

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
BENCH AT NAINITAL**

Present: Hon'ble Mr. Capt. Alok Shekhar Tiwari

----- Member (A)

Claim Petition No. 36/NB/SB/2024

Puran Chand Kamboj (Male), Aged about 55 years, S/o Shri Dariya Ram Kamboj, Presently posted as Head Constable Civil Police, Police Station Kotwali, Tanakpur, District Champawat.

..... Petitioner

Versus

1. State of Uttarakhand through Principal Secretary, Department of Home, Govt. of Uttarakhand, Dehradun.
2. Deputy Inspector General of Police, Kumaon Range, Nainital.
3. Senior Superintendent of Police, Nainital, District Nainital.

..... Respondents

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

JUDGMENT

DATED : **APRIL 17th, 2026**

This claim petition has been filed seeking the following relief:-

- “a). to issue order or direction calling for the record and to quash the order dated 25th January 2024 passed by the

Deputy Inspector General of Police, Kumaon Region, Nainital dismissing the Departmental Appeal preferred by the Claimant. (Annexure No. 1 to the Claim Petition)

- b). to issue order or direction calling for the record and to quash the punishment order dated 20th December 2021 passed by the Senior Superintendent of Police, District Nainital (Annexure No. 2 to the Claim Petition).
- c). to issue order or direction to the Respondent Appointing Authority directing him to expunge the Censure Entry recorded in the service book of the Claimant, pursuant to the impugned punishment order dated 20th December, 2021.
- d). That the costs of the petition may be awarded in favour of the claimant and against the respondent.

2. In brief, the facts of the case are that the Claimant who is presently posted as Head Constable Civil Police, Police Station Kotwali, Tanakpur, District Champawat is aggrieved by the order dated 25th January, 2024, passed by the Deputy General of Police, Kumaon Region, Nainital, wherein the Departmental Appeal preferred by the Claimant against the Punishment Order dated 20th December, 2021, passed by the Senior Superintendent of Police, Nainital has been confirmed. Claimant is also challenging the order dated 20th December, 2021, passed by the Disciplinary Authority whereby the Claimant has been denied the salary for the period 06th April 2021 to

12th April, 2021 except the suspension allowance, as the Claimant has been awarded the punishment of Censure Entry. On 05th April, 2021 the Claimant was posted as Constable at Lalkuan Police Station, District Nainital. Claimant was allotted a government accommodation in the Police Station Campus. On 05th April, 2021 when Claimant was resting in his allotted accommodation, at around 10:30 A.M. Claimant heard the shout of the children. Claimant came out of his room and saw that three Children were standing on the boundary wall and one of them was the daughter of Mahila Constable Manju Saini. Claimant saw that cloth of the Daughter of Manju Saini was stuck in the fencing wire of the boundary wall. Claimant asked the children to come down from the boundary wall, as they may get themselves hurt by playing on boundary wall. Claimant scolded children for playing on boundary wall as they would have sustained injuries, if they fall from boundary wall. Thereafter, Children went their home and Claimant went to his house. At around 14:00 Hrs the Constable Bobby Singh, Husband of the Mahila Constable Manju Saini, father of one of the children came to the room of the Claimant and asked the Claimant to come to the Police Station. The Claimant and Bobby Singh (Husband of Mahila Constable Manju Saini) went to the Lalkuan Police Station wherein the Claimant narrated the entire event which took place, to the In-Charge Inspector as well as Senior Sub-Inspector. Incident as happened was narrated by the Claimant to the higher officers in front of Bobby Singh who in turn gave in writing that he does not want any action to be taken, in as much as the Children might have made a complaint due to scolding by

Claimant. Though, Constable Bobby Singh (Father of the affected Child) gave in writing to the Inspector (In-Charge) Police Station Kotwali, Lalkuan that he does not want any action to be taken pursuant to the alleged incident. On 05.04.2021, Inspector (In-Charge) Police Station Kotwali, issued a communication to the Senior Superintendent of Police, Nainital to initiate the Disciplinary Proceedings against the Claimant. Communication dated 05.04.2021 mentioned that though the father of the girl had not made any complaint in the police station, nevertheless, the act of the Claimant requires disciplinary proceedings to be initiated against the Claimant. On the communication submitted by the Inspector (In-Charge) Police Station Kowali, Lalkuan dated 05th April, 2021, Senior Superintendent of Police, Nainital, issued an order dated 06th April, 2021 whereby the Claimant was suspended on the allegation that Claimant has inappropriately touched the daughter of Mahila Constable Manju Saini in government accommodation campus. By the order dated 12th April, 2021 the suspension order of the Claimant was revoked and he was reinstated in service without affecting the Disciplinary Proceedings. In respect of the incident in question alleged to have taken place on 05th April, 2021 in the Police residential quarters campus, Disciplinary Authority vide communication dated 12th April, 2021 appointed Inspector (In-Charge) Women and Child Helpline, Haldwani to conduct preliminary enquiry. In the preliminary enquiry proceedings, Preliminary Enquiry Officer, recorded statement of the affected child, her mother Mahila Constable Manju Saini and that of the petitioner/claimant. The petitioner/claimant in his

statement made before the Preliminary Enquiry Officer also reiterated the fact that incident as narrated by the affected child and that by her mother had not taken place. Claimant in his statement stated the fact that when the correct facts were stated by him to Constable Bobby Singh husband of Mahila Constable Manju Saini, he in writing had submitted that he does not want any action to be taken. After recording statement of the affected Girl Child, her mother Mahila Constable Manju Saini and the Claimant, the Preliminary Enquiry Officer submitted the preliminary enquiry report to the Disciplinary Authority/SSP Nainital on 22.09.2021. In the Preliminary Enquiry Report, Preliminary Enquiry Officer concluded that it is clear that Claimant had touched the Girl Child inappropriately and the said conduct of Claimant was a serious offence and hence strict action should be taken against the Claimant. On the basis of the Preliminary Enquiry Report dated 22nd September 2021, Disciplinary Authority issued a show-cause notice dated 21st November, 2021 to the Claimant whereby the Claimant was required to show-cause as to why a punishment of Censure Entry not be awarded to the Claimant in respect of allegation of inappropriately touching the daughter of Mahila Constable Manju Saini, which fact has been proven in preliminary Enquiry; more over in the past also the Claimant had been punished for the offence of same nature. Claimant was required to submit the reply within 15 days of the receipt of the show-cause notice. The Claimant submitted his reply to the show-cause notice to the Disciplinary Authority, wherein the Claimant denied the charges

levelled against him. In his reply, the Claimant stated that the father of the girl had given in writing on 05th April, 2021 before the Inspector (In-Charge) Police Station Kotwali, Laalkuwa, wherein he had specifically stated that he does not wish any action to be taken. In spite of clear and specific statement of Constable Bobby Singh, the Inspector (In-Charge) submitted a communication to the higher authority. The Claimant denied the charges levelled against him in the show-cause notice. On 20th December 2021, the Disciplinary Authority passed the impugned punishment order, whereby the Claimant has been imposed the penalty of censure entry for the conduct of the Claimant of inappropriately touching the girl child of the Mahila Constable Manju Saini by holding that the said conduct of the Claimant was serious in nature and also shameful. On 20th December 2021 itself the Disciplinary Authority passed another order whereby the Claimant has been denied the salary for the suspension period, i.e., 06th April 2021 to 12th April 2021, except for the suspension allowance, as the Claimant has been awarded the punishment of censure entry. Against the punishment order dated 20th December 2021, the Claimant preferred the Departmental Appeal before the Appellate Authority/Deputy Inspector General of Police under Section-20 of the Punishment and Appeal Rules, 1991. The Departmental Appeal was preferred by the Claimant on the ground that the same has been passed by the Disciplinary Authority without dealing with the specific stand taken by him before the Preliminary Enquiry Officer. The Claimant in his Departmental Appeal has specifically stated that in

spite of there being no complaint against the Claimant the entire proceedings have been initiated by the In-Charge Inspector on his own. The Departmental Appeal was preferred by the Claimant on 12th October 2023. There was delay in preferring the Departmental Appeal by the Claimant and the same was explained by the Claimant by pleading that since the Claimant did not have all the relevant documents with him for preferring the Departmental Appeal, the same were collected from the Department, which took time. The Claimant sought condonation of delay in preferring the Departmental Appeal. The Departmental Appeal preferred by the Claimant was dismissed by the Appellate Authority vide impugned order dated 25th January 2024. The Departmental Appeal preferred by the Claimant has been dismissed by the Appellate Authority on the ground of delay inasmuch as the appeal was preferred by the Claimant beyond statutory period prescribed in the Punishment and Appeal Rules, 1991. Before challenging the validity of the impugned punishment order of the Appellate Authority, it is necessary to point-out that in respect of the allegation made against the Claimant no criminal proceedings had been lodged by the family members of the affected girl child. Since the Departmental Appeal preferred by the Claimant has been dismissed by the Appellate Authority on the ground of the delay in filing the Departmental Appeal, therefore, the merit of the validity of the punishment order has not been decided by the Appellate Authority. The punishment order dated 20th December 2021 is based on the finding of the Preliminary Enquiry Officer and thus the same is not

sustainable for the reason that the Preliminary Enquiry Officer in his report has also not given any reason to disbelieve the stand of the Claimant and, therefore, the Preliminary Enquiry Officer has submitted the enquiry report only on the basis of the statement of the girl child and the witnesses. The impugned punishment order dated 20th December 2021, has been passed by relying on Preliminary Enquiry Report, but the Preliminary Enquiry Officer has not recorded the statement of Constable Bobby Singh, husband of the Mahila Constable Manju Saini who has specifically made a statement that he did not want any action against the Claimant. After the Claimant narrated the correct and true facts about the alleged incident before the Constable Bobby Singh in front of the Higher Authority, he had submitted in writing that he did not want any action against the Claimant, but this fact was not considered by the Preliminary Enquiry Officer while holding the Claimant to be guilty of inappropriately touching the daughter of Constable Bobby Singh. Neither the Inquiry Officer nor the Disciplinary Authority took note of the fact that the entire disciplinary proceedings were initiated against the Claimant only on the basis of the report submitted by the In-Charge SHO, Police Station Lalkuan, when in fact in his presence the father of the affected child had submitted in writing that he did not want to proceed with the matter, which itself shows that the In-Charge SHO has submitted the report against the Claimant for extraneous reasons. The impugned punishment order dated 28.12.2021 passed by the Disciplinary Authority by taking note of past conduct of the Claimant is not

sustainable for the reason that the said incident was in respect of different incident long back and without discussing the nature of the incident in a cursory manner it has been held that the Claimant was also punished earlier for the similar offence.

3. CA/WS has been filed on behalf of the respondents No. 1 to 3 by Sri Kishore Kumar, learned Assistant Presenting Officer, Uttarakhand Public Services Tribunal, Nainital Bench, Nainital, in which, it has been stated that:-

3.1. यह कि याचिका में प्रस्तरवार आख्या दिये जाने से पूर्व शपथकर्ता माननीय अधिकरण के समक्ष कुछ तथ्य प्रस्तुत करना चाहता है जो कि याचिका के निस्तारण के लिए आवश्यक है।

3.2. “यह कि दिनांक 05.04.2021 को थाना लालकुंआ, नैनीताल में नियुक्ति के दौरान याचिकाकर्ता/हे०का० (प्र०) ना०पु० पूरनचन्द्र कम्बोज द्वारा म० आरक्षी मंजू सैनी की पुत्री कु० कनक को थाना परिसर सरकारी आवास के प्रांगण में गलत तरीके से छूने के आरोप में दिनांक 06.04.2021 को निलम्बित कर प्रकरण में प्रारम्भिक जाँच से म० आरक्षी एवं उसकी पुत्री के कथन से यह स्पष्ट हुआ है कि इस आरक्षी द्वारा दिनांक 05.04.2021 को म० आरक्षी की पुत्री कनक को गलत तरीके से छुआ गया है, जो एक धिनौने कृत्य की श्रेणी में आता है। आरक्षी का एक अनुशासित पुलिस बल में नियुक्त रहते हुये पूर्व में भी इसी प्रकार के कृत्य के आरोप में दण्डित होने के बावजूद दोबारा इस प्रकार का किया गया धिनौना कृत्य अत्यन्त शर्मनाक/गम्भीर प्रकृति का द्योतक

है, जिस कारण ही याचिकाकर्ता को परिनिन्दा लेख से दण्डित किया गया है”।
जो विधिसम्मत आदेश है।

3.3. यह कि याचिका का प्रस्तर संख्या-1 अभिलेखीय है परन्तु याची का कथन वास्तविक तथ्यों से विपरीत होने के कारण अस्वीकार है। इसके अतिरिक्त यह कहना है कि याची द्वारा उपरोक्त प्रस्तर में किये गये कथन विधि एवं तथ्यों के विपरीत है इसलिए याची द्वारा प्रस्तुत याचिका किसी भी प्रकार से सुनवायी हेतु अंगीकृत किये जान योग्य नहीं है तथा याची याचिका में किये गये कथनों के आधार पर किसी प्रकार का अनुतोष प्राप्त करने का अधिकारी नहीं है और याची की याचिका सव्यय निरस्त किये जाने योग्य है।

3.4. यह कि याचिका के प्रस्तर संख्या-4.1 एवं 4.2 में किये गये कथन के सम्बन्ध में अवगत कराना है कि दिनांक 05.04.2021 को प्रभारी निरीक्षक लालकुंआ ने कानि0 पूरन चन्द्र कम्बोज द्वारा थाना परिसर में महिला आरक्षी मंजू सैनी की पुत्री कनक को गलत तरीके से छूने के सम्बन्ध में अपनी विस्तृत आख्या प्रेषित की गयी। प्रकरण गम्भोर प्रकृति का होने के कारण याचिकाकर्ता को तत्काल निलम्बित करते हुये, विभागीय जांच प्रभारी महिला हेल्प लाईन, हल्द्वानी को सुपुर्द की गयी। प्रभारी महिला हेल्प लाईन, हल्द्वानी द्वारा याचिकाकर्ता को महिला आरक्षी मंजू सैनी की पुत्री कनक को गलत तरीके से छूने का दोषी पाया गया व इस घिनौने कृत्य के लिये उचित दण्डात्मक कार्यवाही किये जाने की संस्तुति सहित जांच आख्या प्रेषित की गयी। जांच आख्या का गहनता से अवलोकन करने के पश्चात् ही याचिकाकर्ता को नियमानुसार कारण बताओ नोटिस प्रेषित किया गया। याचिकाकर्ता द्वारा प्राप्त लिखित स्पष्टीकरण एवं पत्रावली पर उपलब्ध अभिलेखीय कथन/जांच अधिकारी की जांच आख्या पर गहनता से अध्ययन उपरान्त ही याचिकाकर्ता को

इस घिनौने कृत्य का दोषी पाते हुये उत्तराखण्ड {उ०प्र० अधीनस्थ श्रेणी के पुलिस अधिकारियों की (दण्ड एवं अपील) नियमावली 1991} अनुकूलन एवं उपान्तरण आदेश-2002 के नियम 4 (1) (ख) के (चार) के प्रावधान एवं उत्तराखण्ड पुलिस अधिनियम-2007 के प्रस्तर 23 (2) (ख) में निहित व्यवस्थानुसार परिनिन्दा लेख से दण्डित किया गया है, जो विधिसम्मत एवं नियमानुकूल आदेश है। अग्रेत्तर इस सम्बन्ध में स्पष्ट करना है कि प्रारम्भिक जांच में म०कानि० मंजू सैनी की पुत्री कु० कनक उम्र 11 वर्ष द्वारा याचिकाकर्ता द्वारा कु० कनक को गलत तरीके से छूने की पुष्टि की गयी।

3.5. यह कि याचिका के प्रस्तर संख्या-4.3 में किये गये कथन के सम्बन्ध में अवगत कराना है कि प्रभारो निरीक्षक लालकुंआ द्वारा थाना परिसर में घटित इस गम्भीर प्रकृति के कृत्य के सम्बन्ध में उच्चाधिकारी को सूचित किया गया। विभागीय जांच से स्पष्ट है कि याचिकाकर्ता को म० कानि० मंजू सैनी की पुत्री कु० कनक को गलत तरीके से छुआ पाया गया एवं पुलिस जैसे अनुशासित बल में नियुक्त रहते हुये इस घिनौने कृत्य का दोषी पाया गया है।

3.6. यह कि याचिका के प्रस्तर संख्या-4.4, 4.5, 4.6, 4.7 एवं 4.8 में किये गये कथन के सम्बन्ध में विस्तृत एवं सुस्पष्ट उत्तर प्रतिवाद पत्र के पूर्ववर्ती प्रस्तरों में दिया जा चुका है अतः न्यायहित में पुर्नावृत्ति की आवश्यकता नहीं है।

3.7. यह कि याचिका के प्रस्तर संख्या-4.9 एवं 4.10 में किये गये कथन स्वीकार किये जाने योग्य नहीं है। इस सम्बन्ध में स्पष्ट करना है कि याचिकाकर्ता को वर्ष 1992 में इस गम्भीर प्रकृति के कृत्य के लिये दण्डादेश सं०: द-40/1992 दिनांक: 02-02-1992 द्वारा परिनिन्दा लेख से दण्डित किया

जा चुका है। याचिकाकर्ता को पुनः इस धिनौने कृत्य का दोषी पाये जाने के कारण आचरण सही न पाते हुये दण्डित किया गया है।

3.8. यह कि याचिका के प्रस्तर संख्या-4.11, 4.12, 4.13, 4.14 एवं 4.15 में किये गये कथन जिस प्रकार उल्लिखित है, अस्वीकार है। स्पष्ट करना है कि याचिकाकर्ता को दण्डादेश संख्या: द-41/2021 दिनांक 20-12-2021 की प्रति निर्गत की गयी, जिसे याचिकाकर्ता द्वारा दिनांक 27-01-2022 को प्राप्त किया गया है। उक्त दण्डादेश के विरुद्ध याचिकाकर्ता द्वारा अपनी अपील दिनांक 12-10-2023 को पुलिस उपमहानिरीक्षक, कुमायूँ परिक्षेत्र, नैनीताल को प्रेषित की गयी। इस प्रकार याचिकाकर्ता द्वारा प्रस्तुत अपील निर्धारित समय सीमा के अन्दर प्रस्तुत नहीं की गयी है। इसके अतिरिक्त याचिकाकर्ता द्वारा अपनी अपील विलम्ब से प्रस्तुत किये जाने का कोई भी युक्ति-युक्त कारण भी दर्शाया नहीं गया। उत्तराखण्ड अधीनस्थ श्रेणी के पुलिस अधिकारियों/कर्मचारियों की दण्ड एवं अपील नियमावली-1991 {अनुकूलन एवं उपान्तरण आदेश-2002} के नियम-20 (6) में स्पष्ट उल्लिखित है कि "कोई अपील तब तक ग्रहण नहीं की जायेगी, जब तक कि वह उस दिनांक से जब सम्बन्धित पुलिस अधिकारी को दण्डादेश की सूचना दी गयी थी, तीन माह के भीतर प्रस्तुत न की जाये, परन्तु यह कि अपील प्राधिकारी स्व:विवेक से दर्शाये गये अच्छे कारणों से, उक्त अवधि को छः माह तक बढ़ा सकता है।" किन्तु याचिकाकर्ता द्वारा उक्त 06 माह की अवधि समाप्त होने के पश्चात् अपनी अपील प्रस्तुत की गयी। फलस्वरूप, याचिकाकर्ता द्वारा प्रस्तुत अपील कालातीत होने के कारण पुलिस उपमहानिरीक्षक, कुमायूँ परिक्षेत्र, नैनीताल द्वारा संज्ञान में नहीं ली गयी है, जो विधिसम्मत एवं नियमानुकूल आदेश है।

3.9. यह कि याचिका के प्रस्तर संख्या—4.16, 4.17, 4.18, 4.19, 4.20, 4.21, 4.22, 4.23, 4.24 एवं 4.25 में किये गये कथन निराधार एवं अस्वीकार है। स्पष्ट करना है कि याचिकाकर्ता पर लगाये गये आरोप अत्यन्त निन्दनीय कृत्य है और समाज में ऐसी घटनाएँ सुरक्षा के माहौल को पूरी तरह से प्रभावित करती हैं। आरोप काफी गम्भीर प्रकृति का होने के कारण विभागीय कार्रवाई आवश्यक है, ताकि इस प्रकार के कृत्यों को रोका जा सके। इसके अतिरिक्त, याचिकाकर्ता को वर्ष 1992 में भी इस गम्भीर प्रकृति के कृत्य के लिये परिनिन्दा लेख से दण्डित किया जा चुका है। याचिकाकर्ता को पुनः इस धिनौने कृत्य का दोषी पाये जाने के कारण आचरण सही न पाते हुये दण्डित किया गया है। याचिकाकर्ता एक पुलिस बल जैसे अनुशासित बल में नियुक्त रहते हुये इस गम्भीर प्रकृति के कृत्य का आरोप लगना काफी शर्मनाक एवं अशोभनीय है, जिसके कारण ही याचिकाकर्ता को परिनिन्दा लेख के दण्ड से दण्डित किया गया है। स्पष्ट है कि याचिकाकर्ता की पुनः गलत गतिविधियों से यह साबित होता है कि उसे सुधारने का कोई प्रयास प्रभावी नहीं रहा, और उसे सजा देना अत्यन्त आवश्यक है ताकि समाज में ऐसे अपराधों की पुनरावृत्ति को रोका जा सके।

3.10. यह कि याचिका के प्रस्तर संख्या—4.26, 4.27, 4.28, 4.29, 4.30, 4.31, 4.32, 4.33, 4.34, 4.35 एवं 4.36 में किये गये कथन अस्वीकार है। याचिकाकर्ता द्वारा अपनी याचिका में बार—बार कानि० बॉबी सिंह (कु० कनक के पिता) द्वारा कोई कार्यवाही न किये जाने के सम्बन्ध में दिये गये पत्र को ही आधार बनाया जा रहा है। थाना परिसर में हुये घटनाक्रम का संज्ञान लेते हुये प्रभारी निरीक्षक द्वारा उच्चाधिकारी को सूचित किया गया। प्रकरण अनैतिक एवं गम्भीर प्रकृति का होने के कारण याचिकाकर्ता को तत्काल निलम्बित किया

गया। विभागीय जांच में याचिकाकर्ता को इस घिनौने कृत्य का पूर्णतः दोषी पाते हुये परिनिन्दा लेख से दण्डित किया गया है।

3.11. यह कि प्रतिवाद पत्र के उपरोक्त कथनों के आधार पर याची की याचिका सब्यय अस्वीकार होने योग्य है। मा0 अधिकरण स प्रार्थन है, कि याचिकाकर्ता के द्वारा योजित की गयी वर्तमान याचिका असत्य एवं भ्रामक तथ्यों पर आधारित है, जिस कारण उक्त याचिका खारिज होने योग्य है। अतः मा0 न्यायाधिकरण से अनुरोध है, कि उक्त याचिका को शासन/विभाग के पक्ष में खारिज/निरस्त करने का कष्ट करें।

4. Rejoinder affidavit has also been filed reiterating the facts mentioned in the present claim petition.

5. I have heard the learned Counsels for the parties and perused the records.

6. Learned Counsel for the petitioner has argued that the statements recorded by the S.H.O., Women and Child Helpline Haldwani as presented in the enquiry report dated 22nd September, 2021 (Annexure No. 7) clearly manifests that the incident as described by the Mahila Constable Manju Saini and her daughter do have sufficient scope of misunderstanding regarding the conduct of the petitioner during the unfortunate incident under question dated 05.04.2021. The reality is that the girl child had injured her ankle while playing on the boundary wall of the campus and the petitioner simply wanted to help-out the girl child. Therefore, the Enquiry Officer as well

as the Punishing Officer should have considered the petitioner's version of the event also. Nevertheless, they blind foldedly took the statement of the child as a gospel truth and due to which the petitioner has been penalized one-sidedly against the principle of natural justice, so much so that the petitioner's prayer before the authorities to allow him to cross-examine the complainant girl child and her mother was also turned down. Thus, the opportunity of defence was never provided to the petitioner in this instant matter.

7. Learned Counsel for the petitioner also argued that had the incident really been in the form of a crime of molestation in the eyes of the parents of the aggrieved girl child they would have lodged an F.I.R. against the petitioner, however, on the contrary the father of the girl child had given in writing before the S.H.O. Kotwali Lalkuan that he did not wish to initiate any proceedings against the petitioner (Annexure No. 4). So much so that this fact is recorded in the preliminary report dated 05.04.2021 (Annexure No. 5) also submitted before the S.S.P. Nainital (Respondent No. 3) by the S.H.O. himself. Nevertheless, the S.S.P., Nainital ordered on the same report submitted by the S.H.O. report dated 05.04.2021 to suspend the petitioner. Further, the enquiry was given to the S.H.O. Women and Child Helpline, Haldwani, who submitted its enquiry report before the S.S.P., Nainital on 22.09.2021 (Annexure No. 7).

8. Learned Counsel for the petitioner also drew attention of the Tribunal towards the fact that the Punishing Officer had manifested her

premeditated mind to punish the petitioner one-sidedly in the show-cause notice dated 21.11.2021 itself, which was followed exactly in the punishment order dated 20.12.2021 also, this is a violation of the guideline as spelt out by the Hon'ble Apex Court.

9. Learned A.P.O. argued briefly that the Tribunal is not expected to examine the entire episode with a view to find the right or wrong interpretation of the aggrieved girl child and her mother, as this was the prerogative of the Enquiry Officer and the Punishing Officer. The Tribunal has to look into the procedure of the disciplinary proceedings specifically whether it has been followed properly or not? In this instant matter, the statements of the aggrieved girl child and her mother, who also is a Mahila Constable, have been interpreted as per the guideline spelt out by the Hon'ble Apex Court and the amended Criminal Act. The preliminary enquiry report has once been given by the S.H.O. Kotwali Lalkuwan where the incident had happened, and again by the S.H.O. Women and Child Helpline Haldwani. Both reports have found the petitioner prima facie on the wrong foot. The show-cause notice has been given to the petitioner on 09.11.2021, which has been replied to by the petitioner and finally, finding no substance in the petitioner's explanation, the punishment order has been passed on 20.12.2021, which was received by the petitioner on 27.01.2022. The petitioner himself was convinced about his guilt as well as the punishment, due to which he did not bother to file a departmental appeal till 12.10.2023. The petitioner filed the departmental appeal on

12.10.2023 that is after a delay of one year and eight months' time period. This is noteworthy that the time limit to file a departmental appeal is limited only to 30 days' which could be extended only upto a maximum period of six months based upon bona fide circumstances if the Appellate Authority gets convinced regarding such circumstances of delay. Therefore, there have been no lacunae in the impugned punishment order dated 20.12.2021 and the appeal rejection order dated 25.01.2024. It is of utmost significance to point out that the petitioner has not been punished for a crime of molestation in the very first instance, rather he has been punished earlier in 1992 also, details of which have been submitted in the Paragraph-11 of the C.A./W.S. alongwith a relevant Annexure No. 1 to the C.A./W.S., when the petitioner was posted in the District Pithorgarh at the police outpost Gunji.

10. Learned Counsel for the petitioner in his rebuttal opposed the past reference of District Pithoragarh indicating that there is no reference in the show-cause notice about this earlier crime of the petitioner.

11. On the perusal of record, it is amply clear that the Enquiry Officers have submitted their reports on 05.04.2021 as well as on 22.09.2021 based entirely upon the statements of the aggrieved girl child and her mother. No doubt that these statements would have left out a scope of imagination that the petitioner in reality might have been trying to help out that girl child from her alleged ankle injury, had it not

been in the service history of the petitioner that he had made a similar misbehaviour in 1992 also. It is a common sense that the petitioner, once burnt earlier under the allegation of the molestation, should have been cautious enough not to give rise to any such situation again with the injured girl child which could again be a reason of any misunderstanding. Further, his insistence upon taking the girl child into his own house again was likely to be seen in a bad light of suspicion. Therefore, when the recorded statements are perused in the light of such a suspicious misbehaviour, it would be prudent to judge that the petitioner's conduct was not of a good samaritan, but was suspicious, careless and laced with wrong intent.

12. So far as the entire procedure of the departmental proceeding is concerned, due care has been taken by the Punishing Officer to follow the guidelines and the rules and sufficient opportunity of defence has been given to the petitioner as per law. So far as the petitioner's allegation is concerned that he was not given an opportunity to cross-examine the aggrieved girl child regarding her recorded statement, the respondent department has simply followed the guidelines as spelt out by the Hon'ble Apex Court in such matters of molestation and child abuse. Similarly, it is very much evident that claimant's decision to file an appeal against the grievance after a delay of one year and eight months was an afterthought.

13. So far as the question of not filing an F.I.R. against the petitioner is concerned, it is immaterial so far as the instant claim

petition is concerned; as it does not create any merit in favour of the claimant.

14. Thus, the claim petition lacks substance and deserves to be dismissed.

ORDER

Accordingly, the claim petition is, hereby dismissed. No orders as to costs.

(Capt. Alok Shekhar Tiwari)
Member (A)

DATE: APRIL 17th, 2026
NAINITAL
BK