

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
AT DEHRADUN**

Present: Hon'ble Mr. Rajendra Singh

.....Acting Chairman

Hon'ble Mr. A.S. Rawat

.....Vice Chairman (A)

CLAIM PETITION NO. 27/SB/2026

Mukesh Chandra Barthwal, aged about 58 years, C/o Sri Manohar Lal Barthwal, R/o 115, near DAV School, Village-Balbhadrapur, P.O.-Padampur Sukhro, Kotdwara, Pauri Garhwal-246149.

.....Petitioner

versus

1. State of Uttarakhand through its Principal Secretary, Forest, Sachivalaya, Subhash Road, Dehradun.
2. Principal Chief Conservator of Forest/ HoFF, Uttarakhand, Forest Headquarters, 85, Rajpur Road, Dehradun.
3. PCCF (Wildlife)/ Chief Wildlife Warden, 85, Rajpur Road, Dehradun.
4. Chief Conservator of Forest, Human Resource Development and Personnel Management, Forest Headquarter, 85, Rajpur Road, Dehradun.
5. Chief Conservator of Forest/ CCF, Corbett Tiger Reserve, Uttarakhand, Ramnagar.

..... Respondents

Present: Ms. Ketki Chhaya Chaudhary, Advocate, for the Petitioner
Sri V.P. Devrani, A.P.O., for the Respondents

Judgement

Dated: 07th August, 2026

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

“(i) To quash the Charge Sheet dated 17.05.2023 (Annexure A-1) issued against the petitioner along with all other consequential orders including the punishment order dated 10.09.2024 (Annexure A- 5) and the appeal dismissed by the Appellate Authority vide order dated 17.11.2025 (Annexure A- 7), declaring the same to be legally null & void.

(ii) That there shall be no adverse impact of the said charge-sheet and all its consequential orders including the punishment order on the service related benefits to the petitioner.

(iii) Any other order or direction the Hon’ble Court may deem appropriate.”

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

2.1. Petitioner was initially appointed as Forester in the year 1999 and served as Section Officer in the Kugadda Section of the Plain Range within the Kalagarh Tiger Reserve Division from 20.06.2019 to 01.04.2022. The petitioner is presently posted as Deputy Range Officer, Kalagarh Tiger Reserve Division, Lansdowne.

2.2. The petitioner was served with a charge sheet on 17.05.2023, by the Chief Conservator of Forest/Field Director, Corbett Tiger Reserve, Ramnagar, alleging that during the period when the petitioner was posted as Section Officer i.e. from 20.06.2019 to 01.04.2022, certain works were allegedly executed without obtaining statutory, administrative or financial approvals from the competent authority. The following two charged were levelled against the petitioner:

a) Charge No. 01 - Alleging that two buildings were constructed on reserved forest land falling within the petitioner's jurisdiction

without obtaining legal, administrative or financial approval from the competent authority that were in violation of various statutory provisions.

- b) Charge No. 02 - Alleging that in continuation of Charge No. 01, despite being aware of statutory provisions and Government Orders issued from time to time, the petitioner failed to ensure compliance thereof, thereby acting in violation of Rule 3(1) and Rule 3(2) of the Uttarakhand Government Servants Conduct Rules, 2002.

2.3. Petitioner submitted a detailed reply of the chargesheet vide letter dated 06.11.2023 to the Chief Conservator of Forest/Director, Corbett Tiger Reserve, Ramnagar, categorically denying the allegations. The petitioner specifically stated that he had no role whatsoever in the initiation, execution or sanctioning of the works referred to in the charge sheet; that the works were carried out strictly pursuant to orders and approvals issued by higher authorities; and that during the execution of the works, the same were periodically inspected by the then Forest Range Officer and Deputy Conservator of Forests, without any adverse remark ever being recorded against the petitioner. Vide letter dated 28.11.2023, the Deputy Conservator of Forest, Kalagarh Tiger Reserve Division, Lansdowne nominated Mr. Harish Negi, Sub-Divisional Forest Officer, as Inquiry Officer in purported exercise of powers under Rule 7(8) and 7(9) of the Uttarakhand Government Servants (Discipline and Appeal) Rules, 2010. The Inquiry Officer submitted his report dated 27.05.2024 to the Chief Conservator of Forest/Director, Corbett Tiger Reserve, Ramnagar. In the said report, the petitioner was categorically exonerated of Charge No. 01, with a clear finding that the works in question were undertaken pursuant to orders of the competent authority and **that no statutory violation was directly attributable to the petitioner**. However, the Inquiry Officer, without any independent evidence, opined that Charge No. 02 stood proved against the petitioner, allegedly for violation of Rule 3(1) and 3(2) of the Conduct Rules, 2002.

2.4. Vide order dated 10.09.2024, the Conservator of Forests/Director, Corbett Tiger Reserve, Ramnagar, acting as the Punishing Authority, imposed the following minor penalties on the petitioner under the Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003: (i) censure under Rule 3(a)(i); and (ii) withholding of one increment for two years under Rule 3(a)(ii).

2.5. Aggrieved by the said punishment order, the petitioner preferred a statutory appeal dated 20.12.2024 under Rule 11 of the Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003 (as amended), specifically contending inter alia that: (i) the petitioner stood exonerated of the foundational Charge No. 01; (ii) Charge No. 02 was vague, omnibus and non-substantive; (iii) no evidence had been led by the department to discharge its burden of proving Charge No. 02; (iv) reliance was illegally placed on extraneous material not forming part of the charge sheet; and (v) the charge sheet itself was without jurisdiction, having not been issued by the competent Disciplinary Authority. the Appellate Authority/Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden, Uttarakhand, dismissed the petitioner's appeal vide order dated 17.11.2025, affirming the penalty imposed on him. Despite categorical exoneration of the petitioner on the principal and foundational charge (charge no. 1), the respondent authorities have illegally proceeded to punish the petitioner on the basis of charge no. 2.

2.6. **Violation No. 1**— it is well established principle of law that the Charge-sheet against a Government Servant must be signed by the Disciplinary Authority; and various Hon'ble High Courts and Hon'ble Supreme Court through a catena of judgments have upheld the said proposition. However, the said provision of law was violated by respondent no. 5, the details of which are as under:

- (i) The law is settled in this regard by Hon'ble Supreme Court in the matter of Union of India and others Vs. B.V. Gopinath

[2014(1) SCC 352]. Relevant paras of the judgement are as follows:

"40. Disciplinary proceedings against the respondent herein were initiated in terms of Rule 14 of the aforesaid Rules. Rule 14(3) clearly lays down that where it is proposed to hold an inquiry against a government servant under Rule 14 or Rule 15, the disciplinary authority shall draw up or cause to be drawn up the charge sheet. Rule 14(4) again mandates that the disciplinary authority shall deliver or cause to be delivered to the government servant, a copy of the articles of charge, the statement of the imputations of misconduct or misbehaviour and the supporting documents including a list of witnesses by which each article of charge is proposed to be proved. We are unable to interpret this provision as suggested by the Additional Solicitor General, that once the disciplinary authority approves the initiation of the disciplinary proceedings, the charge sheet can be drawn up by an authority other than the disciplinary authority. This would destroy the underlying protection guaranteed under Article 311(1) of the Constitution of India. Such procedure would also do violence to the protective provisions contained under Article 311(2) which ensures that no public servant is dismissed, removed or suspended without following a fair procedure in which he/she has been given a reasonable opportunity to meet the allegations contained in the charge sheet..."

43. Accepting the submission of Ms. Indira Jaising would run counter to the well-known maxim delegatus non protest delegare (or delegari). The principle is summed up in "Judicial Review of Administrative Action" De Smith, Woolf and Jowell (Fifth Edition) as follows:-

"The rule against delegation: A discretionary power must, in general, be exercised only by the authority to which it has been committed. It is a well-known principle of law that when a power has been confided to a person in circumstances indicating that trust is being placed in his individual judgment and discretion, he must exercise that power personally unless he has been expressly empowered to delegate it to another."

44. This principle has been given recognition in Sahni Silk Mills (P) Ltd (supra), wherein it was held as under

“6. By now it is almost settled that the legislature can permit any statutory authority to delegate its power to any other authority, of course, after the policy has been indicated in the statute itself within the framework of which such delegatee (sic) is to exercise the power. The real problem or the controversy arises when there is a sub-delegation. It is said that when Parliament has specifically appointed authority to discharge a function, it cannot be readily presumed that it had intended that its delegate should be free to empower another person or body to act in its place.”

46. Ms. Indira Jaising also submitted that the purpose behind Article 311, Rule 14 and also the Office Order of 2005 is to ensure that only an authority that is not subordinate to the appointing authority takes disciplinary action and that rules of natural justice are complied with. According to the learned Addl. Solicitor General, the respondent is not claiming that rules of natural justice have been violated as the charge memo was not approved by the disciplinary authority. Therefore, according to the Addl. Solicitor General, the CAT as well as the High Court erred in quashing the charge sheet as no prejudice has been caused to the respondent. In our opinion, the submission of the learned Addl. Solicitor General is not factually correct. The primary submission of the respondent was that the charge sheet not having been issued by the disciplinary authority is without authority of law and, therefore, non est in the eye of law. This plea of the respondent has been accepted by the CAT as also by the High Court.”

- (iii) Hon'ble High Court of Uttarakhand in its order dated 30.06.2008 passed in W.P. No. 118(SB)/ 2008 (Smt. Lalita Verma Vs. State of Uttarakhand & others) has reiterated that the charge sheet has to be signed by the Disciplinary Authority as reflected in para-8 of the order reproduced below:

“8. The Charge sheet has been signed by the Inquiry Officer. It is totally unconstitutional and patently illegal for the Inquiry Officer to sign the chargesheet. The Inquiry Officer in the very nature of things is supposed to be an independent, impartial and non-partisan person. How can he assume the role and wear the mantle of the accuser by signing the chargesheet? This apart, Rule 7 itself clearly stipulates that the chargesheet has to be signed by the disciplinary authority.”

- (iv) The Hon'ble High Court of Uttarakhand in Uday Pratap Singh vs. State of Uttarakhand and others, (2013) 1 UC 664, has reiterated the above principle in the following words:

“12. Rule 7(ii) indicates that the charge sheet shall be signed by the disciplinary authority. Prior to the amended Rules, it was open to the disciplinary authority to sign the charge sheet himself or direct any subordinate officer or the Enquiry Officer to sign the charge sheet. This Rule has been specifically amended by the Amendment Rules, 2010 pursuant to the interim order of the High Court and the reason is, not far to see. An Enquiry Officer should not be allowed to sign the charge sheet. An Enquiry Officer is required to be an independent person, who is required to proceed and analyze the evidence that comes before him and should not be a signatory to the charges that are being levelled against the charged officer. It is on account of this salutary principle that the Rules have been amended specifically for a solitary purpose, namely, that the disciplinary authority alone is required to sign the chargesheet...”

Since the chargesheet of the petitioner can be signed only by the disciplinary authority/ appointing authority and by no other authority under the Rules, therefore chargesheet of the petitioner signed by the respondent no. 5 is illegal and is liable to be set aside.

2.7. Violation No. 2— Rules provide that the Disciplinary Authority may himself inquire into the charges as against the charged employee or he may appoint an Inquiry Officer. The said provision of law is as under:

- (a) Rule-7(8) of the Uttarakhand Government Servant (Discipline and Appeal) Rules 2003 provides that the Disciplinary Authority may himself inquire into those charges not admitted by the Government servant or he may appoint any authority as "Inquiry Officer". The petitioner in his reply to the charge sheet clearly denied the charges but the "Inquiry Officer" was not appointed by the Disciplinary Authority nor the same were inquired by the Disciplinary Authority/CCF, HRD.

(b) Hon'ble High Court of Uttarakhand in the matter of Ram Lal Vs. State of Uttarakhand and others (SPA No. 300 of 2015) observed the following:

“As far as the appointment of an Inquiry Officer is concerned, it is settled law, by virtue of the Rules prevailing in the State and decisions of the court interpreting them, that an Inquiry Officer can be appointed only after the disciplinary authority issues a charge-sheet calling upon the delinquent officer to submit his explanation and, if, after considering the explanation of the delinquent officer it is found necessary to hold an inquiry, only at that stage, an Inquiry Officer can be appointed. As far as the charge-sheet is concerned, after the amendment to the Rules in 2010, it is not disputed that the charge-sheet is to be signed by the disciplinary authority. The power of issuing the charge-sheet cannot be delegated to the Inquiry Officer.

8. We, however, leave it open to the competent authority to follow the Rules; the disciplinary authority will take upon itself the task of serving the charge-sheet as per the Rules; consider the explanation of the appellant; thereafter, take a decision as to whether an Inquiry Officer is to be appointed; and, if an Inquiry Officer is to be appointed, to appoint him. The issuance of the charge-sheet will not be unnecessarily delayed and, if the matter is governed by law in the form of Rules or Government Order, necessarily, the disciplinary authority must take steps to issue the charge-sheet and also to conclude the inquiry at the earliest without any unnecessary delay and as per law.”

(c) To further substantiate the above ruling, it would be appropriate to refer to the observation made and law settled in this regard by Hon'ble High Court of Uttarakhand in M.S. Dasauni vs. State of Uttarakhand and others, 2016(1) UD 321, which is as follows:

“17. This is the chargesheet and an enquiry officer is not supposed to prepare a charge-sheet, as this is the job of the appointing authority. Enquiry officer has to conduct an enquiry in an impartial manner and therefore, framing of the charge-sheet is not one of the duties of the enquiry officer.”

(d) This Tribunal in the matter of Bhupal Singh Adhikari vs. State of Uttarakhand and others (claim petition no. 09/NB/SB/2017) has upheld the above in the following words:

“12. In the light of the judgments of Hon'ble High Court of Uttarakhand in above paragraphs, it is clear that the inquiry officer should be appointed only after the charge sheet is served upon the delinquent official and he pleads not guilty to the charges. In the instant case, the inquiry officer was appointed before the charge sheet was served upon the petitioner. Therefore, the inquiry proceedings are patently illegal and in gross violation of principles of natural justice and cannot be sustained in the eye of law.

13. It is settled position of law that the inquiry officer can be appointed only after the reply of the charge sheet is received (and the delinquent official pleads not guilty to the charges). In the case in hand, the inquiry officer was appointed before the charge sheet was served upon the petitioner and before the reply of the charge sheet was submitted by the petitioner. Legal position is that the reply of the chargesheet should be considered by the disciplinary authority. If after considering the reply of the charge sheet, the disciplinary authority finds that the delinquent official has not admitted the charges or the disciplinary authority is not satisfied by the reply of the delinquent, he can proceed and can either conduct inquiry himself or appoint an officer to conduct the inquiry. In the instant case, the reply of the charge sheet submitted by the petitioner became immaterial as the inquiry officer was directed to proceed with the inquiry prior to the reply of the charge sheet was received and considered by the disciplinary authority. Thus, the respondents have taken a wrong path to conduct the inquiry. In view of settled legal position, we find that the process of inquiry, adopted by the respondents, was not in accordance with law.”

2.8. Violation No. 3— the notification No. 817/X-1-2019-04(01)/2001(A) TC dated 06.09.2019 issued by the Government of Uttarakhand under Rule-6 of Discipline and Appeal Rules 2003 provides the delegation of power to any authority subordinate to the Appointing Authority to impose any penalty (except dismissal and removal from service) on Government Servant belonging to Group- 'C' and 'D' posts. This delegation of power is only for the purpose of imposing punishment to Forest Guards, Foresters and Deputy Rangers once the disciplinary proceedings are completed in

accordance with law. However, this delegation of power meant exclusively for imposing punishment only has been wrongly understood by respondent no. 4 interpreting that the power to pass punishment order also means enjoying all the powers of Disciplinary Authority/Appointing Authority including the authority to sign the Charge sheet, appointing Inquiry Officer etc. It is because of this wrong interpretation, Respondent No. 5 signed the Charge-sheet, appointed an Inquiry Officer and passed punishment order.

2.9. Violation No. 4— The department, while framing Charge No. 02, relied solely upon Rule 3(1) and 3(2) of the Conduct Rules, 2002, without producing any documentary or oral evidence to substantiate the alleged misconduct. However, the Inquiry Officer illegally relied upon additional material, including the report of a Committee constituted pursuant to proceedings before the Hon'ble National Green Tribunal, which was neither annexed to the charge sheet nor supplied to the petitioner, nor was the petitioner ever confronted with the same during inquiry. Such reliance on undisclosed material is in blatant violation of principles of natural justice. The Hon'ble Supreme Court in *State of Assam v. M.K. Das* (AIR 1970 SC 1255) has categorically held that: "*we have to state that it is highly improper for an Enquiry Officer during the conduct of an enquiry to attempt to collect any materials from outside sources and not make that information, so collected, available to the delinquent officer and further make use of. the same in the enquiry proceedings.*"

3. The claim petition has been contested on behalf of the respondents. C.A. has been filed by Deputy Director, Corbett Tiger Reserve, Ramnagar, District Nainital, denying the material averments contained in the claim petition. Relevant documents have been filed by the respondents. Counter affidavit has been filed mainly stating that the petitioner was initially appointed as a Forester on 19.06.1999 in the Forest Department of the Erstwhile State of Uttar Pradesh under Uttar Pradesh (Ranger, Deputy

Ranger and Forester) Service Rule- 1951 as amended by State Government time to time. The petitioner is now posted as Deputy Ranger a Group-C Post under Rule-2 of Uttarakhand Subordinate Forest Service Rule-2016. The appointing authority of Deputy Ranger is Chief Conservator of Forest, Human Resource Development and Personnel Management, Uttarakhand, Dehradun as per Rule -3 (a). The Government of Uttarakhand vide Notification No- 817/x-1-2019-01/01/2001(A) T.C dated 6-9-2019 delegated the powers of disciplinary authority under Rule-6 of Uttarakhand Government Servant (Discipline and Appeal) Rules-2003 to the Subordinate Officers in the matters of Deputy Ranger, Forester and Forest Guards. In the matter of Deputy Ranger and Foresters the powers of disciplinary authority/Chief Conservator of Forest, Human Resource Development and Personal Management, Uttarakhand, Dehradun was delegated to Conservator of Forest / Directors to impose any penalty except dismissal, removal from service under these Rules.

3.1. The powers of disciplinary authority/Chief Conservator of Forest, Human Resource Development and Personal Management, Uttarakhand, Dehradun was delegated to Conservator of Forest/ Director vide Notification No-817/x-1-2019-01/01/2001(A) T.C dated 6-9-2019. It is also necessary to mention here that the Respondent No-5 Director Corbett Tiger Reserve, Ramnagar is a post of Conservator of Forest. Therefore, the Respondent No-5 has issued the Charge-sheet to the petitioner as per power conferred to him under Notification No- 817/x-1-2019-01/01/2001(A) T.C. dated 06.09.2019. Hence, the claim of the petitioner is not correct that chargesheet has not issued by competent authority.

3.2. The petitioner was posted as Section Officer from 20/6/2019 to 01/4/2022 under the Plain Range of Kalagarh Tiger Reserve Division of Corbett Tiger Reserve Ramnagar, Nainital. It came into the knowledge of the forest department that certain illegal

construction activities were carried out in Kugadda Forest Camp situated within the jurisdiction of tiger reserve area, which later came under scrutiny as the constructions were allegedly made without statutory, administrative and financial approval/Sanction. Assistant Inspector General of Forests, Ministry of Environment, Forest and Climate Change, National Tiger Conservation Authority (NTCA) vide its letter dated 22.10.2021, informed that various constructions works in the Tiger Safari under the Kalagarh Tiger Reserve, Forest Division of the Corbett Tiger Reserve have been carried out without statutory, administrative and financial approval / sanction, which constituted violations of provision under:

- (a) Indian Forest Act, 1927
- (b) Wildlife (Protection) Act, 1972
- (c) Forest (Conservation) Act, 1980

3.3. An Inquiry Committee constituted under the Chairmanship of Additional Principal Chief Conservator of Forests and Nodal Officer, Forest Conservation, Uttarakhand conducted extensive field inspections and submitted its report on 07.02.2022, wherein, it was found that construction of 02 buildings has been done in Kugadda Forest Complex in the Plain Range, which is a clear violation of the relevant provisions of the Indian Forest Act, 1927, Forest (Conservation) Act, 1980 and in its investigation report, the Inquiry Committee had also provided a list of names of the employees/officers responsible / liable for this work, in which the name of the petitioner Deputy Forest Range Officer, has also been seen / involved mentioned. The allegation against the petitioner was illegal construction of 02 buildings in Kugadda Forest Complex within Corbett Tiger Reserve without obtaining any statutory/ administrative/ financial approval/ sanction from the competent authority level. Due to which, in view of the violation of Rule 3 (1) and 3 (2) of the Uttaranchal Govt. Servants Conduct Rules, 2002, the Field Director, Corbett Tiger Reserve issued a charge-sheet

containing as many as two charges levelled against the petitioner vide his office letter no. 2587/1-15 dated 17.05.2023 along with supporting documentary evidence by the Chief Conservator of Forest/ Director, Corbett Tiger Reserve.

3.4. The petitioner demanded some documents vide his letter dated 03.06.2023 for furnishing reply to the chargesheet. The department had supplied the required documents to the petitioner on 24.06.2023 but the petitioner has not replied the chargesheet for which the petitioner was held liable. Since the petitioner did not submit his reply on the charge sheet within the stipulated time period to the Conservator of Forest/Director, Corbett Tiger Reserve Ramnagar Nainital. The Conservator of Forest/Director, Corbett Tiger Reserve, in exercise of the powers conferred under Rule 7(5), Rule 7(8) and Rule 7(9) of the Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003 as amended in year 2010, vide office letter No. 1110/1-15 dated 31.10.2023 appointed one Shri Harish Negi, Sub Divisional Forest Officer, Sonanadi/Adnala Sub Division, Kalagarh Tiger Reserve Division, Lansdowne as inquiry officer to inquire into the allegations levelled against the petitioner. Petitioner belatedly submitted a reply to the charge-sheet after expiry of more than 5 months' time period on dated 06.11.2023 to the Inquiry Officer when he was called upon to participate in inquiry proceeding which is the clear violation of Rule 7(5) of the said rule & same was against the prescribed date of 20 days as mentioned in the charge sheet however, upon consideration by the competent authority, the said reply was found to be unsatisfactory and not convincing, as it failed to adequately explain or rebut the allegations levelled against the petitioner.

3.5. The Inquiry Officer, Mr. Harish Negi, Sub-Divisional Forest Officer conducted the detailed /regular inquiry against the petitioner & submitted his Inquiry Report dated 27.05.2024 to the Chief Conservator of Forests/Director, Corbett Tiger Reserve along with supporting documents. The Inquiry Report found Charge No. 2

levelled against the petitioner as proved. The Inquiry report dated 27.05.2024 was submitted to the Conservator of Forest/Field Director, Corbett Tiger Reserve i.e. the Disciplinary Authority by the Inquiry Officer as per the provision of Rule 8 of the said rule on dated 28.05.2024.

3.6. In pursuance of the findings recorded in respect of Charge No. 2 in the inquiry report, the Field Director, Corbett Tiger Reserve, i.e. Respondent no. 5 in exercise of the powers conferred upon him under Rule 3(a) of the Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003, as amended in the year 2010, passed a Speaking & Reasoned punishment order dated 10.09.2024 against the petitioner. By which the petitioner was awarded the following minor penalties:

- (i) Censure Entry
- (ii) Withholding of one annual increment for a period of two years.

3.7. Other important and effective judicial orders related to this case are as follows:

A. The Central Empowered Committee (CEC) constituted by the Hon'ble Supreme Court, New Delhi has submitted a detailed report in its REPORT No. 3 of 2023 IN Application No. 1558 of 2021 IN W.P. (C) No. 202/1995 Volume-1 Filed by: Gaurav Kumar Bansal case in its letter No. F. No: 1-19/CEC/SC/2022-PL. (61) dated 24.01.2023 to the Hon'ble Supreme Court, New Delhi. In this detailed report, in serial number 4 of page number 39, regarding the construction activities at Kugadda Forest Camp, it has been mentioned that Legal Violation:-

"Section 2(2) of the Forest (Conservation) Act, 1986. In the order of Principal Chief Conservator of Forest (HoFF) letter dated 19.01.2022, if certified by IT Cell from the area in question, there will be a violation of section 26-1 (f) and (h) of Indian Forest Act, 1927."

B. Judgment dated 17.04.2023 passed by the Hon'ble National Green Tribunal, Principal Bench, New Delhi in M.A. No. 27/2023 IN Original Application No. 748/2022 with effect from 17.04.2023 the operative portion of which is as hereunder :-

"3. Construction of buildings at Kugadda: "Identical to the four double story buildings each having four rooms were under construction at Pakhrau Forest House Complex and Morghatti Forest Rest House Campus similar construction was also done in Kugadda Forest Camp. There was no financial and administrative sanctions for these building construction".

Violations:

(a) Section 26-1(f) and (h) of Indian Forest Act, 1927.

(b) Section 2(2) of the Forest Conservation Act, 1980.

(c) Section 27(2), 27(4) and 32 of the Wildlife (Protection) Act, 1972.

(d) Violation of relevant procurement rules, 2017, Uttarakhand.

C. Writ Petition (Civil) No. 202/1995 I.A. No. 20650/2023 T.N. Godavarnan Thirumulpad Versus Union of India & ors. In RE: Gaurav Kumar Bansal has been filed in the Hon'ble Supreme Court, New Delhi relating to the above matter under Corbett Tiger Reserve, in which a comprehensive interim order has been passed by the Hon'ble Supreme Court on 06.03.2024, the effect portion of which is as follows:

"The State of Uttarakhand is directed to complete the disciplinary proceedings against the delinquent officers as expeditiously as possible and in any case, within a period of six months from today. The status report in this regard shall be submitted to this Court within a period of three months from today."

In view of the above, the Hon'ble Supreme Court, New Delhi has again passed comprehensive directions vide Judgment dated 17.11.2025, the operative portions of paragraph 178.3.3 of which are as under:

"178.3.3. Identify the persons/officials responsible for such a damage. Needless to state that the State shall recover the cost so quantified from the persons/delinquent officers found responsible for the same. The cost so recovered shall be exclusively used for the purpose of restoration of the damage caused to the environment."

3.8. The petitioner filed an against the punishment order dated 10.09.2024 on 20.12.2024 to the Additional Chief Conservator of Forests Wildlife Protection & Intelligence under the provisions of Rule 11 of the Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003. Appellate Authority, Resp. No.3 Principal Chief Conservator of Forests (Wildlife) and Chief Wildlife Warden, Uttarakhand, duly considered the appeal filed by the petitioner under Rule 11 of the Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003, though it was filed after 90 days and rejected the petitioner's appeal vide his office letter No. 1620/1-15, dated 17.11.2025, holding the punishment order issued by the Field Director, Corbett Tiger Reserve, is legally perfect & valid.

3.9. With regard to allegation that the chargesheet was not issued by the competent authority, the respondent denies this allegation & states that according to the Government Notification dated 06.09.2019 issued by the Principal Secretary, Forest & Environment Department, Government of Uttarakhand delegated powers under Rule 6(3) and Rule 7(2) of the Discipline and Appeal Rules, the Conservator of Forest / Head of Office level officers are authorized to impose penalties (except dismissal or removal) on Deputy Rangers, Foresters and Forest Guards. Therefore, the Conservator of Forests / Field Director was the authorized disciplinary authority for such cases. Hence the charge sheet issued by the Conservator of Forest/Field Director, Corbett Tiger Reserve is legally valid and cannot be said that the charge-sheet has not been issued by competent authority.

3.10. With regard to appointment of inquiry officer, the respondent denies violation of Rule 7(8). In reply thereto it is

submitted that the Forest Conservator level officer was the disciplinary authority under the 2019 notification. Under Rule 7(2) and Rule 7(8) of the Discipline and Appeal Rules, 2003 as amended in year 2010 the disciplinary authority can either conduct the inquiry himself or appoint an Inquiry Officer. The rule requires that the Inquiry Officer should be at least two ranks above the charged employee & accordingly the Conservator of Forests / Field Director, Corbett Tiger Reserve appointed a Sub-Divisional Forest Officer (SDO) to conduct the inquiry. Moreover, the SDO was two levels above the petitioner, therefore the rule was fully complied with.

4. Rejoinder affidavit has been filed by learned Counsel for the petitioner reiterating the facts contained in the claim petition and denying the material averments contained in the counter affidavit. R.A. has been filed mainly stating that the respondents have deliberately conflated the limited delegated power to impose punishment under Notification dated 06.09.2019 with the distinct statutory powers of initiation of disciplinary proceedings, issuance/signing of charge-sheet, and appointment of Inquiry Officer, which under Rules 6 and 7 remain vested exclusively in the Appointing/Disciplinary Authority unless expressly delegated, which admittedly has not been done.

4.1. The respondents have repeatedly relied upon allegations concerning alleged illegal construction, NTCA communications, CEC reports, NGT proceedings, and proceedings before the Hon'ble Supreme Court, which are wholly extraneous to the scope of the departmental proceedings against the petitioner. Mere reference to larger environmental proceedings cannot cure jurisdictional defects, illegality, absence of statutory competence, or violation of principles of natural justice. The respondents have failed to appreciate the present petition, which fundamentally challenges:

- (i) jurisdictional incompetence in issuance of charge-sheet;
- (ii) illegality in appointment of Inquiry Officer;
- (iii) misinterpretation of Notification dated 06.09.2019;

- (iv) reliance on extraneous and undisclosed material; and
- (v) punishment despite exoneration from foundational charge.

4.2. Rule 6 of the Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003, the Government may delegate limited power to impose any penalty except dismissal or removal from service to a subordinate authority in respect of Group 'C' and 'D' employees. The said position has in fact been admitted by the respondents themselves in this paragraph. However, mere delegation of power to impose certain penalties does not mean that such subordinate authority automatically becomes the disciplinary authority under the Rules. In the absence, of any specific delegation regarding initiation of disciplinary proceedings, issuance of chargesheet or appointment of Inquiry Officer under Rule 7 of the Rules, the respondent cannot legally justify the impugned proceedings.

4.3. It is admitted by the respondent that CCF (HRD) is the appointing Authority of the Deputy Rangers. The Rule 6 of the said Rules provide that the Appointing Authority of the Government Servant shall be his Disciplinary Authority and Rule 7(2) of the said rules specifically provides that the chargesheet shall be signed by the Disciplinary Authority. Thus, CCF(HRD) being the Appointing Authority/Disciplinary Authority has the power to sign the chargesheet. Since, only some of the powers of punishment have been delegated to the Conservator of Forest therefore, the Conservator of Forest cannot issue the chargesheet against the petitioner. The respondents have intentionally equated "power to impose penalty" with "power to initiate disciplinary proceedings," which is legally incorrect and contrary to the Rules 6 and 7 of the Discipline and Appeal Rules, 2003. In the petitioner's case, the appointing and original disciplinary authority admittedly remains the Chief Conservator of Forests (HRD), and there is no specific statutory delegation produced by the respondents showing lawful

transfer of the power to initiate proceedings. In absence of such lawful authority, the charge sheet dated 17.05.2023 is void ab initio.

5. We have heard learned Counsel for the parties and perused the record.

6. Learned Counsel for the petitioner argued that the disciplinary proceedings initiated against the petitioner is defective as the charge sheet to the petitioner has not been issued by The Disciplinary Authority (Chief Conservator of Forests Human Resources and Personnel Management) but by the Chief Conservator of forests , Corbett Tiger Reserve as against the Rule-3A. The Chief Conservator of Forest, Human Resource Development and Personnel Management (CCF- HRD) is the appointing authority of the petitioner and Rule - 6 of Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003, provides that appointing authority of the government servant shall be the disciplinary authority . So the charge sheet should have been issued by CCF(HRD) instead of CCF, , Corbett Tiger Reserve, Uttarakhand, Ramnagar . This has been well established in the judgement of the Hon'ble Supreme Court in the matter of Union of India and others vs. B.V. Gopinath, 2014 (1) SCC 352. The Hon'ble High Court of Uttarakhand also in its order dated 30.06.2008 in the writ petition no. 118 (S/B) /2008 in the matter of Smt. Lalita Verma vs. State of Uttarakhand and others, has reiterated that the chargesheet has to be signed by the disciplinary authority.

7. It is further argued by learned Counsel for the petitioner that the power to impose the penalty (except removal and dismissal) has been delegated vide notification dated 06.09.2019 in respect of Group C and D employees to the subordinate officers has been misinterpreted by the respondents by signing the charge sheet . The charge sheet should have been signed by the appointing authority and after inquiry is conducted, the delegated power of awarding penalty should have been exercised. In this case, the power of

disciplinary authority has been equated with delegated power to impose punishment which violates Rule 6 to 10 of the Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003.

8. Learned Counsel for the petitioner further argued that the petitioner was exonerated of main charge no. 1 whereas the charge no. 2 was consequential and dependent upon charge no. 1. In such a situation, awarding penalty based on charge no. 2 for violation of Conduct Rule 3(1) and 3(2) without any evidence is contrary to the findings of charge no. 1 is totally wrong. The documentary evidence for awarding penalty in respect of charge no. 2 were not supplied to the petitioner at the time of inquiry. This amounts to violation of principles of natural justice as held in the judgement of Hon'ble Supreme Court in the matter of State of Assam vs. M.K. Das, AIR 1970 SC 1255. The inquiry officer has been appointed by the officer, who is not the disciplinary authority in this case.

9. In view of the above, the impugned chargesheet dated 17.05.2023, punishment order dated 10.09.2024 and order of appellate authority dated 17.11.2025 are liable to be quashed.

10. Learned A.P.O. argued that the petitioner was posted as Section Officer from 20.06.2019 to 01.04.2022 in Plain Range of Kalagarh Tiger Reserve Division of Corbett Tiger Reserve Ramnagar, Nainital. CCF, Human Resource Development Personnel Management is the disciplinary authority for the employees of Group C and D posts. The Govt. vide notification dated 06.09.2019 under Rule -6 of Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003, has delegated the power to subordinate officers in the matter of Deputy Ranger, Forester and Forest Guard to impose any minor penalty except dismissal/ removal of service under the Discipline and Appeal Rules. CCF, Corbett Tiger Reserve (Respondent No. 5) issued the chargesheet to the petitioner under the above delegated power. The power to impose penalty carries with it implicit or explicit

authority to initiate and conduct the underlying disciplinary proceeding though two stages are functionally distinct. So, there is no legal infirmity in signing charge sheet and appointing inquiry officer to conduct of the enquiry by the CCF, Corbett Tiger Reserve does.

11. Learned A.P.O. has further argued that there was a report dated 20.10.2021 from Assistant Inspector General of Forest, Ministry of Environment, Forest and Climate Change, National Tiger Conservation Authority, pertaining to the information related to construction works in Kalagarh Tiger Reserve without statutory, administrative and financial sanction, which consisted the violation of Indian Forest Act, 1927, Wildlife Protection Act, 1972 & Forest Conservation Act, 1980. This matter was enquired by PCCF, HoFF through a Committee under the Chairmanship of Additional PCCF and Nodal Officer, Forest Conservation, Uttarakhand. The report of the committee confirmed the violation of relevant provisions of the Acts along with the names of the employees, officers responsible for these illegal works. Two buildings in Kugadda Forest Complex under the jurisdiction of the petitioner, were illegally constructed. There was no statutory, administrative and financial sanction of competent authority for these buildings.

12. It is further argued by learned A.P.O. that the CCF, Tiger Reserve issued a chargesheet to the petitioner vide office order dated 17.05.2023 and asked the petitioner to submit his reply. The disciplinary authority appointed Sri Harish Negi, Sub-Divisional Forest Officer as inquiry officer, who submitted his report on 27.05.2024 with supporting documents. The petitioner was supplied the show cause notice along with inquiry report and on receiving the reply the disciplinary authority, CCF, Corbett Tiger Reserve awarded the penalty of Censure Entry and Withholding of one annual increment for two years. Petitioner was exonerated from charge no. 1 but he has been found guilty of violation of Conduct Rules 3(1) and 3(2). The reason for the punishment of the penalty

under charge no. 2 was the ignorance of various judicial orders. There were two charges in the charge sheet the petitioner was exonerated from the first charge as the construction activities were carried out in compliance of the instructions of the Deputy Conservator of forests for which the approval was also granted by him.

13. Learned A.P.O. has further argued that it is pertinent to mention here that the petitioner was found guilty for violation of the rules 3(1) and 3(2) of CCS Conduct rules of 2002. The CCF, Corbett Tiger Reserve issued directions to the Deputy Conservator of Forest, Kalagarh Division to provide all the records, which the petitioner has requested. So the claim of the petitioner that he has not been provided the document is not correct. The petitioner has followed instructions of the DCF Kalagarh Forest Division, knowing that the work he was doing were against the provisions of Indian Forest Act, 1927, Wildlife Protection Act, 1972 & Forest Conservation Act, 1980, which amounts to violation Rule 3(1) and (2) of Conduct Rules, 2002. So, the petition claim is liable to be dismissed.

14. Based on the arguments of learned Counsel for the parties and the documents placed before the Tribunal, it is clear that the charge sheet issued by the CCF, Corbett Tiger Reserve is in order as issuing the charge sheet and imposing the penalty are interconnected although both are distinct actions.

15. The charge no. 1 in the Charge sheet was related to construction of two buildings without statutory, administrative and financial approval. The disciplinary authority exonerated the petitioner from the charge on the basis of the enquiry officer's report that all the works have been done in compliance of the order of the DFO, Kalagarh Tiger Reserve, despite the fact that the order given by the DFO was illegal and criminal and the petitioner was also liable to it.

16. The charge no. 2 was the consequential to the charge no. 1 in which the petitioner was exonerated but the disciplinary authority has given penalty for this charge based on the documents which were not considered by the enquiry officer while giving finding on charge no. 1. These documents were also not supplied to the petitioner.

17. The procedure laid down in Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003, as amended in 2010, has not been followed while conducting inquiry as the documents based on which the penalty has been given has neither been supplied nor any oral evidence has been given in respect of these documents to the petitioner. The disciplinary authority exonerated the petitioner from charge no. 1 but awarded penalty against charge no. 2 is again wrong as the charge no. 2 is consequential to the charge no. 1.

18. In view of the above, the impugned order dated 10.09.2024 of the Disciplinary authority and the order dated 17.11.2025 of the Appellate Authority are liable to be quashed.

ORDER

The impugned orders dated 10.09.2024 of the Disciplinary authority and the order dated 17.11.2025 of the Appellate Authority are quashed. However, it would be open to the competent authority to reinitiate the inquiry as per Rules. No order as to costs.

(RAJENDRA SINGH)
ACTING CHAIRMAN

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

DATE: 07TH AUGUST, 2026
DEHRADUN

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