

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
AT DEHRADUN**

Present: Hon'ble Mr. Justice U.C.Dhyani

----- Chairman

Hon'ble Mr. Arun Singh Rawat

-----Vice Chairman (A)

CLAIM PETITION NO.14/SB/2026

Sri Sarvesh Kumar, s/o Sri Janeshwar Dayal, Additional Sub-Insepector,
Presently posted at ISBT Police Chowki.

.....Petitioner

vs.

1. The Secretary Home Department, Govt. of Uttarakhand, Dehradun.
2. The Additional Director General of Police, Uttarakhand, Dehradun
3. The Inspector General of Police, Garhwal Range, Dehradun.
4. The Deputy Inspector General of Police, Garhwal Range, Dehradun.
5. The Senior Superintendent of Police, District-Dehradun.

.....Respondents

Present: Sri Uttam Singh, Advocate, for the petitioner.
Sri V.P.Devrani, A.P.O., for the Respondents.

JUDGMENT

DATED: JANUARY 19, 2026

Justice U.C.Dhyani (Oral)

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

“I. To set aside the order dated 02.10.2025 wherein the respondent
appellate authority rejected the appeal on the ground of delay
(Annexure A-1).

II. condone the delay in the interest of justice and allow the petitioner to file fresh appeal which is annexed herewith as)Annexure: A-2) wherein the appeal has been rejected on the ground of time barred.

III. Any other relief the Hon'ble Tribunal may deem fit in the circumstances of the case.

VI. Award the cost of the claim petition to the petitioner."

2. Petitioner was appointed as Constable in the Uttarakhand Police and subsequently got promoted. He was awarded with the punishment of 'censure' on 31.07.2023 by the SSP, Dehradun. (Annexure: A-4). Petitioner filed a departmental appeal against the impugned punishment order of 'Censure' before the I.G., Police, Garhwal Range, appellate authority (Copy of departmental appeal is enclosed as Annexure: A-3). The said departmental appeal was rejected by the appellate authority *vide* order dated 02.10.2025, on the ground of delay. It is the submission of Ld. Counsel for the petitioner that the appeal was rejected on technical ground.

3. Ld. A.P.O. submitted that although the claim petition has been filed within time from the date of order dated 02.10.2025 passed by the Ld. Appellate authority, which was not decided on merits and was dismissed on the ground of delay, but the first impugned order was passed on 31.07.2023. and there is delay in filing the departmental appeal. He also submitted that legally there is no flaw in the appellate order whereby the departmental appeal was not entertained on the ground of delay.

4. The Tribunal has noticed that there might be delay in filing the departmental appeal, but there is no delay in filing the claim petition, which has been filed within a year of the date of appellate order.

5. Ld. Counsel for the petitioner prayed that a direction be given to the appellate authority to decide the departmental appeal of the petitioner, on merits, in accordance with law.

6. Section 5 of the Limitation Act, 1963 is always applicable to the Appeals and Applications (and not the Suits). Such provision reads as below:

“Extension of prescribed period in certain cases- Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period, if the appellant or the applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within such period.”

7. One should not forget that the delay in filing the appeal can always be condoned, on showing sufficient cause and the appeal should, as far as possible, be decided, on merits, as per law.

8. Ld. Counsel for the petitioner submitted that delay in filing the departmental appeal occurred because petitioner met with an accident due to which he remained hospitalized, therefore, he could not file the departmental appeal on time. Such reason of delay, *prima-facie*, seem to be plausible and the appeal should be decided on merits.

9. Considering the facts noted above, the Tribunal is deems it proper to condone the delay in filing the appeal, in the interest of justice, for, after all, the appellate authorities also perform quasi- judicial functions and delay in filing the Appeals may be condoned under Section 5 of the Limitation Act, 1963.

10. It may be noted here that Hon’ble Supreme Court has held, in a catena of decisions, that:

"1. Ordinarily a litigant does not stand to benefit by lodging an appeal late.

2. Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.

3. "Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.

4. When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.

5. There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.

6. It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so.

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Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, may be admitted after the prescribed period, if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period praying for condonation of delay. The Courts, therefore, have to be informed with the spirit and philosophy of the provision in the course of the interpretation of the expression "sufficient cause". So also the same approach has to be evidenced in its application to matters at hand with the end in view to do even handed justice on merits in preference to the approach which scuttles a decision on merits. Turning to the facts of the matter giving rise to the present appeal, we are satisfied that sufficient cause exists for the delay."

11. Howsoever grave the allegations against the petitioner might be, it is settled law of the land that every *lis*, as far as possible, should be decided on its merits, unless a person sleeps over his rights. As has been stated above, Section 5 of the Limitation Act, 1963 is always applicable to the Appeals and Applications (and not the Suits). Departmental appeal, in the instant case, has been held to be barred by limitation. Propriety demands that same should be heard and decided on merits.

12. This Tribunal, therefore, in the peculiar facts of the case, deems it appropriate to relegate the matter to the appellate authority for deciding the departmental appeal of the petitioner, on merits, in accordance with law.

13. Appellate Order dated 02.10.2025 passed by IG, Police, Garhwal Range, Respondent No.3 (Annexure: A-1) only, is set aside for deciding the departmental appeal on merits. The claim petition is, accordingly, disposed of at the admission stage by directing the appellate authority to decide the departmental appeal of the petitioner, which is against the impugned order dated 31.07.2023 (Annexure: A-4), on merits, at an earliest possible, without unreasonable delay, in accordance with law.

14. It is made clear that the Tribunal has not expressed any opinion on the merits of the case. Condoning the delay in filing the departmental appeal, in the instant case, does not mean that the Tribunal has found some merit in the case of the claim petitioner. The delay has been condoned simply to get the justice done on merits rather than to scuttle the same on the technical ground of delay.

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

(JUSTICE U.C.DHYANI)
CHAIRMAN

DATE: JANUARY 19, 2026
DEHRADUN

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