

**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.09/NB/DB/2026

Kailash Singh Dhaila (Male), aged about 36 years, S/o Late Bishan Singh Dhaila, R/o Ayarpata Ward, Langham Out House, Tallital, Nainital, District Nainital, Uttarakhand.

.....Petitioner

Vs.

1. State of Uttarakhand through Secretary, Public Works Department, Dehradun.
2. Engineer-in-Chief (Head of Department) Public Works Department, Dehradun.
3. Chief Engineer, Public Works Department, Haldwani, District Nainital.
4. Superintendent Engineer, 2nd Circle, Public Works Department, Nainital, District Nainital.
5. Executive Engineer, Provincial Division, Public Works Department, Nainital, District Nainital.
6. Assistant Engineer, Provincial Division, Public Works Department, Nainital, District Nainital.

.....**Respondents**

Present: Sri Ajay Joshi, Advocate for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents

JUDGMENT

DATED: JULY 20, 2026

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

“(i) To quash/set-aside the order dated 30.04.2024, 23.12.2024, 23.12.2024 and 24.06.2025 whereby the representations filed by the petitioner and for expunging/quashing upgrading the adverse remarks in Annual Confidential Report for the period from 1st April, 2021- 31st March, 2022 and 1st April 2022-22nd October 2022 have been rejected.

(ii) To issue an order or direction to expunge/quash the adverse remarks recorded by Reviewing Authority/Accepting Authority in Part IV of petitioner's Annual Confidential Report for the period from 1st April, 2021-31st March, 2022 and 1st April 2022- 22nd October 2022.

(iii) To issue an order or direction directing the respondents to consider the petitioner for promotion to the post of Senior Assistant with effect from 09.04.2025 and grant all the arrears admissible to the petitioner including all the consequential benefits.

(iv) To pass any appropriate order as learned Tribunal may please to think fit and proper according to facts, reasons and circumstances of the case.

(v) To allow the petition with cost.”

2. Brief facts of the case are that petitioner was appointed as a Junior Assistant at the Provincial Division, P.W.D., Nainital on 06.02.2018 and was elected President of the Uttaranchal Public Works Department Ministerial Association (Divisional Branch).

3. The petitioner has stated that he was made a scapegoat in the controversial episode that took place in between the ministerial association and the respondent authorities. The department is having no charges or complaints against the petitioner, which would entail respondent authorities to justify and establish the harsh decision taken against the petitioner. The respondent authorities despite having entire knowledge of the issues raised by the ministerial association time and again, paid no heed to resolve them instead unnecessary pressure was built upon the petitioner. It is further stated that the arbitrariness did not stop there and it extended by leaving the Annual Confidential report for the period 1 April, 2021- 31st March, 2022 blank by the Reviewing/Accepting Authority and the entry of adverse remarks on the Annual Confidential Report for the

period 1 April 2022-22 October 2022. The Annual Confidential Report of petitioner for the year 2018-19, 2019-20, 2020-21 have been "good" and "very good" which suggests that the petitioner has rendered his services satisfactorily and unblemished.

4. When grievance for leaving the Annual Confidential Report of petitioner blank for the period 1st April, 2021-31st March, 2022 was raised, the same was marked with adverse remarks on 20.07.2024 by respondent no.5 which reads as "petitioner has acted with indiscipline, remained absent from duties without approval of leave and used unparliamentary language and therefore, his conduct has been unsatisfactory" which is contrary to the remarks of Reporting Authority. Disagreeing with the remarks of Reporting Authority, similar remarks were made by respondent no.5 in Annual Confidential Report of the petitioner for the period 1 April 2022-22 October 2022 just to harass the petitioner. Despite mentioning adverse remarks on the Annual Confidential Report by respondent no. 5, the same was neither communicated to the petitioner in writing by the Accepting Authority let alone within a period of sixty days from the date of recording of report nor a certificate to this effect was recorded in the said report.

5. Before marking the Annual Confidential Report of petitioner as adverse no inquiry was conducted, no reply from petitioner was sought and no reason for disagreeing with the reporting authority is mentioned in the Annual Confidential Report. Aggrieved with the adverse entry in Annual Confidential Report and leaving Annual Confidential Report blank, the petitioner sent a representation to respondent no.4 mentioning the non-compliance of Rules of 2015 in writing the Annual Confidential Report and intimated that the promotional exercise is being undertaken by Engineer in Chief and Head of Department, Uttarakhand Public Works Department, Dehradun in which Annual Confidential Reports of last five years have been sought from the petitioner, however due to adverse entry, the petitioner is suffering and requested for upgrading the Annual

Confidential Report to good/satisfactory, very good or excellent and deletion of adverse entry. The respondent no.4 rejected the representation of petitioner vide order dated 30.04.2024 on the ground that the comments have been added by the Accepting Authority on 06.04.2023 and petitioner has not filed representation from 06.04.2023 to 20.05.2023 but filed only on 11.09.2023. Due to rejection of representation, the adverse remarks in Annual Confidential Report, the petitioner could not be promoted while his junior has been promoted to the post of Senior Assistant. Hence, the petitioner has challenged the impugned order by which the representation of the petitioner was rejected.

6. The petitioner approached this Tribunal and filed present claim petition on 01.04.2026 challenging the aforesaid order of respondent dated 23.12.2024 by which representations of the petitioner have been rejected with delay of 97 days. A delay condonation application has also been filed by the petitioner to condone the delay in filing the claim petition. In the delay condonation application, the petitioner has taken the following grounds:

(i) The Petitioner had preferred the accompanying claim petition challenging the order dated 30.04.2024, 23.12.2024, 23.12.2024 and 24.06.2025 whereby the representations filed by the petitioner for expunging/quashing and upgrading the adverse remarks in Annual Confidential Report for the period from 1st April, 2021-31st March, 2022 and 1st April 2022-22nd October 2022 have been rejected. The petitioner is also challenging order or direction to expunge/quash the adverse remarks recorded by Reviewing Authority/Accepting Authority in Part IV of petitioner's Annual Confidential Report for the period from 1st April, 2021-31st March, 2022 and 1st April 2022- 22nd October 2022 and for directing the respondents to consider the petitioner for promotion to the post of Senior Assistant with effect from 09.04.2025 and grant all the arrears admissible to the petitioner including all the consequential benefits.

(ii) As soon as the Petitioner came to know about the non-recording of an entry by accepting authority in Annual Confidential Report for year 2021-

22 and recording of adverse entry in Annual Confidential Report of year 2022-23 (from 1st April, 2022- 22nd October, 2022), the petitioner sent a representation on 11/09/2023 for expunging the adverse entries.

(iii) The representation of petitioner was rejected on 30.04.2024 however, there was no recording of entry in Annual Confidential Report for year 2021-22. The adverse entry was then recorded on 20.07.2024 in the Annual Confidential Report of the petitioner for year 2021-22 against which the petitioner filed a representation on 16.08.2024. The representation of petitioner was rejected on 23.12.2024 and thereafter the petitioner sent a representation through District President, Uttaranchal Public Works Department Ministerial Association, Nainital which was rejected on 24.06.2025.

(iv) The petitioner preferred the representations to respondents for expunging the adverse entries and last representation was rejected on 07.08.2025. The petitioner had also approached the Hon'ble High Court of Uttarakhand for challenging the transfer order on "administrative grounds" which was disposed of vide order dated 16.09.2025 and in compliance of the said order dated 16.09.2025 passed by Hon'ble High Court, the respondent no. 2 deleted the words "administrative grounds" vide office order dated 06.12.2025. Since the transfer order and recording of adverse entry were based on same incident and same cause of action, the petitioner had hopes that the order dated 06.12.2025 will also replicate in expunging the adverse entries recorded in annual confidential report of the petitioner but same was not done by the respondents.

(v) When respondents paid no heed to repeated representations of the petitioner for expunging the adverse entry, the petitioner sought a legal advice for challenging the adverse entry. Based on the advice, he approached this Tribunal by filing present claim petition, without any further delay on 31/03/2026 which has resulted delay in filing the same.

(vi) The delay has occurred due to bona fide reasons, procedural formalities, time taken in preferring representations and not due to any deliberate negligence or intentional inaction. No prejudice shall be caused to the respondents if the delay is condoned, whereas the refusal to condone the delay would result in irreparable loss to the Petitioner and thus liable to be condoned.

7. During the course of hearing on admission, learned A.P.O. appearing on behalf of the respondents objected to the maintainability of the claim petition on the ground of delay. Learned A.P.O. has filed objections to the delay condonation application mainly objecting that the petitioner has challenged the adverse entries of his ACR for the year of 2021-2022 and 2022-2023. As per the provision contained in the "The Uttarakhand Government Servants (Disposal of Representation Against Adverse Annual Confidential Reports and Allied Matters) Rules, 2015, the time period for submission of representation against the adverse entry is 45 days. The petitioner himself admitted that he sent the representation against the adverse entries of the year 2021-2022 and 2022-23 on 11.09.2023. Thus, the representations were submitted by the petitioner after the prescribed time limit in the Uttarakhand Government Servants (Disposal of Representation Against Adverse Annual Confidential Reports and Allied Matters) Rules, 2015.

7.1 There is no provision for filing representation through Union in the rules. Thus, the representation sent by the Union is useless in the eye of law. Apart from this, the petitioner has not approached this Hon'ble Tribunal within the limitation period as prescribed in the section 5(b)(i) of the, The U.P. Public Services (Tribunal) Act 1976, The limitation for challenging any order or proceeding before the Hon'ble Tribunal is one year from the date of cause of action.

8. Heard on the delay condonation application.

9. Present claim petition has been filed by the petitioner for quashing/setting aside the impugned order dated 23.12.2024 passed by the respondents, whereby representations against the upgradation the ACRs was rejected. The cause of action arose to the petitioner on 23.12.2024. The petitioner has taken the ground that the representation of petitioner was rejected on 23.12.2024 and thereafter he sent a representation through District President, Uttaranchal Public Works Department Ministerial Association, Nainital which was also rejected on 24.06.2025. The petitioner has

approached this Tribunal challenging the said order only on 01.04.2026. It is also the submission of the petitioner that he was preferring the representations to respondents for expunging the adverse entries and last representation was rejected on 07.08.2025. This submission of the petitioner cannot be accepted as the moving representations cannot be a ground for condonation of delay. The petitioner has also sent representations through Union, but there is no provision for filing representation through Union in the rules. The petitioner has also taken the ground that he also approached the Hon'ble High Court of Uttarakhand for challenging the transfer order on "administrative grounds" which was disposed of vide order dated 16.09.2025 and in compliance of the said order dated 16.09.2025. This ground will also not help the petitioner to condone the delay, as the Transfer matter is separate, which cannot be challenged before this Tribunal.

10. As per Section 5(b)(i) of the, The U.P. Public Services (Tribunal) Act 1976, the limitation for challenging any order or proceeding before the Hon'ble Tribunal is one year from the date of cause of action. Section 5(b)(i) is quoted below:

*5(b) The provisions of the Limitation Act, 1963 (Act 36 of 1963) shall mutatis mutandis apply to reference under section 4 as if a reference were a suit filed in civil court so, however that.
(i) notwithstanding the period of limitation prescribed in the Schedule to the said Act, the period of limitation for such reference shall be one year.*

11. A perusal of the aforesaid section, reveals that the Claim Petition was to be filed within one year from the date of cause of action. In the instant case, the cause of action arose to the petitioner on 23.12.2024. Thereafter, the petitioner should have filed the claim petition within one-year upto 23.12.2025. But the petitioner has filed this claim petition only on 01.04.2026 before this Tribunal, after delay of 97 days, which is beyond the limitation period as prescribed in the rules.

12. In view of the above, we find that the petitioner has failed to explain the day-to-day delay with proper reasons for condoning the delay in filing the claim petition, as such the claim petition filed by the petitioner is time barred and the delay condonation application deserves to be dismissed.

13. Accordingly, the delay condonation application is hereby rejected and the claim petition, being time barred, is also dismissed, at the admission stage. No order as to costs.

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

(RAJENDRA SINGH)
ACTING CHAIRMAN

DATED: JULY 20, 2026
DEHRADUN
KNP