

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

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

----- Member (A)

WRIT PETITION NO. 25 (S/S) OF 2019
[RECLASSIFIED AND RENUMBERED AS CLAIM PETITION NO. 54/NB/SB/2023]

CP 455 Neeraj Bisht (Male) aged about 34 years, Constable of Police, S/o Sri Vijay Singh Bisht, Presently posted at Police Station, Phoolbhatta, District-Udham Singh Nagar.

.....Petitioner

Versus

1. The Director General of Police, Uttarakhand, Dehradun.
2. The Inspector General of Police, Kumaon Region, Nainital.
3. The Senior Superintendent of Police, Udham Singh Nagar.

.....Respondents

Present : Sri Akram Parvez, Advocate, Brief Holder for
Sri Sandeep Kothari, Advocate for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents

JUDGMENT

DATED : 19th DECEMBER, 2025

By means of this petition, the petitioner seeks the following relief:

- (a) A writ, order or direction in the nature of certiorari to for the record and to quash the impugned order dated 4-1-2018 (though the

date of order is wrongly typed as 04.01.2017) passed by the respondent no.-3, whereby, the adverse entry for the year 2017 has been awarded, filed as Annexure No. 3.

- (b) Issue a writ order or direction in the nature of certiorari to call for the record and to quash the impugned order dated 18-7-2018 passed by the respondent no.-2, whereby, the appeal preferred by the petitioner has been rejected, filed as Annexure No.-5.
- (c) Issue any suitable writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.
- (d) Award cost of this petition to the petitioner.

2. In brief, the facts of the case are that at the relevant point of time, the petitioner was posted as a Constable of Police at Police Station Kelakhera, District-Udham Singh Nagar and was entrusted with duties at Rampura Kaji Beat area. The respondents have set-up a case that on 15.01.2017, one of the accused, namely, Rajendra @ Raju, S/o Sri Barid Singh, R/o Rampura Kaji, P.S. Kelakhera was arrested alongwith the illegal arms and during enquiry made, it was found that the petitioner was having telephonic talk with the said accused person and in a period of four months, at least 192 calls were made. It is also alleged that the petitioner has helped the said accused to perpetuate the illegal business of the wood of Khair and the preliminary enquiry was directed to be ordered on the allegations that the close contacts were maintained with the persons having

criminal antecedent. The aforesaid preliminary enquiry was initiated not only against the petitioner, but the other constables of police posted at the said area at the relevant point of time. However, the said stand was not considered and in the preliminary enquiry and the finding has been recorded that the allegations are substantiated in the preliminary enquiry report. The aforesaid enquiry report was submitted on 14.11.2017 and on the basis of the aforesaid enquiry report, a show-cause was issued to the petitioner as to why the adverse entry be not awarded for the year 2017 for maintaining the alleged talk with a person with criminal antecedent and the aforesaid conduct of the petitioner amounts to negligence and dereliction of duties and the same is liable to admonition. The aforesaid notice dated 18.11.2017 was duly replied by the petitioner and the specific submissions have been made that it is the practice adopted in the police that they develop their own informer within their area and since, no responsible person in the society does the work of informer of the police and in any case, such information has to be gathered from the person, who one way or other way, is involved in such activities. It is specifically mentioned in the reply dated 13.12.2017 that it is nobody's case that any undue favour was given to such person and further it was clearly mentioned that since the petitioner has no bad intention the used his permanent mobile number to have a talk with said Sri Rajendra Singh. Had it been the case of providing any undue advantage, the petitioner could have talked to him with

any other mobile number or through any other sources. The respondent No. 3 without considering the aforesaid aspect in purely mechanical manner, has passed the order, whereby, the adverse entry has been awarded to the petitioner on 04.01.2018 (though the date of order is wrongly typed as 04.01.2017). It is submitted that aggrieved against the aforesaid order, the petitioner has preferred the appeal before the respondent No. 2 in which entire facts of the case were mentioned in detail. The learned Appellate Authority even without considering the aforesaid aspect again in a purely mechanical manner, has rejected the appeal vide order dated 18.07.2018 and the petitioner has given the proper explanation of conversation between the petitioner and the said Rajendra Singh. However, the appellate authority has not considered the aforesaid aspect. It is submitted that it is a part of police duties to develop informer and further to maintain the personal network for obtaining secret information, however, such informant were developed and baseless facts were placed before the authorities, however, the authorities have not considered this aspect and punished the petitioner in a purely mechanical manner by awarding the punishment, which has totally adverse effect on the service carrier of the petitioner.

3. On 22.02.2019, Counter Affidavit has been filed on behalf of the respondent No. 3 by Sri Vikas Pande, Standing Counsel, State

of Uttarakhand, before the Hon'ble High Court of Uttarakhand at Nainital, in which, the contents of para 3 of the writ petition need no comments. However, it is submitted that in the year 2017 when the petitioner was posted in Thana Kelakhera Distt. Udham Singh Nagar as Beat Constable in Rampura Kazi Beat, he was having contacts with a person of criminal background, namely, Rajendra Singh @ Raj. The aforesaid person was involved in the business of illegal timber (Khair wood) and the aforesaid person was arrested on 15.09.2017 at 12:00 O' Clock alongwith one country made pistol and 20 cartridges. Apart from this 2 country made pistol 315 Bore, 02 cartridges and one country made gun 12 Bore was recovered from the house of the aforesaid Rajendra Singh. The petitioner did not inform about Shri Rajendra Singh to his higher authorities and indirectly helped the accused. When the petitioner was posted in the aforesaid beat the petitioner was in touch with the accused and at 198 times conversation were held between the petitioner and Shri Rajendra Singh, which is evident from the Call Detail Report (CDR) on record. It is a question mark on the work and conduct of the petitioner.

A preliminary enquiry was conducted by the Circle Officer Bazpur, the Circle Officer Bazpur submitted his preliminary enquiry report No. Vachak-Janch-CO Bazpur-21 (ASP)/2017 dated 13.11.2017 in which the aforesaid facts have been narrated by the concerned Enquiry Officer. As the conduct of the petitioner was

found to be doubtful, therefore, a show-cause notice dated 18.11.2017 (for recording adverse entry in character roll) and 30.11.2017 (to incorporate doubtful integrity in service records) were issued to the petitioner.

The reply of the petitioner to the show-cause notices with regard to the incorporation of doubtful integrity was received in the office on 27.12.2017 and after considering the reply of the petitioner it was not found to be satisfactory and accordingly, an order No. 168/17 dated 04.01.2018 has been issued under Rule 14 (2) of the Uttarakhand (U.P. Subordinate Cadre Police Officers/Employees Punishment and Appeal Rules, 1991) Modification and Adoption Order 2002. The show-cause notice 30.11.2017 was replied by the petitioner on 27.12.2017 and accordingly order dated 04.01.2018 was passed in view of Government Order No. 18/9/1979-Karmik-1 dated 03.07.1979 and the contents of para 6 of the writ petition are wrong and denied. It is submitted that alongwith the show-cause notice No. 168/17 dated 18.11.2017 the enquiry report was also annexed and handed over to the petitioner, which is also evident from the Para No. 2 to the show-cause notice. The aforesaid notice was received by the petitioner on 02.12.2017.

4. On 29.04.2019, Rejoinder Affidavit has been filed on behalf of the petitioner before the Hon'ble High Court of Uttarakhand at Nainital in which the contents of paragraph No. 4 of the counter

affidavit in the manner it has been stated are absolutely misconceived and are not admitted and hence denied. It is most respectfully submitted that as per the submission made in paragraph under reply even the respondents knew that the said accused Rajendra Singh @ Raju is known to have complicity in the commission of illegal activity pertaining to illegal timber. The said person was never arrested in any of the case pertaining to the illegal timber and it is the specific case set-up by the petitioner that the said accused acted as informer to the applicant. Even prior thereto there was no such activities of the said accused and after something objectionable is recovered from his house, the petitioner cannot be held responsible more particularly when it is nobody's case that the applicant has ever went to the house of the accused. It is most respectfully submitted that the call detail report has not denied but the fact alone shows that since the intention of the petitioner was not wrong and hence he always used his permanent mobile number to be in contact with such accused person and only on the basis of number of times conversations held, the applicant cannot be made to suffer.

Further, it is most respectfully submitted that the preliminary inquiry report that has been submitted is absolutely biased and the submission of the petitioner have never been considered. That further the Inquiry Officer, who conducted the inquiry has mentioned that since the detail activities were not provided what has been

undertaken by the applicant on the basis of the information received, the aforesaid finding are absolutely erroneous inasmuch as it was specifically came in the inquiry report itself that he used to provide the information on 100 number and thereafter on the basis of the information received from the control room, the person whose on duty pursue the necessary action to be taken. It is also relevant to mention herein that with regard to notice so issued, the petitioner has taken the specific stand and without considering the stand taken by the petitioner in an absolutely mechanical manner, the order has been passed which is absolutely not permissible in the eyes of law. It is most respectfully submitted that the punishment of withholding the integrity is not provided in the rules as such, the punishment could not be given to the petitioner.

5. On 16.05.2019, A Supplementary Counter Affidavit has also been filed on behalf of the respondent No. 3 against the Rejoinder Affidavit filed on behalf of the petitioner, in which the contents of para-4 of the rejoinder affidavit are not admitted as stated. The detailed have already been given in the counter affidavit, however, it is once again submitted that in the year 2017 when the petitioner was posted in Thana Kelakhera Distt. Udham Singh Nagar as Beat Constable in Rampura Kazi Beat, he was having contacts with a person of criminal background, namely, Rajendra Singh @ Raj. The aforesaid person was involved in the business of illegal

timber (Khair wood) and the aforesaid person was arrested on 15.09.2017 at 12:00 O' Clock alongwith one country made pistol and 20 cartridges. Apart from this 2 country made pistol 315 Bore, 02 cartridges and one country made gun 12 Bore was recovered from the house of the aforesaid Rajendra Singh. The petitioner did not inform about Shri Rajendra Singh to his higher authorities and indirectly helped the accused. When the petitioner was posted in the aforesaid beat the petitioner was in touch with the accused and at 198 times conversation were held between the petitioner and Shri Rajendra Singh, which is evident from the Call Detail Report (CDR) on record. It is a question mark on the work and conduct of the petitioner.

A preliminary enquiry was conducted by the Circle Officer Bazpur, the Circle Officer Bazpur submitted his preliminary enquiry report No. Vachak-Janch-CO Bazpur-21 (ASP)/2017 dated 13.11.2017 in which the aforesaid facts have been narrated by the concerned Enquiry Officer. As the conduct of the petitioner was found to be doubtful, therefore, a show-cause notice dated 18.11.2017 (for recording adverse entry in character roll) and 30.11.2017 (to incorporate doubtful integrity in service records) were issued to the petitioner.

6. At the outset only, it is apparent that this claim petition had been filed originally before the Hon'ble High Court of

Uttarakhand at Nainital as Writ Petition No. 25 (S/S) of 2019, which was relegated by the Hon'ble High Court to this Tribunal vide its order dated 24.03.2023, and the same is being adjudicated by this Tribunal in the same form, treating it as a claim petition. Therefore, the prayers put forward by the petitioner in the original writ petition, are being adjudicated upon by this Tribunal considering it as a claim petition only, notwithstanding the original prayers for issue of a writ, order or direction in the nature of certiorari/mandamus etc., which are beyond the jurisdiction of this Tribunal. For this clerical mistake, the claim petition is not being dismissed.

7. Learned Counsel for the petitioner has argued emphatically as follows:-

- a. The entire disciplinary proceeding has been initiated only on the statement of a criminal and the record of calls between the petitioner and the aforesaid criminal, namely, Rajendra Singh @ Raju, S/o Barid Singh, R/o Rampura Kazi, P.S.-Kelakhera, who was arrested on 15.09.2017 by the Police alongwith illegal arms and having a criminal antecedent. Thus, it is apparent from the very beginning that the entire departmental proceeding, preliminary enquiry, show-cause notice and punishment order etc. were based

upon a biased assumption that the petitioner was hands-in-gloves with the arrested criminal.

- b. The real fact is that the petitioner groomed and inculcated the aforesaid criminal as a police informant as a beat Constable, due to which the call record showed 198 calls in a period of four months between the petitioner and the said arrested person. It is noteworthy that the said criminal resided in a beat area of the petitioner.
- c. Since the grooming-up of a police informer by a Police Officer is not a part of the Police Regulation in so many words, but it has been followed in the Police Department for very long times, therefore, it is an underground modus operandi, which is not mentioned openly to very many people within or outside Police Department.
- d. Despite mentioning all these above arguments in the petitioner's reply dated 13.12.2017 against the show-cause notice dated 18.11.2017, the Enquiry Officer or the Punishing Officer did not take cognizance of these facts and punished the petitioner by awarding the impugned adverse entry to the petitioner dated 04.01.2018, based upon the assumption that the

petitioner was an accomplice of the aforesaid criminal.

8. On 22.02.2019 Counter Affidavit of the respondent No. 3 has been filed by Sri Vikas Pande, Standing Counsel before the Hon'ble High Court of Uttarakhand at Nainital. Sri Kishore Kumar, learned Assistant Presenting Officer, Uttarakhand Public Services Tribunal, Bench at Nainital made a short argument based upon the C.A./W.S. pointed out emphatically towards the statement of the S.O. Rajesh Kumar Yadav, S.I. Vidyadhar Joshi and the statement of the petitioner. As per the arguments of learned A.P.O. the petitioner was actually hands in gloves with the said criminal, who was involved regularly in the smuggling of arms and the wood of Khair tree. So much so that the arrested criminal Rajendra Singh @ Raju had made a statement that he was making regular payments of huge amounts to the petitioner and other police personnel for permitting him to smuggle-out the aforesaid contrabands. These admissions, statements and the circumstantial evidences are more than enough to conclude that the petitioner was deeply involved in the criminal activities alongwith the said criminal and, therefore, the censure entry awarded to him is justified.

9. A thorough reading of the enquiry report establishes beyond doubt that the petitioner was too friendly with the arrested criminal to use the said person merely as a police informer; rather his

involvement was to such a degree that it would not be expected of a Police Officer to be involved so much personally. Even if, it is to be presumed for the moment that 198 telephone calls between the petitioner and the said criminal in a period of four months' time were meant merely for professional information, it is unbelievable that the petitioner did not know of the serious criminal activities of such nature by the arrested person. The statement as given by the arrested criminal, namely, Rajendra Singh @ Raju is quite elaborate and descriptive about his modus operandi and the involvement of the petitioner in such activity thereof.

10. Though it is an unofficial informal mode of working in the Police Department to develop police informer, but such things are generally in the knowledge of the Superior Officer as well as the Police Station Colleagues. This was not the case here. Nobody official knew about such a thing. Therefore, the petitioner's version of grooming up Rajendra Singh @ Raju as a police informer seems more to be an afterthought. So far as the petitioner's argument about mere presumptions based upon 198 telephone calls is concerned, one has to consider an investigative angle as to what would have been the conclusion of an Investigating Officer towards an ordinary civilian, who made 198 calls in a span of four months to the said criminal. Quite obviously, such a civilian would have been considered an accomplice of the arrested criminal, and he would have been

booked as a co-accused under Section 134 or Section 149 of the I.P.C. for the acts of smuggling and the other criminal activities. In that sense the petitioner has been fortunate enough to be a Police Officer.

11. In the light of the aforesaid conclusion, there is not a speck of doubt that the petitioner's professional behaviour was not above the Board, rather it was unbecoming of a Police Officer. Thus, the 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: 19th DECEMBER, 2025
NAINITAL
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