

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

Present: Hon'ble Mr. Rajendra Singh,  
.....Acting Chairman  
Hon'ble Mr. A.S.Rawat,  
.....Vice Chairman (A)

**CLAIM PETITION NO. 32/NB/DB/2025**

Nawab Singh (Male), aged about 44 years S/o Shri Rampal, R/O- H.No-12, Mohalla Bharuwala, Balchandwala, P.S. Khanpur, District-Haridwar.

.....Petitioner

Vs

1. State of Uttarakhand through Secretary Department of Labour & Employment Uttarakhand, Dehradun.
2. Deputy Secretary, Department of Labour, Uttarakhand, Dehradun
3. Labour Commissioner, Uttarakhand, Haldwani District- Nainital
4. Deputy Labour Commissioner, Haridwar.
5. Dipti Singh, Labour Commissioner, Uttarakhand Haldwani, Labour Commissioner Office, Labour Building, Nainital Road.

.....Respondents

Present: Sri V.K.Kapurwan, Advocate for the petitioner  
Sri Kishore Kumar, A.P.O. for the respondents

**JUDGMENT**

**DATED: MARCH 16, 2026**

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

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

*“A. To call for records and quash the impugned order dated 13.09.2024 passed by respondent no. 3 whereby the petitioner has been awarded punishment of Major Penalty and further impugned Office Memorandum order dated 01.04.2025 passed by respondent no.2 whereby the statutory appeal filed by the petitioner against the impugned*

*order dated 13.09.2024 has been illegally rejected, based on perverse findings.*

*B. To Call for records and quash the entire departmental process issued against the petitioner and charge sheet/notice dated 09.07.2024 issued by respondent No. 3 (Labour Commissioner).*

*C. To direct the respondent to grant all the consequential benefits which have been withheld in pursuance of the impugned orders.*

*D. To award the cost of the petition or pass such order or direction which this Hon'ble Court may deem fit and proper in the circumstances of this case."*

2. Brief facts of the case, as per the claim petition, are as under:

2.1 The petitioner was appointed on the post of Junior Assistant in the office of Labour Commissioner, Uttarakhand, Haldwani on 19.12.2008 and was promoted on the post of Senior Assistant on 04.06.2013.

2.2 Vide G.O. dated 18.10.2018, cadre of Uttarakhand Labour Department was re-structured and two more Regions i.e. one in District Haridwar and another one in District-Udham Singh Nagar were created and the Labour Department having one Head office and four regional offices. As per option, the petitioner joined on 3.03.2020 in the office of Deputy Labour Commissioner, Haridwar.

2.3 The Director, ESIC, Uttarakhand sent a letter to the Secretary, Labour Department, Uttarakhand Sashan on 07.04.2018 regarding Establishment of Super Specialty Hospital at Kotdwar stating therein that on allotment of the fund of Rs. 50 crores as Loan from BOCW, the work of Hospital can be started. On the direction of Secretary, BOCW, the petitioner prepared note sheet and placed the matter before Chairman of Board for further action. The matter was considered by Hon'ble Minister, Labour Department and placed the same before Hon'ble Chief Minister.

2.4 On 10.07.2018, on the direction of the Hon'ble Chief Minister as well as the Chairman of the Board, the matter further

proceeded. A letter dated 26.07.2018 was sent by Secretary, Govt. of Uttarakhand to the Secretary, Uttarakhand Building and other construction workers welfare works (hereinafter referred as BOCW) regarding construction of Super Specialty Hospital of ESI at Kotdwar and also instructions for releasing the fund with the directions that the BOCW and ESIC/ESI shall prepare a MOU for the same. Accordingly, a note sheet was prepared by the petitioner being a Senior Assistant in compliance of letter received from the Secretary, State Govt. which was signed by Secretary Board, President and its Administrative Officers and final approval was given by the President of the Board.

2.5 On 31.07.2020, a Meeting was also held under the Chairmanship of Hon'ble Minister of Department of Labour and Welfare and decision was taken to issue Rs. 50 Crores in the name of Brij and Roof Company India Ltd. through ESIC. Thereafter, on 19.12.2018, a meeting was convened under the Chairmanship of Hon'ble Minister, Labour and Employment, Uttarakhand in which the Secretary, Finance, CMO, ESIC, Dehradun and Chief Pharmacist ESIC were present and the decision was taken to send proposal to BOCW. The MOU was also executed between BOCW and ESIC and decided that the amount will be released in three instalments as First instalments of Rs. 20 Crores, Second and Third will be of Rs. 15 Crores each. The process was initiated at Ministry and Board level as there was no such role of the petitioner except preparing & placing the note sheet before the Board for further process & necessary actions.

2.6 On 11.12.2020, the then Secretary, BOCW, Dipti Singh, after taking charge of Secretary, BOCW issued letter to the Secretary, Labour, Uttarakhand Sashan, Dehradun recommending the Disciplinary Proceedings against the petitioner for huge financial irregularity in allotment of funds for the purpose of constructions of Super Specialty Hospital of ESI. Thereafter, on 16.09.2021, the Joint Secretary, Uttarakhand Sashan issued an order to the Labour

Commissioner, Uttarakhand Sashan, Dehradun and approved the disciplinary proceedings against the petitioner on three charges.

2.7 The petitioner was suspended from service on 08.06.2021 by Labour Commissioner, Haldwani but that was separate charge. Vide order dated 28.09.2021, the suspension order was cancelled as nothing adverse was found against the petitioner, but in pursuance of charge sheet submitted on the issue realizing fund, the petitioner was issued show cause notice on which reply was submitted by him.

2.8 The Deputy Labour Commissioner, Haridwar Region enquired into the matter and exonerated the petitioner from all the charges. On 01.03.2023, the Labour Commissioner, Haldwani, the then Secretary, BOCW recommended re-enquiry against the petitioner on the same issue, without assigning any reason for the same and sought approval from respondent no.2. Thereafter on 07.03.2023, the Deputy Secretary, issued an order permitting the respondent no.3 to initiate re-enquiry against the petitioner on the same set of charges on which he had already been exonerated.

2.9 On 23.04.2024, the DLC, Haridwar was appointed as enquiry officer, issued a show cause notice to the petitioner which was replied by petitioner on 13.05.2024. The fresh enquiry was initiated when the petitioner raised his claim for promotion—just to harass him. The petitioner being aggrieved by the recommendation dated 01.03.2023 and approval letter dated 07.03.2023 filed a WPSS No. 1130 of 2024 "Nawab Singh Vs State of Uttarakhand and Others".

2.10 On 22.05.2024, the Enquiry Officer submitted enquiry report whereby charged the petitioner for charge no.1 and exonerated from other charges. During the pendency of the enquiry, the petitioner made an application before the Labour Commissioner stating he does not have any hope to get justice from her. On 09.07.2024, another notice was issued to the petitioner adding other charges and calling explanation from the petitioner. Aggrieved by

the same, petitioner preferred a writ petition before the Hon'ble High Court but the Hon'ble High Court did not interfere in the matter being writ petition pre-mature as the final decision was awaited.

2.11 The petitioner replied to the said notice. On 17.08.2024 again a notice was sent by the Labour Commissioner to the petitioner directing to submit his reply within 15 days. The said notice was received by the Petitioner on 04.09.2024 but the Labour Commissioner passed an order before expiry of said 15 days period and punished the petitioner with the major penalty vide order dated 13.09.2024. Thereafter being aggrieved by an illegal order dated 13.09.2024 passed by Labour Commissioner, the petitioner filed a statutory appeal before the Secretary, Department of Labour, on 15.10.2024, which was rejected by respondent No. 1 vide Office Memorandum dated 01.04.2025.

2.12 The enquiry was re-initiated only to frustrate the promotional exercise of the petitioner with pre-determined mindset. The Sub Rule VII of Rule 7 of the Uttaranchal Government Servant (Discipline and Appeal) Rules, which provides where the charged Government Servant denies the charges, the enquiry officer shall proceed to call the witnesses proposed in the chargesheet and record their oral evidence in presence of charged government servant, who shall be given opportunity to cross examine such witnesses. The Disciplinary authority did not follow the procedure and this fact has not been considered by Appellate authority and gave perverse finding on the same. Therefore, the impugned orders /decision dated 13.09.2024 and 01.04.2025 suffer from absolute illegality and proved the arbitrary and mala fide action of the Labour Commissioner.

2.13 The Labour Commissioner has committed an illegality that vide notice dated 09.07.2024, she framed the charges, which are different from the charges issued on 16.09.2021 in the chargesheet and thereafter without following due procedure and waiting of the

reply of the Petitioner she issued the impugned order/decision but this fact has also been overlooked by appellate authority which is liable to be set-aside.

2.14 The Disciplinary Authority failed to consider that it was the decision taken at the level of the Hon'ble Chief Minister and Minister of Labour and Welfare to transfer the said amount of Rupees 50 Crores and thereafter there were several letters and meetings held in the matter. In this process the only role of the petitioner was to prepare initial note sheet nothing else and further there is no such financial misappropriation or irregularity committed.

2.15 The act of the Labour Commissioner is absolutely arbitrary, unreasonable and against the principle of natural justice as the impugned punishment order has been passed with pre-determined mind-set therefore the impugned order is liable to be set-aside. The impugned orders/decision dated 13.09.2024 and 01.04.2025 suffer from absolute biasness and passed with pre-determined mind-set which is in violation of the settled provision of imposing major penalties.

2.16 No such financial irregularity was ever committed in the matter and the ESIC has already returned the instalment received by them. The enquiry officer/respondent no. 4 submitted report on 22.05.2024 with the findings in favour of petitioner but charged him for charge no. 1 with pre-determined mindset. On 09.07.2024, the respondent no.3 issued impugned notice wherein stated that she is not satisfied with the enquiry report and included the other charges and facts which were never been the part of charge sheet sought reply from the petitioner. The impugned notice dated 09.07.2024 itself shows the ill intention of the respondent no.2 against the petitioner. The action on the part of respondents no. 2 is absolutely malafide and therefore, the impugned enquiry report and notice is liable to be quashed.

2.17 The Appellate Authority while passing the impugned office memorandum dated 01.04.2025 recorded absolutely perverse finding and did not consider that the procedure as provided under Rule 7(3) of regulation 2003 was not followed, the petitioner was not given the opportunity to produce witness or any evidence rather the finding as recorded by appellant authority is misconceived stating that the petitioner has not produced any witness in his support. The appellate authority while recording the said finding committed error and passed the impugned order which is liable to be set-aside/quashed. The impugned order dated 01.04.2025 is based on absolutely pre-determined mindset to reject the appeal filed by the petitioner. Therefore, the impugned office memorandum dated 01.04.2025 and order dated 13.09.2024 is liable to be set-aside/quashed.

3. C.A./W.S. has been filed behalf of the respondents contending therein that-

3.1 The respondents have passed the punishment orders following the procedure of law. The Respondent No.3 passed impugned order dated 13.09.2024 for stoppage of three annual increments with cumulative effects for the year 2025, 2026 and 2027 under the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 after giving due opportunity of hearing to the petitioner and punished the petitioner. The Appellate Authority vide order dated 01.04.2025 dismissed the appeal of the petitioner after considering the material available before him and confirmed the order dated 13.09.2024 passed by Respondent No.3. The petitioner did irregularity which is subject to disciplinary proceedings against him.

3.2 The petitioner was served Charge Sheet, which was duly replied by him and he denied the charges levelled against him. The Deputy Labour Commissioner, Haridwar was appointed as an Inquiry Officer who submitted the Inquiry Report on 05.05.2022. After perusal of the same, it was found that then Inquiry Officer failed to

conduct the Inquiry against the petitioner in proper manner. The Respondent No.3 sought directions from the Government on this issue. The Government clarified that, the Labour Commissioner being the Appointing Authority has right to reject the inquiry report under provisions contained in Uttarakhand Government Servants (Discipline and Appeals) Rules, 2003 by appointing another officer as Inquiry Officer, therefore, the Respondent No.3 may act as per law.

3.3 The Respondent No.3 appointed the new inquiry officer as Deputy Labour Commissioner, Haridwar by rejecting the earlier inquiry report Dated 05.05.2022. The then Inquiry Officer submitted his report on 22/5/2024 to the Appointing authority/Labour Commissioner and after the receipt of the same and after careful perusal of Inquiry Report the Respondent No.3 gave the notice to the petitioner under Rule 9 (2) of Uttarakhand Government Servants (Discipline and Appeals) Rules, 2003 on 09.07.2024 which was duly replied by the petitioner on 09.08.2024 thereafter, the Respondent No.3 served the notice to the petitioner on 17.08.2024 under Rule 9 (4) of Uttarakhand Government Servants (Discipline and Appeals) Rules, 2003, which was replied by the petitioner on 20.09.2024 and considering the material available on record the Respondent No.3 passed the punishment order dated 13.09.2024 and against the same the petitioner filed the appeal before the Secretary, Labour, Government of Uttarakhand under Rule 11 of Uttarakhand Government Servants (Discipline and Appeals) Rules, 2003 and same was also rejected by the Respondent No.1 vide order dated 01.04.2025.

3.4 The petitioner in his official capacity was having the full knowledge that the funds of UKBCOW cannot be used for any construction work in view of the order passed by Hon'ble Supreme Court dated 04.09.2015 as well as Notification issued by the Union of India dated 07.06.2016 and he tried to mislead the senior officers and others and the incomplete note sheet as prepared by the

petitioner is apparently a misconduct on the part of the petitioner that too in the financial matters, wherein Rs.50 Crores was about to be invested in construction of Hospital . While replying the said charge the petitioner submitted that he was given the work of Board in the year 2017 and that point of time he was not given the file which contained the copies of the orders issued by the Central Government and Supreme Court therefore he was not having the knowledge of these orders.

3.5 The petitioner tried to take benefit of Section 22(2) of the Building and other Construction Workers (Regulation of Employment and Condition of Service) Act, 1996 which provides that "The Board may grant loan or subsidy to a local authority or an employer in aid of any scheme approved by the State Government for the purpose connected with the welfare of building workers in any establishment. But at the time of preparation of the note sheet by the petitioner, no approved scheme by the State Government was available. The petitioner did not state in his note sheet that as on date there is no scheme approved by the State Government for the welfare of building construction worker therefore no loan can be given from the Board.

3.6 The respondent no. 3 held that the petitioner did the illegality while preparing the note sheet and failed to mention all the facts pertaining to the matter. Therefore, in releasing the amount of Rs. 20 Crore that too on the basis of MoU is an illegal act which misled the senior officers of the department.

3.7 The respondent No 3 after taking charge of the Secretary on 11.12.2020 recommended the disciplinary action against the petitioner. On 09.07.2024 the petitioner was given the show cause notice under Rule 9(2) Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 that too was challenged by the petitioner before the Hon'ble High Court and the said writ petition was dismissed by the Hon'ble High Court therefore the allegations as

levelled by the petitioner are misleading on the face of it. While submitting the reply to the chargesheet the petitioner never named any witness in support of his case and he simply contended the charges levelled against him. Therefore there is no occasion by the disciplinary authority or the appointing authority to call any witness which was never named by the petitioner in support of his case therefore in the present case there is no application of Rule 7(vii) of the 2003, Rules. Against the notice dated 09.07.2024, the petitioner filed the writ petition WPSS 1292 of 2024 Nawab Singh Vs. State of Uttarakhand, wherein the petitioner not only challenged the enquiry report dated 22.05.2024 but also challenged the notice dated 09.07.2024 the said writ petition was dismissed by the Hon'ble High Court vide order dated 20.07.2024 but the said fact has never been disclosed by the petitioner in the present claim petition.

3.8 There is no violation of natural justice on the part of the respondent no. 3. The notice issued to the petitioner on 09.07.2024 is duly served to him and the same was challenged by the petitioner before the Hon'ble High Court and before passing the punishment order the opportunity of hearing was given to the petitioner and also on every stage of the case the petitioner was given the ample opportunity of hearing. The charges levelled against the petitioner were duly proved beyond doubt therefore the petitioner cannot say that the action taken against him is a malicious action. The fact that the money has been returned to the ESIC cannot dilute the act of the petitioner. It is also submitted that the Appellate Authority passed the order as per law and did not require any interference.

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

5. Learned Counsel for the petitioner argued that the petitioner in the capacity of the Senior Assistant followed the instructions of the senior officers only. The documents relied upon by the Respondent No. 3 for awarding punishment were not in the knowledge of the

petitioner at the time of preparation of the note sheet. The petitioner was not given opportunity to present his witness in support of his reply against the charges. As per the letter dated 07/03/2023 of the Deputy secretary, Government of Uttarakhand, the Labour Commissioner is the Appointing authority. But the charge sheet in this case has been issued by the Deputy Labour Commissioner, Haridwar. This is against the Rule 7(2) of the Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003 and as amended Rules of 2010. The Respondent No 3 called explanation from the petitioner on three points after the enquiry report dated 22/5/2024 was submitted by the Enquiry officer, Respondent no 4 citing the Rule 9(2) of the Uttarakhand Government Servants (Discipline and Appeal ) Rules, 2003 and as amended Rules of 2010, which are in addition to the charges mentioned in the charge sheet dated 19/8/2021. This is against the provisions of the Discipline and Appeal Rules 2003 as amended Rules of 2010. In view of the facts mentioned above the disciplinary proceedings against the petitioner suffers from the procedural lacunae also. The appellate authority also while deciding the appeal did not take into account these facts and dismissed the appeal in an arbitrary manner. So, the order of the Disciplinary Authority dated 13/09/2024 and the Appellate Authority dated 01/04/2025 are liable to be set aside.

6. Learned APO argued that the enquiry against the petitioner has been conducted based on the documents and there was no need of the witness in this case. However the petitioner has been given opportunity to defend the charges against him and he did not request to produce witness in support of his reply to the charges. The petitioner has not brought all the facts related to the matter in the note sheet which misled the higher officer to approve the loan of Rs 50 crores to the EISC. He did not take approval to prepare MOU for release of Rs. 20 Crore due to which, the matter related to release the amount could not be examined as per the *Uttarakhand Bhawan Evam Anya Sannirman Karmkar (Niyojan Tatha Sewa-Shart Viniyam)*

*Adhiniyam, 1996*. He did not inform about the release of 20 Cr. to the Disciplinary Authority. So the role of the petitioner in the entire matter remained dubious and unbecoming of the government. The entire disciplinary proceeding against the petitioner has been conducted as per the provision of the Uttarakhand Govt. Servants (Discipline and Appeal) Rules, 2003 as amended Rules of 2010.

7. Based on the arguments of the parties and the documents placed, the Tribunal finds that there is no mention of the list of the witnesses in the charge sheet as the enquiry is based on the documents only. The petitioner also did not ask for allowing witness in support of rebuttal of the charges against him.

7.1 The charge- sheet has been issued by the Enquiry officer, the Deputy Labour Commissioner, Haridwar, which is against rule 7(2) of the Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003 and as amended Rules of 2010. The Labour Commissioner, Uttarakhand is the appointing authority in case of the petitioner as confirmed by letter dated 07/03/2023 of the Deputy Secretary, Uttarakhand and the charge sheet should have been issued by the Labour Commissioner. Rule 7(2) of Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 and as amended Rules of 2010 lay down the following:

*“(2) The facts constituting the misconduct on which it is proposed to take action shall be reduced in the form of definite charge or charges to be called charge sheet. The charge sheet shall be signed by the Disciplinary Authority:*

*Provided that where the appointing authority is Governor, the chargesheet may be signed by the Principal Secretary or the Secretary, as the case may be, of the concerned department.”*

7.2 The Respondent No 3 sought explanation of the petitioner on three points vide letter dated 09/07/2024 citing the Rule 9(2), the disciplinary authority considered the facts which have not been considered in the Enquiry report submitted by the Enquiry officer on 22/05/2024. There is no provision in the Rules to add charges later

on to those already there in the charge sheet. The Disciplinary authority in case disagrees with the findings of enquiry officer, will record the reasons of disagreement with the enquiry officer on any charge, record its own findings. This has been laid down in the rule 9(2) of the Government Servants (Discipline and Appeal) Rules, 2003 which is as under:

*“9(2) The Disciplinary Authority shall, if it disagrees with the findings of the Inquiry Officer on any charge, record its own findings thereon for reasons to be recorded.*

8. The Appellate Authority vide his order dated 01/04/2025 upheld the decision of the Disciplinary Authority but overlooked the procedural lacunae in conducting the enquiry against the petitioner. The enquiry against the petitioner is vitiated due to the procedural lacunae as mentioned above. Hence, the orders of the Disciplinary Authority and the Appellate Authority are liable to be quashed and the claim petition is liable to be allowed.

### **ORDER**

The claim petition is hereby allowed. The impugned order dated of 13/09/2024 passed by the Disciplinary Authority and order dated 01/04/2025 of the Appellate Authority are quashed. The respondents are directed to grant all the consequential benefits to the petitioner. However, the respondent authorities are at liberty to reinstate disciplinary proceeding against the petitioner. No order as to costs.

**(RAJEDNDRA SINGH)**  
ACTING CHAIRMAN

**(A.S.RAWAT)**  
VICE CHAIRMAN(A)

*DATED: MARCH 16, 2026*  
*DEHRADUN*  
*KNP*