

**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.42/SB/2024**

Sri Amit Kumar Singh aged about 34 years, s/o Sri Beesulal Kohli, r/o Room No. 6, Phase -2, Type-3, New Secretariat Colony, Doon University Road, Kedarapuram, Dehradun.

.....Petitioner

**Versus**

1. State of Uttarakhand through Secretary, Food and Civil Supplies, , Secretariat, Dehradun.
2. Commissioner, Food and Civil Supplies and Consumer Matters Department, Uttarakhand, Dehradun.
3. Regional Food Controller, Garhwal Region, Dehradun.

.....Respondents

Present: Ms. Menkaa Tripathi, Advocate, for the petitioner.(online)  
Sri V.P.Devrani, A.P.O., for the Respondents.

**JUDGMENT**

**DATED: APRIL 24, 2026**

**Sri Arun Singh Rawat, Vice Chairman (A)**

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

“A. This Hon'ble Tribunal may very graciously be pleased to set aside the impugned rejection Order No. 390/23-XIX-2/37 (khaad)

/2019 dated 12.06.2023 passed by the Respondent No.1 (contained in Annexure No. 1).

B. This Hon'ble Tribunal may very graciously be pleased to set aside the order dated 16.09.2019 passed by the Respondent No.2 (contained in Annexure No.2) only to the extent whereby the petitioner was reprimanded and was given an adverse entry despite the fact that the enquiry officer has held that the petitioner was not guilty.

C. This Hon'ble Tribunal may very graciously be pleased to direct the respondents to expunge the adverse entry granted to the petitioner vide order dated 16.09.2019.

D. Any other order or direction that this Hon'ble Tribunal may deem fit, just and proper in the circumstances of the case may also be passed, favouring the petitioner.

E. Allow the present petition with costs.”

2. Facts in brief of present claim petition are that, the petitioner was duly appointed as a Marketing Inspector in the respondent department and was initially posted at the Dehradun Centre. During the course of his service, he was subjected to multiple transfers. He was first transferred from the Dehradun Centre to the Doiwala Depot by the then Centre In-charge, Shri Kailash Chandra Pandey. Subsequently, the Centre In-charge at Doiwala transferred him back to Dehradun Transport Nagar.

2.1 The petitioner continued to discharge his duties at Doiwala Depot until 27.10.2018. Thereafter, he availed casual leave for a period of three days. Upon resuming his duties, he was directed by the Centre In-charge, Dehradun, to visit the warehouse of the Food Corporation of India at Gularghati, situated approximately 15 kilometers from Dehradun, for inspection and dispatch of food grains.

2.2 On 17.11.2018, the petitioner returned to the Dehradun Centre and undertook verification work in the warehouse along with Smt. Annu Jayakare, Senior Marketing Officer, Roorkee, in the presence of the Deputy Regional Marketing Officer. Following the verification process, a report was submitted to the Deputy Divisional Marketing Officer.

2.3 Subsequently, the Deputy Regional Marketing Officer reported to the Regional Food Controller, Garhwal Region, that during physical verification of the godown at Transport Nagar, Dehradun, a substantial shortage of 8,484 bags of rice, 2,408 bags of wheat, and 4 bags of sugar was detected.

2.4 Based on communications dated 20.11.2018 and 06.12.2018, sent by Respondent No.3 to Respondent No. 2, the petitioner was placed under suspension by the Commissioner, Dehradun (Respondent No. 2) vide order dated 10.12.2018.

2.5 The petitioner was served with a charge sheet dated 14.02.2019, wherein two charges were framed against him. The petitioner submitted a detailed reply to the charges, denying any wrongdoing.

2.6 Dr. M. S. Bishen, Joint Commissioner, Garhwal, was appointed enquiry officer on 23.03.2019 to conduct the enquiry. After examining the matter, the enquiry officer submitted his report to the disciplinary authority. Importantly, the enquiry report concluded that no charges were proved against the petitioner.

2.7 Despite the clear findings of the enquiry officer exonerating the petitioner, the disciplinary authority passed an order dated 16.09.2019, awarding censure/adverse entry for the year 2019–2020 on grounds of alleged negligence and failure to discharge responsibilities. Petitioner's suspension was revoked.

2.8 Aggrieved by the impugned punishment of adverse entry, the petitioner filed an appeal before Respondent No. 1 on 19.10.2019 under the applicable Appeal Rules. However, during the pendency of the appeal, Respondent No. 2 passed another order dated 18.06.2020 modifying the earlier order dated 16.09.2019 to the extent that the petitioner would be treated in service for suspension period and was reinstated with full salary and allowances for the suspension period, but the adverse entry remained unchanged and continued to operate against him.

2.9 Due to inordinate delay in deciding the appeal, the petitioner approached the Hon'ble High Court by filing writ petition being WPSS No. 636 of 2020, Amit Kumar Singh vs. State of Uttarakhand and others challenging the order dated 16.09.2019. The Hon'ble High Court disposed of the writ petition vide order dated 06.07.2020.

2.10 Subsequently, the petitioner's appeal was rejected by Respondent No. 1 vide order dated 21.08.2020. Being aggrieved, the petitioner again approached the Hon'ble High Court by filing WPSS No. 271 of 2023, Amit Kumar vs. State of Uttarakhand, challenging the rejection order on the ground that the same authority who had originally awarded the adverse entry, decided the appeal, thereby violating principles of natural justice.

2.11 The Hon'ble High Court, vide its order dated 03.04.2023, quashed and set aside the rejection order dated 21.08.2020. The Hon'ble Court directed the petitioner to submit a fresh appeal/representation before the competent authority (present Secretary) and further directed Respondent No. 1 to decide the same within six weeks from the date of submission.

2.12 In compliance with the Hon'ble High Court's directions, the petitioner submitted a fresh representation/appeal on 18.04.2023 along with a certified copy of the Court's order. However, Respondent No. 1 again rejected the petitioner's appeal vide order dated 12.06.2023. The rejection was made in a mechanical manner, allegedly without proper application of mind.

3. Petitioner has filed affidavit in support of the claim petition. Relevant documents have also been brought on record along with the same.

4. Claim petition has been contested on behalf of respondents. Separate Counter Affidavits have been filed on behalf of respondents. C.A. on behalf of Respondents No 1 has been filed by Sri Arpan Kumar Raju, Deputy Secretary, Govt. of Uttarakhand. Sri

Dhawal Sharma, Senior Marketing Officer in the Food Commissioner Office, Dehradun, Uttarakhand, has filed C.A. on behalf of Respondent No. 2. Relevant documents have been filed in support of the C.As.

4.1 In the counter affidavit filed on behalf of Respondent No. 1, it is stated that, in Writ Petition No. 271 (SS)/2023, the Court directed disposal of the petitioner's representation, and in compliance thereof the representation dated 18.04.2023 was duly considered and rejected on 12.06.2023 as being forceless and unsatisfactory. The affidavit further refers to an earlier round of litigation in Writ Petition No. 636 (SS)/2020, wherein similar directions were issued, and the petitioner's representation was accordingly considered and rejected by order dated 21.08.2020. Respondents are consistent in their submissions that there was no delay or inaction on the part of the authorities and that all representations were decided in accordance with law.

4.2 With respect to the allegation of non-disposal of appeal, a detailed explanation is given stating in the C.A. that the petitioner's representation dated 18.10.2019 was duly processed, reports were obtained from the Food Commissioner, and subsequent communications were considered before a decision was taken.

4.3 It is further submitted that the revocation of suspension of K.C. Pandey was done by Respondent No. 1 and not by the Food Commissioner (Annexure: C-A- R 3). Sri Pandey was found responsible for a substantial shortage of food grains causing financial loss, for which recovery proceedings were initiated against him.

4.4 In Para 18 of the C.A. filed on behalf of Respondent No. 1, it is further submitted that on the basis of the inquiry report dated 13.05.2019 and subsequent departmental actions, the petitioner was found negligent in the discharge of duties and was accordingly awarded an adverse entry in the character roll for the year 2019–2020. It is also stated that although the adverse entry was examined in light of the applicable rules relating to representations against adverse ACRs, the petitioner's representations were ultimately rejected after

due consideration, and thus all actions were taken by the respondents strictly in accordance with law and the claim petition is devoid of merit.

5 In the C.A. filed on behalf of Respondent No.2, it has been submitted that the petitioner was working at the Government Food Grain Godown at Transport Nagar, Dehradun, and was temporarily transferred to Doiwala, after which he was again sent back to the Transport Nagar godown. Shortly thereafter, he proceeded on casual leave and was then deputed to the Food Corporation of India godown at Gularghati for inspection work.

5.1 It is further stated that on 17.11.2018, the petitioner was directed by the Deputy Marketing Officer to join a team constituted for physical verification of food grain stock at the Transport Nagar godown. Accordingly, he returned from Gularghati to participate in the verification process. During this period, the godown was under the charge of one Sri Kailash Chandra Pandey, who later handed over charge to another officer. At the time of handing over, a significant shortage of food grains, including rice, wheat, and sugar, was detected in the godown.

5.2 In view of these irregularities, a departmental inquiry was initiated against the petitioner and other concerned employees under the Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003 (as amended in 2010). A charge-sheet was issued to the petitioner on 14.02.2019, to which he submitted his reply. Thereafter, an Inquiry Officer was appointed, and a detailed inquiry was conducted. The Inquiry Officer submitted a report concluding that there was negligence and misconduct on the part of the petitioner. Specifically, it was found that since the petitioner was involved in the process of verification and was posted at the relevant time, he failed to properly discharge his duties, which resulted shortage of food grains.

5.3 Based on the findings of the inquiry, the competent authority recorded an adverse entry against the petitioner in his character roll for the year 2019–2020 on the ground of negligence and non-performance of duty. Earlier petitioner was placed under suspension, the

suspension was later revoked and vide order dated 18.06.2020, the suspension period was treated as time spent in service, and the petitioner was granted full salary for that period. However, the adverse entry recorded against him was not interfered with and continued to remain in force.

5.4 It has also been submitted on behalf of Respondent No.2 that the adverse entry imposed on the petitioner is only a minor penalty and was awarded to him for negligence and dereliction of duty. Therefore, the petitioner's claim petition is devoid of merit, lacks any legal basis, and is therefore liable to be dismissed with costs.

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

7 We have heard the arguments of the Learned Counsel for the petitioner, Learned APO and perused the documents carefully placed before the Tribunal.

8 Learned counsel for the petitioner submitted the written arguments as well argued the case before the tribunal. The learned Counsel for the petitioner submitted and argued that the shortage of 8484 bags of wheat, 2408 bags of rice and 4 bags of sugar was found in the Transport Nagar Centre, Dehradun at the time of transfer and handing over charge of the godown by Sri Kailash Chandra Pandey the then Centre In-Charge to Sri Ravindra Singh. The report of the Regional Food Controller was sent to Commissioner Civil supplies and consumers affairs and Shri Kailash Chandra Pandey was found responsible for the shortage of the food grains. The petitioner was also charged and was handed over the charge sheet.

9 The petitioner submitted the reply of the charges in detail and enquiry was conducted by Dr. M.S. Bishen, Joint Commissioner (Head Quarter). The Commissioner, Civil supplies and Consumers Affairs Department, Uttarakhand (disciplinary authority), despite the favorable report from the enquiry officer where he was exonerated by

him, awarded punishment of strong condemnation and confidential entry.

10 The suspension order of the petitioner was revoked and payment of the balance of the suspension period was also released in favor of the petitioner.

11 The petitioner appealed against the adverse entry in ACR under the Uttarakhand Government Servants ( Representation against Adverse Annual Confidential Report Disposal of Related Matter) Rules 2002. The appeal filed by the petitioner was finally disposed of by the Secretary, Civil supplies and Consumers Affairs, Govt. of Uttarakhand (appellate authority) on 12.06.2023 in which the appellate authority dismissed the appeal with the decision that the adverse entry in the Annual Confidential Report has not been made under the provisions of the Uttarakhand Government Servants ( Representation against Adverse Annual Confidential Report disposal of related matter) Rules 2002.

12 The punishment awarded is not in the category of the punishments in the Discipline and Appeal Rules, 2003 and as amended Rules 2010. How two punishments have been given, has not been explained by the Appellate Authority in the appellate order dated 12.06.2023. In view of the above the claim petition is liable to be allowed.

13 Learned APO argued that the petitioner has been awarded penalty of strong condemnation with adverse entry in the confidential report under Uttarakhand Government Servants (Discipline and Appeal) Rules 2003 as amended Rules of 2010. The petitioner did not appeal against the punishment order under the Uttarakhand Government Servant (Discipline and Appeal) Rules 2003 and the amended Rules of 2010. The appeal of the petitioner was dismissed by the appellate authority on the ground that the adverse entry has not been made under the Uttarakhand Government Servants (Representation against Adverse Annual Confidential Report Disposal of Related Matter) Rules 2002. As the petitioner did not appeal under

the proper rules, it is clear that the petitioner has not appealed against the order of the Disciplinary authority. Claim petition is liable to be dismissed on the grounds of not availing the remedy available under official channels under the provisions of the Discipline and Appeal Rules. Hence, the claim petition is liable to be dismissed

14. Based on the arguments of the parties and the documents presented, the Tribunal finds that though the enquiry officer in his report submitted that the charges were not proved against the petitioner but the Disciplinary Authority in his order severely reprimanded the petitioner for negligence of his work and not discharging his responsibilities properly which will be mentioned as an adverse entry in his Annual Entry 2019-20.

15. The petitioner appealed against the adverse entry in his Annual Confidential Report 2019-20 under the provisions of the Uttarakhand Government Servants ( Representation against Adverse Annual Confidential Report Disposal of Related Matter) Rules 2002 , to the Secretary Food, Civil Supplies and Consumer Affairs the Appellate Authority in this case. The Appellate authority rejected the appeal on the ground that the adverse entry in the Annual Confidential Report has not been given under the provisions of Uttarakhand Government Servants ( Representation against Adverse Annual Confidential Report disposal of related matter) Rules 2002.

16. The arguments of the Ld. Counsel for the petitioner that the punishment awarded to the petitioner is not in the category of the punishment as mentioned in the Discipline and Appeal Rules and the reasons for awarding the two punishments have also not been mentioned in the order. This should have been submitted by the petitioner to the appellate authority in the appeal filed under the proper rules. Further argument of the Ld. Counsel for the petitioner that as per the instruction of the Hon'ble Supreme Court, the title does not have any affect, the Court should priorities substantive justice over technicalities, also does hold here as the petitioner did not file appeal under the proper rules.

17. Without going into the procedural aspect of the departmental proceeding conducted against the petitioner, the Tribunal finds that the petitioner has not made appeal against the order of the disciplinary authority under Uttarakhand Government Servants Discipline and Appeal) Rules, 2003 as amended in 2010, under which the disciplinary proceeding against the petitioner was completed.

18. The adverse entry in the Annual Confidential Report is due to the penalty awarded after culmination of the Disciplinary proceedings against the petitioner. The Tribunal does not find any reason to interfere in the order of the Appellate Authority. The impugned order of the disciplinary authority is also not being interfered as the petitioner has not appealed against the order and the departmental remedy has not been exhausted by the petitioner. Hence the claim petition is liable to be dismissed for non- exhausting the departmental remedy available to the petitioner under the relevant rules.

19. The Claim petition is dismissed. However, the petitioner is given an opportunity to appeal against the order of adverse entry dated 16.09.2019, under the Uttarakhand Government Servant (Discipline and Appeal) Rules 2003 as amended in 2010. Delay, in filing the appeal, due to pendency of the claim petition in the Tribunal, shall not come in the way of the appellate authority while deciding the departmental appeal of the petitioner.

### **ORDER**

No order as to cost.

**(RAJENDRA SINGH)**  
ACTING CHAIRMAN

**(ARUN SINGH RAWAT)**  
VICE CHAIRMAN (A)

*DATE: APRIL 24, 2026.*  
*DEHRADUN*