letter No. 731/dated 2 July, 2013, Member of Legislative Assembly, Legislative Assembly area Kapkot and one Shri Praveen Singh Koranga, District Chairman, Pradhan of Association, Bageshwar and Chief Development Officer, Bageshwar was delegated the power for conducting disciplinary proceedings against the petitioner after conducting proper inquiry. It is the settled position of law that the delegated powers cannot be delegated, but the power delegated to CDO has again delegated and the entire proceeding is illegal.

2.3 On 07.09.2013 vide the order bearing No.1300/Stha./Sh.Kha.Vi.Aa./2013-14, the concerned Chief Development Officer in turn passed a suspension order in utter disregard to the powers delegated to him and framed the charges on the basis of his own whims and fancies without application of mind in an arbitrary manner and without conducting proper enquiry. The Chief Agricultural Officer, Kapkot was appointed as inquiry officer to conduct the inquiry in the matter in pursuance to the suspension order dated 07-09-2013 without any authorization letter or written delegation of power.

2.4 On 12.02.2014 vide the letter bearing No. 1604/Janch/Aarop Patra/Sa. Kha. Vi.Aa-Kapkot/2013-14 the Chief Agricultural Officer, Bageshwar/Inquiry Officer submitted the detailed charge sheet on the basis of mere allegations made by some of the persons in the department and by some local persons and on the basis of an F.I.R. lodged in the Police Station, Kapkot. The petitioner was asked to submit his written clarification in respect of the charges in defense.

2.5 The petitioner submitted his detailed clarification in the respect of the charges leveled against him and specifically denied any wrong doing on his part.

2.6 On 03.07.2014, the Chief Development Officer sent a notice to the petitioner and on the basis of the inquiry report by which all the charges as alleged against the petitioner were said to have been proved. The inquiry officer in his report himself submitted with respect to the Charge No.6 as leveled against the petitioner that the said charge is not proved pending investigation in the matter, yet the Chief Development Officer ignoring this fact in a hasty and prejudicial manner declared all the charges as proved against the petitioner.

2.7 On 29.08.2014 the Chief Development Officer passed the final punishment order against the petitioner vide the letter bearing No. 959/Stha./Vya.Pa.-Shri Mohan Singh Mehra/Sa. Kha. Vi.Aa/2013-14 and convicted the petitioner in respect of all the charges leveled and threefold punishment was pronounced against him as follows:-

(i) The petitioner was reversed to his primary posting at the post of Village Development Officer with the minimum pay scale from the post of Assistant Block Development Officer.

(ii) The petitioner was denied the pay for the period of suspension.

(iii) The said punishment shall be marked in the service book of the petitioner in red ink.

2.8 On dated 02.07.2015 and 09.06.2016 respectively vide the orders passed by Chief Judicial Magistrate, Bageshwar in two corresponding criminal cases i.e. Criminal Case No. 350 of 2013 and Criminal Case No. 232 of 2014, the charges against the petitioner were not made out under Section 81 of Uttarakhand Police Act and Section 403 IPC respectively and was acquitted.

2.9 On 22.09.2017 the petitioner submitted a representation to the Additional Commissioner, Directorate of Rural Development,

Pauri requesting that punishment given by the Chief Development Officer should be relaxed taking in view of the facts and circumstances of the case and after that the petitioner would himself apply for voluntary retirement with all due respect to everyone in the department. The Commissioner, Rural Development, Pauri turned down the representation dated 22-09-2017 along with all other representations submitted by the petitioner vide order dated 05.12.2017.

2.10 The petitioner submitted for the voluntary retirement on 01-06-2018 and on 31-08-2018. The petitioner was given retirement from the government service vide the letter No. 2221/33-Stha/Swa.Se.Ni/2018-19 dated 03.08.2018.

2.11 The Commissioner, Rural Development, Pauri failed to understand the fact that the petitioner was not found guilty for the criminal charges leveled against him by the Judicial Magistrate, Bageshwar, therefore, according to service rules the punishment given to the petitioner was unjustified because it was based primarily on these criminal charges and the petitioner ought to have been given full pay and allowances with all the consequential benefits after setting aside the threefold punishment pronounced against him.

2.12 After imposing major penalty, the petitioner has only option to take the V.R.S. from the department. The C.D.O. firstly reversed to the primary posting and made the Red ink entries in the service book of the petitioner.

2.13 The petitioner preferred review application before the Commissioner, Rural Development against the judgment and order dated 05.12.2017 (Under section 14 of the Uttaranchal Government servant Discipline and Appeal Rule, 2003) on 18.12.2018. The Commissioner, Rural Development without going into the merit called the comments from the D.D.O., Bageshwar, the D.D.O., Bageshwar wrongly stated in its comments the alleged FIR which has been lodged against the petitioner in which the said matter has been decided against the petitioner beyond any evidence and wrongly stated that

the review application is time barred. The Commissioner Rural Development without going into the merit of the case supplied the point wise report to the petitioner which has been no such meaning. The review application which is preferred as per the provision given in the statute. The petitioner sought the information from the P.S. Kapkot, Bageshwar, the SHO, P.S. Kapkot in its reply it has been mentioned that the petitioner has been acquitted by the court of Learned C.J.M. on 09.06.2016.

2.14 The petitioner has filed writ petition for the same or ancillary relief before the Hon'ble High Court of Uttarakhand at Nainital by way of writ petition no.2783 of 2019 (S/S) and which came up for hearing on 15.06.2022 and the Hon'ble High Court was pleased and directed the petitioners/applicants to approach for redressal of their grievances before the Learned Public Service Tribunal.

3. Opposing the claim petition, the respondents no. 1,2,3,4,6 & 8 filed C.A./W.S. Whereas, respondent no. No. 5 has filed a separate C.A./W.S. In the C.A./W.S. filed on behalf of respondents No. 1,2,3,4,6 & 8, it has been stated that-

3.1 In the year 2013, Shri Mohan Singh Mehra (Petitioner) was serving as Assistant Block Development Officer in Kapkot Development Block under the Chief Development Officer, Bageshwar. During his service, he was found guilty and a punishment order No. 1300/Stha./SA/VI/AA/2013-14 dated 07-09-2013 was passed against him after duly issued charge sheet against him. He was suspended. During his service, the petitioner was absent from office by submitting false tours, records were tampered with and overwritten. He corresponded with senior officials using indecent and offensive language; stole Govt. solar panels; continuously obstructed government work and misbehaved with a female of village head after consuming alcohol. Thus, petitioner found guilty of Govt. theft, continuous obstruction of government work, and misconduct. The then Chief Agriculture Officer, Bageshwar, conducted an inquiry on the charges levelled against the petitioner. The enquiry officer found the

petitioner guilty of all the charges. On the basis of the office letter number-1234/2-2/Stha./(107) Sa.Kh. Vi.A./2013-14 dated 02.07.2013 of the Commissioner, Rural Development, Pauri and provisions under Government Order no-412 dated 29-12-2001, the Assistant Block Development Officer, i.e. the accused employee, Shri Mehra, Assistant Block Development Officer, was reverted to his original post of Village Development Officer after being suspended and it was clarified in the second paragraph of the reversion order that Shri Mehra will not be paid salary for the period of suspension.

3.2 All the representations or any departmental appeal submitted by the petitioner were dismissed by the Commissioner, Rural Development, Uttarakhand after due consideration vide order dated 05.12.2017. The petitioner submitted a review to the Commissioner, Rural Development Uttarakhand, which was forwarded to the Chief Development Officer, Bageshwar. The Chief Development Officer disposed of the same on 14-02-2019. In his case, the Chief Agriculture Officer, Bageshwar, was appointed as the Inquiry Officer and the inquiry was conducted by him as per law. A charge sheet was issued to the petitioner along with evidence, in which he did not provide any lawful reply/explanation. The petitioner acted in a highly irresponsible manner while performing his official duties, and his acts were of very serious nature.

3.3 The Commissioner for Rural Development, Pauri, the appellate authority found that the punishment order passed by the Chief Development Officer, Bageshwar, was based on the facts and the petitioner's appeal was disposed of. The petitioner being found guilty of continuous indiscipline and violating the Discipline and Appeal Rules. He was reverted to his original post from the promoted post. The Additional Commissioner, Rural Development, Pauri also, after scrutiny of the review application filed by the petitioner under Section Rule 14 of the Govt. Servants Uttarakhand Employees Conduct Rules and Appeal Rules, 2003, found the him guilty. The petitioner is not entitled to get any relief and the claim petition is liable to be dismissed.

4. The respondent no. 5 in his C.A./W.S. has stated that as per the application dated 01.06.2018 submitted by the petitioner to the Appointing Authority/District Development Officer, Pithoragarh, in view of physical disability and domestic circumstances, a request was made for voluntary retirement from 31.08.2018 by submitting a disability certificate and an affidavit in a non-judicial bond of Rs. 10. In this regard, under the Fundamental Rule 56 (c) of Financial Hand Book Volume 2, Parts 2 to 4 and the relevant G.O. No. 844/Personnel-2-2002 dated 09.04.2003 of the Personnel Department, the petitioner on his request, was voluntarily retired from 31.08.2018. It is totally false and misleading that the petitioner was harassed and got retired. The petitioner himself had applied for voluntary retirement, and he was retired in accordance with the relevant rules and government orders.

5. The petitioner has also filed R.A. denying the contents of the C.A./W.S. and he reiterated the averments made in the claim petition.

6. We have heard Learned Counsels for the parties and perused the record carefully.

7. Learned Counsel for the petitioner argued that the Commissioner, Rural Development is the Appointing Authority for the petitioner (Asstt. Block Level officer) as mentioned in the Uttarakhand Assistant Block Development Officer (Non-gazetted) Service Rules, 2016. The Commissioner, Rural Development ordered to the Chief Development Officer, Distt. Bageshwer vide letter dated 12/07/2013 to initiate Disciplinary proceeding against the petitioner in respect of various allegations against him from fellow employees, Public representatives etc. The Chief Development Officer, Bageshwer appointed Chief Agriculture officer, Bageshwer as Inquiry officer and who issued the Charge Sheet also, which has been countersigned by the Chief Development Officer. As the Commissioner is the Appointing Authority in case, the Charge sheet should have been signed by the Commissioner as per provisions of the Discipline Appeal Rule, 2010. But the Commissioner Rural Development, Uttarakhand as per the aforesaid letter asked the CDO to take action in the matter after

conducting enquiry. Learned Counsel for the petitioner has further argued that the petitioner has been charged with some of the charges which are based on the charges mentioned in the criminal case No 350/2013 and 232/2014. He has been exonerated in both the cases by the Chief Judicial Magistrate, Bageshwer. Despite that the petitioner has been awarded punishment by the Chief Development Officer Bageswer and the Commissioner Rural development upheld the decision of Chief Development Officer. The enquiry is vitiated as the charge sheet has not been issued by the Appointing Authority. The impugned orders dated 29/8/2014 of the Chief Development Officer Bageshwer and order dated 05/12/2017 of the Commissioner, Rural Development are liable to be quashed and the claim petition is liable to be allowed.

8. Learned A.P.O. argued that disciplinary proceeding has been initiated against the petitioner, he was charge sheeted, all the charges against him were proved and he was given punishment of reversion to the original post of Village Development Officer. His appeal was rejected by the Commissioner, Rural Development Uttarakhand, the Appellate Authority in this case. The revisional application of the petitioner was also rejected by the Commissioner, Rural Development which was conveyed to the petitioner by the Chief Development Officer, Bageshwer. The disciplinary proceeding against the petitioner has been initiated by the CDO as per order by the Commissioner, Rural Development in view of the directions in the Govt. letter dated 29/12/2001 of the Department of Rural development, Uttarakhand. The Enquiry has been conducted as per the procedure and before awarding the punishment, a show cause was issued to the petitioner. Regarding the plea of the petitioner that he has been exonerated by the Chief Judicial Magistrate, Bageshwer in both the criminal cases 350/2013 and 232/2014, this to submit that the petitioner has been given benefit of doubt in criminal case no. 350/2013 and in the case no. 232/2014, he has been exonerated from the criminal charges but misuse of his official position in distributing the ration meant for the natural calamities has been proved in the departmental enquiry. Even

the petitioner in one of his representations dated 02/03/2015 addressed to the Deputy Commissioner, Bageshwer requested to forgive him for the mistake committed by him. This shows that the petitioner realizes that he has committed mistakes. The petitioner has retired voluntarily on the ground of physical disability and there is no mention in his application of his being harassed which compelled him to take voluntary retirement. In view of the above the Claim petition is liable to be dismissed.

9. Based on the arguments of the parties and the documents submitted to the Tribunal we find that the petitioner was appointed as Village Level Worker (Now Village Development officer). He was promoted to post of Asstt. Village Block Development officer. The Commissioner, Rural Development Uttarakhand is the appointing authority in case of Asstt Block development Officer. The Government of Uttarakhand has delegated the power to impose major penalty against Asstt. Development Officer to Chief Development Officer vide letter dated 29/12/2001. So the Commissioner Rural Development in view of the Order dated 29/12/2001 of Government directed the Chief Development Officer (CDO), Bageshwer to initiate enquiry proceeding against the petitioner. The CDO Bageshwer got the enquiry conducted by the Chief Agriculture Officer, Bageshwer, who has issued the charge sheet which was approved and counter signed by the CDO Bageshwer. But the inquiry has been not been conducted as per procedure as the Charge-sheet for the major penalty should have been approved and signed by the Commissioner, Rural Development Department, Uttarakhand Disciplinary Authority (Appointing Authority) as per Uttarakhand Government Servants (Discipline and Appeal) Rules, 2010. The order of imposing penalty should also have been signed by the Commissioner, Rural development being the Disciplinary Authority in this case. The delegation of power vide letter dated 29.12.2001 is not as per Rule-7 of the Uttarakhand Government Servants (Discipline and Appeal) Rules, 2010 and this enquiry is vitiated because of this procedural lacuna. The Charge sheet dated 12.02.2014 issued by the Inquiry Officer and counter signed by the

Chief development Officer is liable to be quashed and the punishment order passed the Chief Development Officer, Bageshwer dated 29/8/2014 and the order of the Commissioner Rural Development, the Appellate Authority dated 05/12/2017 are also liable to be quashed. Claim petition is liable to be allowed.

ORDER

The claim petition is hereby allowed. The charge sheet dated 12/02/2014, order of the Chief Development Officer dated 29/08/2014 and the order of the Commissioner, Rural development dated 05/12/2017 are quashed. It does not serve any purpose to reinstate the disciplinary proceeding against the petitioner as he has retired 7 years back. The respondents are directed to restore the petitioner to the post of the Asstt. Block Development officer and pay him full salary of the Asstt. Block Development Officer till his retirement and pay him all the consequential benefits. No order as to costs.

RAJENDRA SINGH
VICE CHAIRMAN (J)

A.S.RAWAT
VICE CHAIRMAN (A)

DATED: DECEMBER 08, 2025
DEHRADUN
KNP