BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIUBUNAL BENCH AT NAINITAL

Present: Hon'ble Mr. Rajendra Singh

..……..Acting Chairman

Hon'ble Mr. A.S. Rawat

……..Vice Chairman (A)

CLAIM PETITION NO. 140/NB/DB/2022

Govind Singh Manral, aged about 58 years, S/o Sri Heera Singh, Post—Ganai, Chaukutiya, District Almora, Uttarakhand.

.... Petitioner

Vs.

1. State of Uttarakhand through Secretary, Department of Finance, Government of Uttarakhand, Dehradun.
2. District Magistrate, Almora, District Almora.
3. Chief Treasury Officer, Almora, District Almora.
4. Treasury Officer, Sub-Treasury, Chaukutiya, District Almora.

.................Respondents

Present: Sri Navnish Negi, Advocate, for the Petitioner
Sri Kishore Kumar, A.P.O., for the Respondents

JUDGMENT

DATED: JULY 07, 2026

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

This claim petition has been filed by the petitioner for following reliefs:

> *"(i) To set aside/quash the impugned order dated 07/11/2022 passed by the District Magistrate, Almora, Uttarakhand (Respondent No. 2) (Annexure No. 1 of the claim petition).*

> *(ii) To pass any other suitable order as this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case.*
>
> *(iii) To award the cost of the petition in favour of the applicant."*

2. Brief facts, giving rise to present claim petition, are as follows:

2.1 Petitioner is posted as Accountant in the office of Treasury Officer, Treasury Ranikhet District Almora.

2.2 In the year 2017, before the closing of the financial year in the month of March 2017, certain failed payments of two pensioners namely Jasoda Devi & Sharda Devi pending since January, 2017 needed to be cleared in the light of the fact that the online payment through software *E-Kuber* was being introduced in the Treasury and the amount of Rs. 93,137/- of Jasoda Devi and Rs. 3002/- of Sharda Devi of the said failed transaction was lying in the R.B.I scroll and therefore, due to the said failed amount, the account data could not be updated in the newly inducted online transfer system. On the instruction of the higher authorities i.e. Data Centre, Dehradun, the Treasury Officer of the Treasury, Chaukhutiya, got transferred the said amount to the account of petitioner on 01.03.2017 with the direction to transfer the same into the pensioners' account when their accounts get active.

2.3 Petitioner transferred the said amount to the respective accounts of the pensioners on the following day on 02.03.2017 through challan in favour of the pensioner Jasoda Devi. This fact is being fortified by the challan receipts which goes on to establish the fact that petitioner has bonafidely deposited the said alleged amount to the account of the Jasoda Devi but the second pensioner's amount of Rs. 3002/- could not be transferred by mistake and got overlooked at that point of time. After the said deposition of the amount in the pensioners accounts of the petitioner was satisfied that the funds deposited stands transferred in their respective accounts of the pensioners. It happened in the year 2022 and it came to the knowledge of the petitioner when he checked his banking details that the said transfer too got failed and the debited amount has been credited back to his account; he deposited the whole failed amount in the government exchequer in favour of respective pensioners accounts on 07.01.2022 and intimated to the authorities concerned.

2.4 It has been alleged in the show cause notice dated 30.04.2022 issued by the office of District Magistrate, Almora, that the said payments which ought to be transferred into the pensioners' account was misappropriated by the petitioner by transferring the said payments in his own account. Petitioner responded to the said show cause notice vide his reply dated 12.05.2022 stating therein that the said transaction made in the account of the petitioner was done after obtaining due consent of the Treasury officer who is actual and final authority to transfer the funds in the office to meet out the contingency and situation cropping up for the clearance of the failed transactions.

2.5 The authorities proceeded with the disciplinary proceedings against the petitioner with the suspension of service, pending inquiry against him vide order dated 01.06.2022. Thereafter, the petitioner was served with the chargesheet with charges of embezzlement and misappropriation of funds.

2.6 Petitioner again represented before the inquiry officer with his reply denying the allegations and pleaded that it was a bonafide act by the petitioner to meet out the contingency to clear the failed transactions before the Induction of new online payment system and that too done by the Treasury officer with the consent of the petitioner to provisionally transfer the said funds in the account of the petitioner.

2.7 The inquiry committee held that the Charges against the petitioner stands proved vide its Enquiry Report dated 28/7/2022.

2.8 The District Magistrate, Almora passed the Impugned Order dated 07/11/2022 where by the major penalty of demoting the petitioner from the post of Accountant to Assistant Accountant and ordered legal action against the petitioner.

3. The claim petition has been contested on behalf of the respondents. Counter affidavit has been filed on behalf of respondent no. 2 and 3, mainly stating the following:

3.1 याची श्री गोविन्द सिंह मनराल, तत्कालीन लेखाकार (रोकड़), उपकोषागार चौखुटिया के बैंक स्टेटमैंट की जांच में याची के बैंक खाता संख्या : 20057118474 IFS Code : SBIN0002534 में संदिग्ध अंतकरण की धनराशि की पुष्टि हुई। प्रतिवादी संख्या–2/जिलाधिकारी, अल्मोड़ा कें पत्रांक–158/को0अ0/नोटि/वि0अनि0/2022–23 दिनांक 30.04.2022 द्वारा याची को कारण बताओ नोटिस जारी किया गया एवं याची द्वारा दिनांक 12.05.2022 को अपना प्रतिउत्तर प्रस्तुत किया गया। उक्त लिखित प्रतिउत्तर में याची द्वारा स्वयं स्वीकार किया गया कि दिनांक 01.03.2017 को भुगतानित सकल धनराशि रू 59,924/– कटौती उपरान्त बैंक खाते में अंतरित धनराशि रू 45,324/– याची के माह फरवरी, 2017 के वेतन से संबंधित है तथा अन्य दो धनराशि रू 93,137/– एवं धनराशि रू 3,002/– जो याची के बैंक खाते में याची द्वारा अंतरित की गई पेंशनर/पारिवारिक पेंशन की पेंशन से संबंधित है

3.2 उक्त के दृष्टिगत पर्याप्त साक्ष्यों के आधार पर अनुशासनिक प्राधिकारी/जिलाधिकारी, उल्मोड़ा (प्रतिवादी संख्या–2) के पत्रांक–360/को0आ0/अनु0कार्य0/निलम्बन/व्य0प0/2022–23 दिनांक 01.06.2022 द्वारा याची को सम्यक विचारोपरांत तत्काल प्रभाव से निलम्बित कर दिया गया तथा विभागीय जांच संस्थित कर दी गई। साथ ही अनुशासनिक प्राधिकारी/जिलाधिकारी, अल्मोड़ा (प्रतिवादी संख्या–2) के पत्रांक–359/को0अ0/वि0अनि0 2016–17/ आरोप पत्र/2022–23 दिनांक 01.06.2022 द्वारा याची को अपने बैंक खाते में अंतरित पेंशन की धनराशियां रू 93,137/– एवं धनराशि रू 3,002/– हेतु आरोप पत्र जारी किया गया।

3.3 संदिग्ध अन्तरण की धनराशियां संबंधित उपकरोषागार के उपकोषाधिकारी द्वारा याची की सहमति से याची के बैंक खाते में औपबन्धिक रूप में अन्तरण किये जाने के संबंध में कोई भी शासनादेश या निदेशालय स्तर से आदेश प्राप्त नहीं है और न ही किसी उच्चाधिकारी द्वारा दिये गये ऐसे कोई आदेश अभिलेखों में उपलब्ध हैं। जांच अधिकारी की जांच रिपोर्ट में भी ऐसे किसी आदेश अथवा साक्ष्य का उल्लेख नहीं है। आरोप पत्र के क्रम में याची द्वारा प्रस्तुत प्रतिउत्तर को जांच के दौरान संज्ञान में लिया गया है।

3.4 याची द्वारा उक्त के संबंध में कोषागार रानीखेत के तत्कालीन लेखाकार(रोकड़) श्री शकील अहमद का उदाहरण दिया गया है। कोषागार रानीखेत के समान प्रकार के संदिग्ध अंतरण के प्रकरणों में अनुशासनिक प्राधिकारी/जिलाधिकरी, अल्मोड़ा (प्रतिवादी संख्या–2) के पत्रांक–1335/को0आ0/वि0अनि0/जांच/2022–23 दिनांक 07.11.2022 द्वारा श्री शकील अहमद के संबंध में भी याची के समान ही अनुशासनात्मक कार्यवाही करतें हुये दण्डादेश पारित किया गया है।

3.5 अनुशासनिक प्राधिकारी/जिलाधिकारी, अल्मोड़ा (प्रतिवादी संख्या–2) के पत्रांक–359/को0अ0/वि0अनि0 2016–17/आरोप पत्र/2022–23 दिनांक 01.06.2022 द्वारा याची को आरोप पत्र जारी कर दिया गया। याची द्वारा अपना लिखित कथन दिनांक 15.06.2022 द्वारा प्रस्तुत किया गया, जिसमें याची द्वारा मौखिक साक्ष्य दिये जाने के संबंध में अवगत नहीं कराया गया था। प्रकरण जांच अधिकारी के पत्र संख्या–6919/को0अ0(जॉच)/2021–22, दिनांक 13 जुलाई, 2022 द्वारा श्री ख्याली दत्त शर्मा, प्रभारी उपकोषाधिकारी, चौखुटिया को साक्ष्य प्रस्तुत किये जाने हेतु निर्देशित किया गया। इस क्रम में श्री ख्याली दत्त शर्मा उपकोषाधिकारी, चौखुटिया द्वारा दिनांक 14.07. 2022 को जांच अधिकारी के समक्ष साक्ष्य उलब्ध कराते हुये अपने बयान दिये गये। जांच अधिकारी द्वारा उक्त समस्त तथ्यों का संज्ञान, प्रकरण में की गयी जांच में लिया गया है। जांच अधिकारी की जांच रिपोर्ट में याची पर अधिरोपित आरोप पूर्णतः सिद्ध पाये गये हैं।

3.6 अनुशासनिक प्राधिकारी द्वारा अनुशासनात्मक कार्यवाही के संबंध में उत्तराखण्ड सरकारी सेवा (अनुशासन एवं अपील) नियमावली, 2003 (यथासंशोधित) एवं उत्तराखण्ड सरकारी सेवा (अनुशासन एवं अपील) (संशोधन) नियमावली, 2010 के समस्त प्रावधानों एवं प्रक्रिया को पूर्ण करते हुये ही दण्डादेश पारित किये गये हैं। अनुशासनिक प्राधिकारी (प्रतिवादी संख्या–2) द्वारा नामित जांच अधिकारी की जांच रिपोर्ट एवं याची द्वारा अपने

बचाव में प्रस्तुत प्रतिउत्तरों के आधार पर ही अनुशासनिक प्राधिकारी/जिलाधिकारी, अल्मोड़ा (प्रतिवादी संख्या–2) द्वारा अपने आदेश पत्रांक–1336/को0अ0/वि0अनि0/जांच/2022–23 दिनांक 07.11.2022 द्वारा याची को उत्तराखण्ड सरकारी सेवक (अनुशासन एवं अपील) नियमावली, 2003 (यथासंशोधित) एवं उत्तराखण्ड सरकारी सेवक (अनुशासनिक एवं अपील) (संशोधन) नियमाली, 2010 के प्राविधानानुसार अनुशासनिक प्राधिकारी को प्रदत्त शक्तियों के क्रम में उक्त नियमावली के नियम–3 (ख) (दो) के तहत याची को निम्नतर पद पर अवनति के साथ ही याची के विरूद्ध कार्यवाही किये जाने हेतु आदेश पारित किये गये।

4. No R.A. has been filed on behalf of the petitioner.

5. We have heard the arguments of the Learned Counsel for the petitioner and the Learned A.P.O. and perused the documents.

6. Learned Counsel for the petitioner argued that the petitioner has been awarded punishment by the Disciplinary Authority, the Distt Magistrate, Almora for transferring the pension amount in respect of pensioners in his accounts. At that time, the Financial Management System-Kuber was being rolled out by the Government of Uttarakhand and the amounts pending for the payment were to be paid to the concerned persons, as there was no provision to keep the pending payments, the amount was transferred to the account of the petitioner as per instructions of his superiors. The petitioner made efforts to refund the amount to the accounts of the concerned pensioners, but the amount bounced back to the account of the petitioner which the petitioner came to know after long time and then he refunded the amounts in the Govt. account in the name of the concerned pensioners.

6.1 Learned Counsel for the petitioner further argued that the petitioner was given punishment of demotion to the lowest post by the Disciplinary Authority and also ordered to initiate criminal proceedings against the petitioner. The criminal proceedings were concluded by the Judicial Magistrate, Ranikhet, District Almora vide order dated 29.08.2024 and acquitted the petitioner on the ground that the prosecution failed to prove guilt of the petitioner and he was acquitted. In support of his argument, learned Counsel for the petitioner drew attention of the Court towards the judgment of Hon'ble Supreme Court in the Civil Appeal No 7935 of 2023 in the matter of Ram Lal Vs. State of Rajasthan & others that person was acquitted in the criminal proceedings, the departmental order of termination and order of the appellate authority refusing to reconsider and review are all illegal and untenable. In view of the acquittal of the petitioner in the criminal proceedings, which was based on the similar charges as in the disciplinary proceeding the impugned order is liable to be set aside and the claim petition is liable to be allowed.

7. Learned A.P.O. argued that disciplinary proceeding was initiated against the petitioner under the provisions of Discipline and Appeal Rules, 2003 for committing financial irregularity by transferring pension amount of Rs 93137+Rs.3002=Rs. 96139/- in respect of two pensioners in his personal account, which he refunded to the Government later on. The Disciplinary Authority has awarded him the punishment of demotion and also directed vide order dated 07.11.2022 to initiate criminal proceedings under appropriate sections of IPC.

7.1 Learned A.P.O. further argued that the Judicial Magistrate, Ranikhet, Distt-Almora vide judgment and order dated 17.10.2025 observed that the prosecution failed to prove the charges against the petitioner in the criminal case No. 71/2023 u/s 409 of IPC and ordered the acquittal of the petitioner from the criminal charges. The Judicial Magistrate, Ranikhet, Almora also found the petitioner lacking in criminal intent in keeping Govt. money but the fact that he kept money in his account for long time amounts to negligence and dereliction of duty. He has been rightly punished and the order of punishment cannot be revoked in the event of his acquittal in the criminal proceeding. Hence the claim petition is liable to be dismissed.

8. Based on arguments of the parties and the documents on record, the Tribunal finds that the petitioner was given punishment of demotion to the lowest post in the hierarchy as he has been found guilty of keeping government money in his personal account. The criminal proceeding was also initiated against the petitioner after culmination of departmental proceeding, based on the report of the enquiry officer. The charges in the disciplinary proceedings and the criminal proceedings were same and the witness were also same. The Hon'ble Supreme Court in Civil Appeal No 7935 of 2023 in the matter of Ram Lal Vs. State of Rajasthan & others held that person was acquitted in the criminal proceedings, the departmental order of termination and order of the appellate authority refusing to reconsider and review are all illegal and untenable. The relevant paras of the judgement are as under:

> 24. What is important to notice is that the Appellate Judge has clearly recorded that in the document Exh. P-3 – original marksheet of the 8th standard, the date of birth was clearly shown as 21.04.1972 and the other documents produced by the prosecution were either letters or a duplicate marksheet. No doubt, the Appellate Judge says that it becomes doubtful whether the date of birth was 21.04.1974 and that the accused was entitled to receive its benefit. However, what we are supposed to see is the substance of the judgment. A reading of the entire judgment clearly indicates that the appellant was acquitted after full consideration of the prosecution evidence and after noticing that the prosecution has miserably failed to prove the charge [See S. Samuthiram (Supra).]
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> 25. Expressions like "benefit of doubt" and "honorably acquitted", used in judgments are not to be understood as magic incantations. A court of law will not be carried away by the mere use of such terminology. In the present case, the Appellate Judge has recorded that Exh. P-3, the original marksheet carries the date of birth as 21.04.1972 and the same has also been proved by the witnesses examined on behalf of the prosecution. The conclusion that the acquittal in the criminal proceeding was after full consideration of the prosecution evidence and that the prosecution miserably failed to prove the charge can only be arrived at after a reading of the judgment in its entirety. The court in judicial review is obliged to examine the substance of the judgment and not go by the form of expression used.
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> 26. We are satisfied that the findings of the appellate judge in the criminal case clearly indicate that the charge against the appellant was not just, "not proved" - in fact the charge even stood "disproved" by the

very prosecution evidence. As held by this Court, a fact is said to be "disproved" when, after considering the matters before it, the court either believes that it does not exist or considers its nonexistence so probable that a prudent man ought, under the circumstances of the particular case, to act upon the supposition that it does not exist. A fact is said to be "not proved" when it is neither "proved" nor "disproved" [See Vijayee Singh and Others v. State of U.P. (1990) 3 SCC 190].

27. We are additionally satisfied that in the teeth of the finding of the appellate Judge, the disciplinary proceedings and the orders passed thereon cannot be allowed to stand. The charges were not just similar but identical and the evidence, witnesses and circumstances were all the same. This is a case where in exercise of our discretion, we quash the orders of the disciplinary authority and the appellate authority as allowing them to stand will be unjust, unfair and oppressive. This case is very similar to the situation that arose in G.M. Tank (supra).

28. Apart from the above, one other aspect is to be noted. The Enquiry Officer's report makes a reference to the appellant passing 10th standard, and to a 10th standard marksheet exhibited as Exh. P-4 referring to the date of birth as 24.07.1974. Jagdish ChandraPW1 (in the departmental enquiry) clearly deposed that since the appellant was regularly absent from Class 10, his name was struck off and he did not even pass 10th standard. The appellant has also come out with this version before the disciplinary authority, stating that the 10th class certificate of Ram Lal produced before the Enquiry Officer, is of some other Ram Lal.

29. This issue need not detain us any further because it is not the case of department that the appellant sought employment based on 10th standard marksheet. It is their positive case that the appellant sought employment on the basis of his 8th standard marksheet. Shravan Lal-PW-4 in the departmental enquiry had also furnished the 10th standard marksheet procured from the Secondary Education Board, Ajmer. In cross-examination, on being asked, he admitted that the appellant was recruited on the basis of 8th standard marksheet, and he admitted that there was no alteration in the 8th standard marksheet.

30. In view of the above, we declare that the order of termination dated 31.03.2004; the order of the Appellate Authority dated 08.10.2004; the orders dated 29.03.2008 and 25.06.2008 refusing to reconsider and review the penalty respectively, are all illegal and untenable.

31. Accordingly, we set aside the judgment of the D.B. Special Appeal (Writ) No.484/2011 dated 05.09.2018. We direct that the appellant shall be reinstated with all consequential benefits including seniority, notional promotions, fitment of salary and all other benefits. As far as backwages are concerned, we are inclined to award the appellant 50% of the backwages. The directions be complied with within a period of four weeks from today.

9. In view of the aforesaid facts, order of the Judicial Magistrate, Ranikhet, Almora to acquit the petitioner from the criminal charges and the judgement of the Hon'ble Apex Court; the

impugned order dated 07.11.2022 of the District Magistrate, Almora is liable to be set side and claim petition is liable to be allowed.

ORDER

The claim petition is allowed. The impugned order dated 07.11.2022 passed by the Distt. Magistrate, Almora is hereby set aside. The respondent authorities are directed to give all consequential benefits to the petitioner, within three months from the date of presentation of certified copy of this order. No order as to cost.

RAJENDRA SINGH
ACTING CHAIRMAN

A.S. RAWAT
VICE CHAIRMAN (A)

DATED: JULY 07, 2026
DEHRADUN
KNP/RS