

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

Present: Hon'ble Mr. Rajendra Singh

----- Acting Chairman

Hon'ble Mr. Arun Singh Rawat

-----Vice Chairman (A)

CLAIM PETITION NO. 87/DB/2022

Sri Arun Kumar Goel, aged about 59 years, s/o Sri Pooran Mal Goel, r/o Mahadev Vihar, General Mahadev Singh Road, Dehradun, employed as Superintending Engineer in office of Engineer-in-Chief, P.W.D., Dehradun .

.....Petitioner

VS.

1. State of Uttarakhand through Secretary, Public Works Department, Govt. of Uttarakhand, Secretariat, Dehradun.
2. Engineer-in-Chief and Head of the Department, Public Works Department, Dehradun, Uttarakhand.

.....Respondents

Present: Sri Arun Kumar Goel, petitioner.
Sri V.P. Devrani, A.P.O. for Respondents.

JUDGMENT

DATED: MARCH 11, 2026

Sri Arun Singh Rawat, Vice Chairman (A)

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

“(a) To quash the impugned censure order dated 08.08.2022 of respondent no. 01 (Annexure No. A-1 of the Claim Petition) with directions to the respondents to grant all consequential benefits including promotions on higher posts with monetary arrears and 24% annual penal interest on arrears from due date up to the date of payment.

b) To issue an order or direction to the respondents to keep the petitioner in regular service from 31.12.2022 to the period for which the petitioner has been deprived from his fundamental right of promotion on the post of Chief Engineer Level-II and on higher posts, until the compliance of the judgment dated 08.09.2021, passed in Claim Petition no. 22/DB/2020, Arun Kumar Goel versus State and Others, is completed in all respect.

c) To issue an order or direction to the respondents to grant Rs. 30,28,523.09/- to the petitioner, which was occurred due to lowering the rates by first lowest tendered with 24% annual penal interest on it, till the date of payment.

d) To take action against the respondents and persons who have made exploitation and harassment of the petitioner and further grant sufficient compensation to the petitioner for continuous mental, physical and financial exploitation and harassment of the petitioner.

e) To punish the respondent no. 01 and the officials of the secretariat, with suitable punishment, involved in the conspiracy of hiding the petitioner's defence representation dated 08.08.2018.

f) To punish the respondents and the officials of the secretariat and department with suitable punishment, involved in the conspiracy of depriving the petitioner from his fundamental right of promotions on higher posts from the same seniority list of Assistant Engineers.

g) To take action against the officials who have proceeded and processed for wrong permission to file frivolous petition against the judgment & order dated 08.09.2021 passed in claim petition no. 22/DB/2020.

h) To pass any other order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case in favour of the petitioner.

i) To decide this petition expeditiously.

j) To allow this petition with cost as quantified Rs 51,000-00.”

2. This is 2nd round of litigation between the parties. In the 1st round, the Claim Petition No. 16/SB/2021, Arun Kumar Goel vs. State of Uttarakhand and another was disposed of by the Tribunal *vide* order dated 27.05.2022, operative portion of which is as under:

“On the basis of the above discussion and as observed in para 15 of this order that special adverse entry could not have been

given to the petitioner by way of punishment, the impugned punishment order dated 07.08.2020 and the order dated 27.01.2021 by which the representation/revision against the punishment order was rejected, are liable to be set aside and are, accordingly, set aside, leaving it open to the respondents to proceed afresh against the petitioner, in accordance with law.”

3. Impugned punishment order dated 07.08.2020 and the order dated 27.01.2021 by which the representation/revision against the punishment order was rejected, were set aside by the Tribunal vide judgment dated 27.05.2022 and it was left open to the respondents to proceed afresh against the petitioner, in accordance with law.

4. Petitioner submitted representation to the respondents on 05.07.2022 (Annexure No. A-20) for compliance of the above order of the Tribunal. But the respondent no. 01 has passed the order dated 08.08.2022 awarding censure entry to the petitioner (Annexure: A-1).

4.1 It is the submission of the petitioner that Respondent No. 1 has passed the impugned order of censure dated 08.08.2022, without application of his mind, in violation of principles of natural justice and in violation of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003, as amended in 2010, illegally, arbitrarily and in mala fide manner. The Respondent No. 1 has defied, deliberately and willfully the judgment and order dated 27.05.2022. Such unreasoned censure order has been passed without providing the advice of the Public Service Commission to the petitioner and without providing affordable opportunity to the petitioner against the punishment.

4.2 The censure is imposed to the petitioner not for the charges levelled against the petitioner vide charge-sheet dated 09.07.2018 but for that extraneous charges which were not levelled against the petitioner, the censure order is bad in the eyes of law and liable to be quashed. The act of the respondents towards the petitioner is highly discriminatory, illegal, arbitrary and against the principles of natural justice and in violation of the Articles 14, 16 & 21 of the Constitution of India, hence the punishment of censure deserves to be set aside in view of the laws declared by the Hon'ble Supreme Court of India in civil

appeal No. 7431 of 2008, Roop Singh Negi versus Punjab National Bank & others.

4.3 The claim petition is supported by the affidavit of petitioner. Relevant documents have been filed along with the same.

5. Claim petition has been contested on behalf of respondents. C.A. has been filed by Sri Prem Singh Nabiyal, Senior Staff Officer, office of Engineer-in-Chief and Head of the Department, PWD, Uttarakhand, Dehradun, on behalf of Respondents. Relevant documents have been filed in support of C.A.

5.1 Ld. A.P.O., on the strength of C.A. filed on behalf of respondents, submitted that pursuant to order dated 27.05.2022 of Hon'ble Tribunal respondent department was granted liberty to proceed against the petitioner in accordance with law. Hence, vide office memorandum no. 1628 dated 08.08.2022 minor punishment of censure entry provided in the rule 3(a) (i) of Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 amended Rules, 2010 has been awarded to the petitioner.

5.2 Ld. A.P.O. further submitted that Hon'ble Tribunal in the para no. 22 of the judgment order dated 27.05.2022 has observed that the original record was summoned from the office of Executive Engineer Temporary Division PWD, Berinag, which has dealt the merit of the case in detail, on the basis of which it is clearly proved that on 13.09.2012 the evaluation of the technical bid was done by the technical committee as a member of which the petitioner was the presenting officer/convenor. The evaluation report also contained the signature of the petitioner along with other officials and further it has been felt that the technical bid were presented before the Technical committee after due examination by the Executive Engineer Temporary Division. Berinag (Petitioner). Therefore, based on the original record produced at the time of final argument, the charge levelled against the petitioner is clearly proved. As such, the petitioner has rightly been punished by way of awarding minor punishment vide

order dated 08.08.2022 after affording ample opportunity of defence/hearing. Hence the punishment order dated 08.08.2022 is legally correct, perfect and valid further requires no interference by this Hon'ble Tribunal.

6 Rejoinder Affidavit has been filed by the petitioner, reiterating the averments mentioned in the claim petition.

7. Heard submissions of petitioner and Ld. A.P.O. and perused the documents brought on record.

8. Sri Arun Kumar Goel, the petitioner in this case presented his case personally and submitted written arguments also. He argued that he was not given the papers he has requested to defend his case and was also not given opportunity to cross-examine the witness .The tender was invited in the office of the Superintending Engineer , documents were opened in the office of Superintending engineer but he has not verified the documents . He has been wrongly given punishment. The penalty of 'Censure' awarded to him is liable to be expunged. He has relied on the judgement of the **Hon'ble High Court of Uttarakhand at Nainital in WP(S/B) 397of 2014 dated 22.12.2020** in the matter of State of Uttarakhand and others Vs Madan Gopal Pushkarana; **Judgment of Hon'ble High Court of Allahabad in Spl Appeal No 473 (S/B) of 1999 dated 19.11.2002** in the matter of Radhey Kant Khare Vs UP Co-operative Sugar Factories Federation Ltd. to contest the order of punishment dated 08.8.2022 as the disciplinary proceedings suffer from the procedural lacuna.

9. Learned APO argued that the Hon'ble Tribunal did not find any lacuna in the enquiry conducted against the petitioner but set aside the punishment order dated 7.8.2021 on the ground that the Special adverse entry could not have been given by way of punishment. Disciplinary Authority after the order of the Hon'ble Tribunal, awarded the punishment of "Censure" as per Rule 3 of the Uttarakhand Government Servant Discipline and Appeal Rules , 2003 and amended as Rules of 2010 . The petitioner was the convenor of the committee

which opened the tender and verified the documents. The tender was related to the division of the petitioner, and it was his duty to scrutinize the documents and place before the committee. The petitioner, along with the other members of the committee, has signed the minutes of the meeting. The petitioner cannot escape from the joint liability. Moreover, the Superintending Engineer, who was in the Committee, has also been penalized by the Disciplinary Authority in this case. The Hon'ble tribunal in the judgment dated 27.5.2022 passed in the claim petition No. 16/SB/2021, has deliberated the facts mentioned in the claim petition, arguments of the petitioner and Counter affidavit filed by the respondents and their arguments. In the concluding part of the para 22 it is mentioned that, the petitioner asserts that the evaluation has been done by the Committee jointly and not by him alone. If the tribunal accepts such submission, even then the petitioner cannot escape from his responsibility on the principle of 'Joint and several liability'. Further the Tribunal has already considered contentions of the petitioner and delivered judgment that the punishment awarded by the Disciplinary authority is not in the category of the punishments as mentioned in the Rule (3) (a) of Uttarakhand Government Servants (Discipline and Appeal) Rules 2003. All the arguments of the petitioner contained in the claim petition have been considered in the aforesaid judgement. In view of the facts mentioned above the claim petition is liable to be dismissed.

10. Based on the arguments of the parties and the documents placed, the tribunal finds that the petitioner was the member of the Technical Committee which scrutinized the documents uploaded by the bidders. The documents related to the 2nd bidder were not properly verified by the Committee although this did not have adverse financial implication but there was negligence on the part of the Committee members. Moreover, the tender was in relation to the work of the Temporary Division, Berinag of which the petitioner was Executive Engineer, he was convener of the Committee (as per Govt. order 2611/III(2)/07-75(General) /2000 dated 26.10.2007 in para 4.2 (b)) and was supposed to verify the documents and place before

Committee. The Superintending Engineer, who was In- charge of the 3rd Circle Pithoragarh and in whose office the tenders were opened, has mentioned in the Office Memorandum dated 19.9.2012 that Executive Engineer Temporary Division Berinag has properly examined the documents and placed before committee and the committee found the technical bids correct. However the Superintending Engineer has submitted in his explanation dated 3.5.2017 that detailed verification of the documents of the bidder was not carried out. It is clear that the technical bids were not properly scrutinized.

11. The Disciplinary proceedings against the petitioner was conducted as per the procedure laid down in the Uttaranchal Government Servants (Discipline and Appeal) Rules 2003 as amended in 2010 but the punishment awarded was not as per the categories of punishment as laid down in the Rule 3 of Disciplinary and Appeal Rules 2003 and the Tribunal vide judgement dated 27.05.2022 set aside the punishment order dated 07.08.2020 and the order dated 27.01.2021. However, the procedure followed in conducting the enquiry was in the line of the judgement of the Hon'ble High Court of Uttarakhand at Nainital in WP(S/B) 397of 2014 dated 22.12.2020 in the matter of State of Uttarakhand and others Vs Madan Gopal Pushkarana and Judgment of Hon'ble High court of Allahabad in Spl Appeal No 473 (S/B) of 1999 dated 19.11.2002 in the matter of Radhey Kant Khare Vs Co-operative Sugar Factories Federation Ltd., which the petitioner has relied upon to contest his case. The respondents issued punishment order dated 8.8.2022 after the earlier punishment order dated 07.08.2020 was set aside by this Tribunal and awarded penalty of Censure.

12. The petitioner has also argued that the punishment given to him was beyond the scope of the charge- sheet given to him and the charge against him was also not proved. The enquiry officer has mentioned that there was certainly negligence in scrutiny of the documents and which has been submitted by the S.E. in his

explanation also, and the Superintending Engineer has also been penalized by the department in this case for his act of omission. So, the petitioner can also not escape from the 'joint responsibility.

13 In view of the above the claim petition is liable to be dismissed.

ORDER

Claim petition is dismissed. No order as to cost.

(RAJENDRA SINGH)
ACTING CHAIRMAN

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

DATE: MARCH 11, 2026.
DEHRADUN

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