

(Virtually)

**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. 04/NB/DB/2026**

Ghanshyam Adhikari, about 35 years, s/o Sri Bhuwan Chandra, presently serving as Excise Constable, Region-03, Bhikyasain, District Almora.

.....Petitioner

**Vs.**

1. State of Uttarakhand through Secretary, Excise Department, Govt. of Uttarakhand, Dehradun.
2. Excise Commissioner, Uttarakhand, Dehradun.
3. Assistant Excise Commissioner, Almora, District Almora.

.....Respondents

Present: Sri Bhagwat Mehra, Advocate for the petitioner  
Sri Kishore Kumar, A.P.O., for the State respondents

**JUDGMENT**

**DATED: APRIL 24, 2026**

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

*"A. To set aside the impugned order dated 10-01-2025 passed by the Respondent No. 2 (Annexure No. 1 to Compilation-I).*

*B. To direct the Respondents to grant all consequential benefits to the Petitioner.*

*C. To issue any other order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.*

*D. Award the cost of the Claim Petition in favour of the petitioner.”*

2. During Course of hearing on admission, learned A.P.O. has raised preliminary objection that claim petition is premature, as the petitioner has an alternative remedy to file appeal against the impugned order to the appellate authority under Rule 11(1) of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003. He further submitted that Section 4(5) of the Public Services Tribunal Act provides that no reference shall ordinarily be entertained by the Tribunal until all departmental remedies (under the rules applicable to the petitioner) are exhausted.

3. Learned Counsel for the petitioner submitted that the Respondent No. 2, passed the impugned order dated 10-01-2025, whereby, a major penalty of demotion/reduction to the basic pay of the post, was imposed alongwith a punishment of warning. Since the aforesaid order dated 10-01-2025 was completely illegal, without jurisdiction and ultra-vires and infact was against the statutory provisions governing the field i.e. Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 as amended from time to time, as such, the petitioner submitted an application on 02-07-2025 for review of the said order to the Respondent No. 2. Although a period of more than 07 months has already elapsed, but, till date no decision has been taken on the representation dated 02-07-2025 submitted by the petitioner and having left no other option, the petitioner has approached this Tribunal. It is also submitted that the impugned order dated 10-01-2025 has been passed in utter violation of the provisions contained in the Rules of 2003 as well as amended in 2010.

4. In the interest of justice, it would be appropriate that the controversy in question is first considered and decided by the Departmental Appellate Authority. It is also provided under Rule 11(1) of the 'Discipline and Appeal Rules, 2003' that a government

servant is entitled to 'Appeal' against any punishment order to the next higher authority. Rule 11 of the Uttarakhand Govt. Servant (Discipline and Appeal) Rules, 2003, as under:

***Appeal- "11. (1) Except the orders passed under these rules by the Governor, the Government Servant shall be entitled to appeal to the next higher authority from an order passed by the Disciplinary Authority.***

*(2) The appeal shall be addressed and submitted to the Appellate Authority. A Government Servant Preferring an appeal shall do so in his own name. The appeal shall contain all material statements and arguments relied upon by the appellant.*

*(3) The appeal shall not contain any intemperate language. Any appeal, which contains such language may be liable to be summarily dismissed.*

*(4) The appeal shall be preferred within 90 days from the date of communication of impugned order. An appeal preferred after the said period shall be dismissed summarily.*

5. In view of the above, the claim petition is disposed of, at the admission stage, by directing the petitioner to avail the remedy of 'Appeal' under Rule 11 (1) of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 as amended from time to time. The petitioner shall file the 'Departmental Appeal' before the Appellate Authority on receipt of the certified copy of this order, which shall be decided by the Appellate Authority, by a reasoned and speaking order, in accordance with law and rules, within three months from the date of presentation of certified copy of this order along with the appeal.

6. In the interest of justice, considering the peculiar facts of the case, delay in filing the departmental appeal is condoned. No order as to costs.

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

**(RAJENDRA SINGH)**  
ACTING CHAIRMAN

DATE: APRIL 24, 2026  
DEHRADUN  
KNP