

**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. 155/SB/2023

Sri Arun Kumar Goel, aged about 60 years, s/o Late Sri Pooran Mal Goel, r/o Mahadev Vihar, General Mahadev Singh Road, Dehradun, retired as Superintending Engineer from the 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: APRIL 10, 2026

Sri Arun Singh Rawat, Vice Chairman (A)

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

“a) That this Hon'ble Tribunal may graciously be pleased to set aside and quash the impugned order dated 12.09.2022 (Annexure No. A-1) and the charge sheet dated 29.01.2021 (Annexure No. A-2) with its effects & operation.

b) That this Hon'ble Tribunal may graciously be pleased to issue direction and order to the respondents that the censure shall not be treated adverse for the purposes of promotion, crossing of efficiency bar and other service matters of the petitioner in any manner.

c) That this Hon'ble Tribunal may graciously be pleased to issue an order or direction to the respondents to grant all consequential benefits.

d) That this Hon'ble Tribunal may graciously be pleased 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.

e) That this Hon'ble Tribunal may graciously be pleased to decide this petition expeditiously.

f) That Hon'ble Tribunal may graciously be pleased to allow this petition with cost as quantified Rs.51,000-00.”

2. Facts, giving rise to the present claim petition, are as follows:

2.1 Petitioner was initially appointed on the post of Junior Engineer dated 25.09.1983. Subsequently he was promoted on the post of Assistant Engineer, thereafter on the post of Executive Engineer on 11.12.2009. He has retired from the permanent post of Superintending Engineer.

2.2 A charge sheet was issued against the petitioner vide letter no.72/III(1)/22-02(26)/janch/2020 dated 29.01.2021 (Annexure: A-2). The petitioner has denied the charges and demanded the clear and legible copies of relevant documents and also requested for cross examination by making representation dated 17.02.2021 (Annexure: A-3), but before the documents were provided, the disciplinary action against the petitioner was initiated.

2.3 The charge-sheet was issued without jurisdiction, on the ground that the petitioner has made representations to His highness the President of India, His highness the Governor of Uttar Pradesh,

Hon'ble Chief Minister of Uttar Pradesh and Principle Secretary, P.W.D., Uttar Pradesh, without channel; the second charge was un-limiting comments have been made against the officers of Uttar Pradesh; and the third charge was that the petitioner, after duly sanctioned leave and without station leave was present on 08.11.2019 for RTI appeal in Lucknow.

2.4 The petitioner has not made any representation to any officer but has made complaint against the persons who made exploitation of the petitioner. He has not made any un-limiting comments against the officers of Uttar Pradesh but has sent the notices before initiating the proceedings of contempt of court and first appeal under the right of information Act. He was not present on 08.11.2019 for appeal in Lucknow. The letter No. 706/23-4-20 dated 24.06.2020 of Special Secretary, Appellate officer was not considered, and cross- examination of appellate officer was not done.

2.5 The representation dated 17.02.2021 of petitioner was pending but the disciplinary action against the petitioner has been initiated. Respondent No. 01 has not considered the reply of the petitioner in accordance with rules, before initiation of disciplinary proceedings. The disciplinary proceedings against the petitioner is in violation of the Discipline and Appeal Rules , 2003 and the amended Rules of 2010 . Clear and legible copies of evidences mentioned in the charge-sheet were neither provided to the petitioner, nor was any witness mentioned in the charge-sheet.

2.6 Shri Aiyaj Ahmed, Chief Engineer was appointed as inquiry officer vide order No. 1988/III(1)/22-02(26) janch/2020 dated 23.09.2021 (Annexure: A-4), who has submitted the inquiry report without conducting the inquiry. Petitioner was instructed by the inquiry officer to submit written reply/explanation, having been present in his office within 15 days, vide letter no. 1412/20 A.D.B./janch-Pauri/2021 dated 11.11.2021 (Annexure: A-5). After receiving the letter on 16.11.2021, the petitioner has submitted written reply/explanation dated 25.11.2021(Annexure: A-6) in his office on 26.11.2021,

personally. Petitioner has also requested for cross examination of the concerning persons after providing the clear and legible relevant documents, but neither clear and legible documents have been provided nor oral enquiry was held by the inquiry officer. No cross examination was done and charges levelled against the petitioner were not proved by the inquiry officer.

2.7 The inquiry report dated 01.07.2022 (Annexure No. A-09) was sent to the petitioner vide letter dated 20.07.2022. Petitioner was not given opportunity of cross examination despite his request and the inquiry report was prepared in violation of law declared by the Hon'ble Supreme Court of India in Civil Appeal no. 353 of 1957, Khem Chand v. union of india, in Civil Appeal no. 4901 of 2005, P.V.Mahadevan versus M.D.Tamilnadu Housing Board, in Civil Appeal no. 2302 of 2005, Govt. of A.P. and others versus A. Venkata Raidu, in Civil Appeal no. 4531 of 2007 and in violation of law declared by the Hon'ble High Court of Uttarakhand, Nainital in writ petition No. WP(M/S) 706 of 2011, Vinod Kumar vs. Managing Director Uttaranchal S.R.T.C. & Another.

2.8 The findings of inquiry officer were extraneous, mala fide, wrong and illegal. He has given the finding of guilt beyond the charge and in contradiction of the charge-sheet, in violation of the law declared by the Hon'ble Supreme Court of India in Civil Appeal no. 7431 of 2008, Roop Singh Negi versus Punjab National Bank and others and in Civil Appeal no. 4531 of 2007, State Of Uttaranchal & Ors versus Kharak Singh.

2.9 The petitioner submitted representation dated 06.08.2022, which was sent by the respondent No. 02 to the respondent No. 01 vide letter No. 1277/2022 dated 27.08.2022 but that was not disposed of in accordance with law (Annexure No. A-10).

2.10 The order of censure has been passed by the respondent No. 01 on 12.09.2022, illegally and arbitrarily without providing the recommendations of the Public Service Commission for punishment to the petitioner and without hearing and without providing opportunity to

the petitioner against the recommendations of the Public Service Commission and against the proposed punishment.

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

4. 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.

4.1. It has been submitted on behalf of the respondents that allegation against the petitioner, Shri Arun Kumar Goyal, is that he acted in violation of official conduct rules by:

- i. Directly corresponding with high constitutional and administrative authorities without following proper departmental channels.
- ii. Making inappropriate, objectionable, and defamatory remarks against senior officers of the Uttar Pradesh Government.
- iii. Leaving headquarters without permission while on sanctioned leave.

These actions of the petitioner were considered to be misconduct and a failure to maintain discipline expected from a Government officer.

4.2 It is alleged that the petitioner repeatedly sent communications directly to the following authorities:

The Hon'ble President of India, New Delhi

The Hon'ble Governor of Uttar Pradesh

The Hon'ble Chief Minister of Uttar Pradesh

The Principal Secretary, Public Works Department, Uttar Pradesh

Such communications were made without following proper official channel, which is a clear violation of Rule 24-A of the Conduct

Rules, 2002. This rule explicitly mandates that no Government servant shall submit any representation directly to higher authorities except through proper channel and prescribed procedures. In addition to bypassing official channels, the petitioner allegedly made serious and objectionable remarks in his letters addressed to senior officials, which (remarks) were considered improper of being a government servant and in violation of Rule 3(1) and 3(2) of the Conduct Rules, which require integrity, discipline, and respectful conduct.

4.3 Another allegation is in respect of the petitioner's conduct during a sanctioned leave period- that the petitioner applied for leave from 08 November 2019 to 11 November 2019, which was approved, however, he did not obtain permission to leave headquarters, but records indicate that he was present in Lucknow on 08 November 2019 for a hearing. This act was treated as unauthorized absence from headquarters, further indicating misconduct and violation of service rules.

4.4 The issue came into formal notice through a confidential communication dated 31 August 2020, sent by the Special Secretary, Uttar Pradesh, to the Uttarakhand Government (Annexure: CA-R 4), which highlighted the petitioner's correspondence and the adverse remarks made therein. Therefore, on 29 January 2021, a charge sheet was issued to the petitioner for violation of Rule 24-A (improper communication channel) and violation of Rule 3(1) and 3(2) (misconduct and inappropriate behavior)

4.5 The Inquiry Officer conducted a detailed investigation and submitted the report on 01.07.2022, along with documentary evidence. The charges were proven. After considering the inquiry report and available evidence, the competent authority reached a final decision that the petitioner was found guilty of misconduct. A minor penalty of "censure entry" was awarded to the petitioner vide order dated 12 .09. 2023.

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

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

7. The petitioner argued his case on his own and submitted written arguments also. He has submitted that he was not given opportunity of hearing and cross-examination of the complainants who have written the letter dated 24.06.2020 and dated 31.08.2020 (Annexure: CA-R 4). He has pleaded that he was not given legible copies of the relevant documents so these documents cannot be used against him. The disciplinary action initiated against him was in violation of the Discipline and Appeal Rules, 2003 and Rules of 2010 and also the laws declared by the Hon'ble Supreme Court of India. He submitted his representation dated 06.08.2022 that the charges against the petitioner have not been proved by the enquiry officer, and the punishment order dated 12.09.2022 has been passed without giving opportunity of hearing to him.

8. Petitioner has relied upon the following decisions rendered by Hon'ble Apex Court and Hon'ble High Courts:

- (i) *In Kashinath Dikshita vs. Union of India and others, AIR 1986 SC 2118 [Civil Appeal No. 2571 of 1977 decided on 15.05.1986]*, Hon'ble Court observed as under:

"It is unjust and unfair to deny the Government servant copies of statements of witnesses examined during investigation and produced at the inquiry in support of the charges levelled against the Government servant. A synopsis does not satisfy the requirements of giving the Government servant a reasonable opportunity of showing cause against the action proposed to be taken.

13. view of the pronouncements of this Court it is impossible to take any other view. As discussed earlier the facts and circumstances of this case also impel us to the conclusion that the appellant has been denied reasonable opportunity to defend himself. In the result, we are of the opinion that the impugned order of dismissal rendered by the disciplinary authority is violative of Article 311(2) of the Constitution of India inasmuch as the appellant has been denied

reasonable opportunity of defending himself and is on that account null and void.”

- (ii) *In Khem Chand vs. Union of India and others, AIR 1958 SC 300 [Civil Appeal No. 358 of 1957]*, it has been held by the Hon'ble Supreme Court, that the reasonable opportunity as envisaged in Article 311(2) of the Constitution of India has to be given to the employee to deny the guilt; defend himself by cross-examination the witnesses or examining the witness in support of himself; and an opportunity to represent against the proposed punishment.
- (iii) Hon'ble Allahabad High Court in *Special Appeal No. 473 (S/B) of 1999, Radhey Kant Khare vs. U.P. Co-operative Sugar Factories Federation Ltd., decided on 19.11.2002*, has held that- “No opportunity of hearing was given to the appellant hence the dismissal is wholly illegal.”
- (iv) In *WP (S/B) No. 397 of 2014, State of Uttarakhand and another vs. Madan Gopal Pushkarana*, Hon'ble High Court of Uttarakhand has observed as under:
- “When the disciplinary authority initiates proceedings under the rules which prescribe the procedure for imposing a major penalty, it is obligatory for the disciplinary authority to hold the enquiry in conformity with the rules. The mere fact that ultimately a minor penalty is imposed cannot be taken as the basis for an argument that any defect in holding the enquiry stands cured. The noncompliance with the mandatory provision in holding the enquiry vitiates the final order, though it imposes only a minor penalty and though the disciplinary authority could have imposed the said penalty without following the procedure prescribed for a major penalty. Once the enquiry proceedings are vitiated for violation of the rules under which the enquiry is held, such an enquiry proceeding cannot be taken as the basis for imposing any penalty.”

9. He prayed that the impugned order dated 12.09.2022 and the charge sheet dated 29.01.2021 should be quashed.

10. Learned A.P.O. argued that disciplinary proceeding was initiated against the petitioner for misconduct as per Discipline and Appeal Rules, 2003 as amended in 2010, and was awarded penalty of Censure. The petitioner was given legible copies of the documents. He was further directed to get the copies from the source from where those were supplied to the enquiry officer also.

The enquiry officer gave opportunity of hearing to the petitioner also. But he insisted on cross-examination of the complainants which was not required as the charges levelled against the petitioner were based on the documents submitted by the petitioner. The reply given by the petitioner in written statement as well to the enquiry officer was not relevant to the imputation of the charges against him, this has been concluded by the enquiry officer in his report also. The petitioner has retired and there is no effect of the punishment on the petitioner as the punishment awarded is from the prospective effect. This has also been confirmed in the judgement of the " Hon'ble Apex Court in the matter of Raj Kishore Sinha vs. State of Bihar, 2018 SCC online Pat 825, 18.05.2018, in which Hon'ble Apex Court has observed that –the order proposed to inflict punishment on the petitioner with a retrospective effect, could not be allowed.

11. In view of the facts mentioned, the petitioner's claim is liable to be dismissed.

12. Based on the arguments of the parties and the documents placed before the Tribunal, the Tribunal finds that the petitioner was served charge sheet as per provisions of the Discipline and Appeal Rules , 2003 and the amended Rules of 2010. The petitioner was given the opportunity of hearing as per the documents submitted by the petitioner well as the respondents. The petitioner was given the legible copies of the documents and some of the documents he was insisting to be given were beyond the scope of imputation of the charges against the petitioner. The disciplinary proceeding is totally document based and the reply which the petitioner has given against the charges and the representation he submitted were not relevant to the imputation of charges against him. The petitioner has retired on 31.12.2022 and the penalty of censure awarded to him, has no effect on him.

13. The petitioner has relied on various judgements of the Hon'ble Apex Court and the Hon'ble High Courts to further his arguments of quashing the penalty awarded to him, but the respondents have duly conducted the inquiry as per the provisions of

the Discipline Appeal Rules 2003 and the amended Rules of 2010 and there is no infirmity in the proceedings which can be said to be violative of the judgements of the Hon'ble Courts, as mentioned by the petitioner. Hence the Claim petition is liable to be dismissed.

ORDER

The claim petition is dismissed. No order as to costs.

(RAJENDRA SINGH)
ACTING CHAIRMAN

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

DATE: APRIL10, 2026.
DEHRADUN

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