

BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIUBUNAL, DEHRADUN

Present: Hon'ble Mr. A.S. Rawat
.....Vice Chairman (A)

CLAIM PETITION NO. 85/SB/2023

Keshav Prasad Raturi aged about 62 years S/o Late Shri Lalita Prasad Raturi
R/O R/28/14, Narayan Vihar, THDC Colony, Phase – Kargi Road, Dehradun.

----- Petitioner

Vs.

1. State of Uttarakhand through Secretary Forests. Government of Uttarakhand, Secretariat, Subhash Road, Dehradun
2. Principal Chief Conservator of Forest, Human Resource Development and Personnel Management, Govt. of Uttarakhand, Dehradun.
3. Chief Conservator of Forests, Garhwal Division, Pauri, Uttarakhand
4. Conservator of Forests Bhagirathi Circle, Munin ki Reti.
5. Divisional Forest Officer, Forest Division, Tehri Dam Second Uttarkashi.

.....Respondents

Present: Sri L.K.Maithani, Advocate, for the petitioner
Sri V.P.Devrani, A.P.O. for the respondents

JUDGMENT

DATED: JANUARY 07, 2026

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

"i. To quash the impugned punishment order dated 28.10.2017 and 27.11.2019 of respondent no.4 and Appellate Order dated 29.06.2019 and 17.02.2021 of respondent no. 3 with its effect and operation.

ii. To issue an order or direction to the concerned respondents to return and pay the amount of Rs. 14,24,486/- recovered from the retiral dues i.e. from the amount of gratuity and commutation of the petitioner on the basis of the impugned order dated 27.06.2019 to the petitioner with interest as per GPF rate since the date of retirement upto the date of actual payment.

iii. To issue any other suitable order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstance of the case.

iv. To award the cost of the case."

2. The brief facts of the case are that-

2.1 While the petitioner was posted as In-charge Range Officer, Shivpuri Range, Muniki Reti, Narendra Nagar Forest Division, a disciplinary proceeding was initiated against him vide letter dated 22/07/2014 by the Conservator of Forests, Bhagirathi Circle in respect of the forestry works done in the year 2013-14.

2.2 The DFO Tehri Dam, Division (1st) was appointed Inquiry officer in the matter vide letter dated 22/07/2014 by Conservator of Forests, Bhagirathi Circle, and he submitted report as per the provisions of the Uttarakhand Govt. Servants (Discipline and Appeal) Rules, 2003 vide letter dated 19/11/2016.

2.3 The Conservator of Forest disposed of the above enquiry vide order dated 28/10/2017 in which the petitioner was exonerated from all the charges but he was ordered to deposit royalty amount of Rs. 3,21,083/- in the revenue account for use of the mineral in the construction of the elephant proof wall.

2.4 In this case, Inquiry officer was appointed on issuance of the charge sheet, the charge sheet was issued by the enquiry officer and approved by the Conservator of forests. The inquiry officer served the charge sheet and reply of the charges was considered by the inquiry officer. The petitioner filed an appeal before the Chief Conservator of Forests, Garhwal, against the order dated 28/10/2017 and the recovery, which was modified by the Appellate Authority to Rs 180881/- only vide order dated 29/06/2019.

2.5 Another charge sheet was issued to the petitioner vide the order dated 23/04/2015 by the Conservator of forests, Bhagirathi Circle under the Uttarakhand Govt. Servants (Dicipline and Appeal) Rules, 2010 and the DFO, Uttarkashi was appointed enquiry officer. There were nine charges against the petitioner and the Charge sheet was issued by the enquiry officer after the approval by the Disciplinary Authority. One of the charges in this charge sheet was of the earlier charge sheet dated 22/7/2014 for which the punishment has been awarded by the Disciplinary authority vide order dated 28/10/2017. The petitioner submitted his reply vide letter dated 01/8/2016 to the enquiry officer.

2.6 The enquiry officer submitted the enquiry report to the disciplinary authority vide letter dated 08/08/2017. The copy of the enquiry report was sent to the petitioner vide letter dated 16/03/2018 by the Disciplinary Authority and he submitted his reply vide letter dated 02/04/2018 stating that the petitioner was not given sufficient opportunity to defend himself.

2.7 The Disciplinary Authority (Conservator of Forests, Bhagirathi Circle, Uttarakhand, Muniki Reti) passed an order dated 27.11.2019, whereby the liability of Rs. 14,24,486/- was fixed against the petitioner and the said amount was directed to be recovered from the pensionary benefits of the petitioner.

2.8 Aggrieved by the said order, the petitioner filed a Writ Petition (S/S) No.2852 of 2019 in the Hon'ble High Court of Uttarakhand at Nainital which was decided by the Hon'ble High Court with directions to file appeal before the Appellate Authority and Appellate Authority was directed to decide such appeal if filed by the petitioner within three months.

2.9 The petitioner submitted an appeal before the Chief Conservator of Forests, Garhwal on 14/11/2020 and refuted all the charges against him and requested him to quash the order of the disciplinary authority.

2.10 The Chief Conservator of Forests vide order dated 17/02/2021 upheld the order dated 27/11/2019 of the Conservator of Forests, Bhagirathi Circle regarding recovery of Rs. 14,24,486/- from the pensionary benefits.

3. The respondents submitted the C.A./W.S. opposing the claims of the petitioner and accepted only those facts which are mentioned in the counter affidavit.

4. The petitioner has also filed R.A. to the C.A/W.S. filed on behalf of the respondents, in which the petitioner has reiterated the averments made in the claim petition.

5. Heard learned Counsel for the parties and perused the record carefully.

6. Learned counsel for the petitioner argued that the petitioner was issued chargesheet for major punishment on 23/04/2015, enquiry officer was appointed, who submitted the inquiry report without giving opportunity

to defend the petitioner by not supplying all the documents required for submitting reply and also not giving opportunity to cross examine some of the witness. The Disciplinary Authority after issuing the charge sheet got the inquiry conducted separately by the S.D.O., who also submitted his report. Another inquiry was conducted by the CDO, Narendra Nagar in respect of the charges related to construction of a bridge and repairing of the road. The petitioner was not given an opportunity to remain present in these enquiries and these enquiries were conducted in the back of the petitioner. The disciplinary authority has used the findings of these two reports while awarding punishment. The inquiry officer was appointed with the issuance of the charge sheet to the petitioner as against the Rule -7 of the Uttarakhand Govt. Servants (Discipline and Appeal) Rules, 2003 and the amended Rules of 2010. The reply of the charge sheet was submitted to the enquiry officer rather than to the Disciplinary Authority as per the order of the disciplinary authority. So, the disciplinary proceedings initiated vide order dated 22.07.2014 and order dated 23.04.2015 are vitiated due to the procedural lacuna. He has further argued that the impugned orders dated 28.10.2017 and 27.11.2019 of the Disciplinary Authority and order dated 29.06.2019 and 17.02.2021 of the Appellate Authority are liable to be quashed and claim petition is liable to be allowed.

7. Learned A.P.O. argued that the petitioner has been issued charge sheets dated 22.07.2014 and dated 23.04.2015 as per Rules. There was no requirement of cross- examination of the witness. The petitioner has been supplied all the documents which were required by him in his defense, and he has been given the copy of the enquiry report to submit reply before the final decision taken by the Disciplinary Authority. In view of the above, it is amply clear that the enquiry has been conducted as per procedure and the claim petition is liable to be dismissed.

8. On the basis of the above discussion, the Tribunal finds that the petitioner has been issued charge sheet vide orders dated 22.07.2014 and 23.04.2015 of the Disciplinary Authority. While issuing charge sheet, the Disciplinary Authority appointed DFO, Tehri Dam (1st Div) as an enquiry officer in the first case and in the second case, DFO Uttarkashi vide order dated 23.04.2015. Even the Disciplinary Authority on the order dated 23.04.2015 has mentioned the Rule-8 of the Uttarakhand Govt. Servants

(Discipline and Appeal) Rules, 2003 as amended in 2010 while appointing DFO, Uttarkashi as enquiry officer. The appointment of the enquiry officers, simultaneously issuing the charge sheet is against the Rule-7 of the Uttarakhand Govt. Servants (Discipline and Appeal) Rules, 2003 as amended in 2010. Even the enquiry initiated under Rule-7 may culminate with minor punishment, but the procedure for the major penalty must be followed.

9. The above disciplinary proceedings have not been conducted as per Rule- 10 of Discipline and Appeal Rules, 2003 as amended in 2010 and the same have been conducted as per Rule-7 for major penalty, but culminated with minor penalty without following the procedure for the major penalty. The Disciplinary Authority was supposed to mention in the charge sheet while initiating disciplinary proceedings whether the charge sheet is issued under Rule-7 or Rule-10 and then prescribed procedure was supposed to be followed. The disciplinary proceedings are vitiated due to procedural lacune. Hence the impugned orders dated 28.10.2017 and 27.11.2019 passed by the Disciplinary Authority and orders dated 29.06.2019 and 17.02.2021 passed by the Appellate Authority are liable to be quashed. The amount of Rs 14,24,486/-which has been recovered from the pensionary benefits of the petitioner is liable to be refunded to the petitioner.

ORDER

The claim petition is hereby allowed. The impugned orders dated 28.10.2017 and 27.11.2019 of the Disciplinary Authority and order dated 29.06.2019 and 17.02.2021 of the Appellate Authority are hereby quashed. The respondent authorities are directed to refund the amount of Rs 14,24,486/- to the petitioner within 3 months of presentation of certified copy of the judgement. However, the Disciplinary Authority is at liberty to reinitiate the disciplinary proceedings against the petitioner. No order as to costs.

A.S.RAWAT
VICE CHAIRMAN (A)

DATED: JANUARY 07, 2026

DEHRADUN

KNP