

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

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

----- Member (A)

Claim Petition No. 24/NB/SB/2025

Constable 220 CP Manjeet Senger, S/o Shri Narendra Sengar, R/o Defence Colony, Khadalpur, Kashipur, District U. S. Nagar, presently posted as Constable, Choki Dhela, Police Station, Ramnagar, Distt.-Nainital.

..... Petitioner

Versus

1. State of Uttarakhand, through its Principal Secretary, Home Affairs Department, Dehradun.
2. Deputy Inspector General (D.I.G.), Kumoun Region, Nainital, District Nainital.
3. S.S.P. (Senior Superintendent of Police) Nainital, District Nainital.

..... Respondents

Present : Sri Rajesh S. Nagarkoti, Advocate for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents

JUDGMENT

DATED : 18th DECEMBER, 2025

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

- “(a). to quash the impugned order dated 18.04.2024 passed by respondent no. 3 as well as impugned order dated 17.12.2024 passed by

respondent no. 2 alongwith its effect and operation and after calling the entire record.

- (b). to issue order or direction to expunge the adverse entry censure recorded in service record of the applicant and grant all the service benefits or pass any other order direction which this Hon'ble Tribunal may deem fit and proper under the facts and circumstance stated in the body of the claim petition.
- (c). to any other award which the Hon'ble Tribunal may think for the applicant."

2. In brief, the facts of the case are that the petitioner was inducted in service as Constable Civil Police by due process of law on 09.04.2006 against the substantive vacancy and after his selection he completed the police training and after completion of the training he was asked to join as Constable Civil Police, at present he is posted as Constable Dhela Chowki, Police Station Ramnagar, District Nainital. The petitioner discharged his duties with utmost satisfaction and without any complaint from any side. On 16.08.2024, the petitioner was posted as Constable in the Police Chowki Dhela and his duty was at morning but due to cause of sudden ill-health the petitioner without informed to his superior as well Chowki Dhela In-charge went to Haldwani for treatment. On 16.08.2024, before reaching for his treatment in Dr. Shushila Tewari Government Hospital, the petitioner got a call of Mrs. Deepa Tewari, who was well-known of the petitioner and also posted in Dr. Sushila Tewari Government Hospital, Haldwani had requested to the petitioner to come her house. On the impression of that she is

posted in Dr. Sushila Tewari Government Hospital, the petitioner went to Mrs. Deepa Tiwari's house thinking that Mrs. Deepa Tiwari is working in Dr. Sushila Tewari Hospital and she can get the petitioner's treatment properly by asking the Doctor in the said hospital. The petitioner went to her house due to that intention to get his health check-up properly, but while reaching her house, her husband came and locked the door from outside. After sometime, the door was opened by someone and then, the petitioner came-out from the house of Mrs. Deepa Tiwari and kept waiting for policemen of Medical Police Chowki, Haldwani. After coming the policemen of Medical Police Chowki, Haldwani the petitioner went alongwith and set at medical police post till 16:00 P.M. on the direction of policemen because Mrs. Deepa Tiwari's husband was creating high voltage drama before police person of Medical Chowki, Haldwani by making false allegation against the petitioner. At the Dr. Sushila Tewari Government Hospital, Haldwani the doctors' OPD timing were from 10:00 A.M. to 14:00 P.M., but due to direction of medical police post policemen the petitioner sitting at medical police post till 16:00 P.M. due to which the OPD timing of doctors were over. So, due to this reason the petitioner went for check-up and treatment to Dr. Basant Ballabh Joshi at Himanchal Clinic near Mukhani Chauraha, Haldwani. After the medical check-up from Himanchal Clinic near Mukhani Chauraha, Haldwani the petitioner was present at the Police Station Ramnagar at the same date about 18:05 P.M. On 16.08.2023 about 13:00 P.M. the petitioner informed the Head Constable Kunwarpal, who was posted at Chowki Dhela, Police Station Ramngar regarding his departure to Haldwani for treatment, but the Head Constable Kunwarpal told the

petitioner that as per the orders of Inspector In-charge, Ramnagar, the absence of the petitioner has been marked. In the preliminary enquiry, the Enquiry Officer taken/recorded the statement of Arun Saini, Inspector In-charge Police Station Ramnagar, Constable 220 C.P. Manjeet Senger (Petitioner), Mr. Saaved Ahmed, S/o Mohd. Asim, R/o Uttari Khatadi, Near Taj Masjid Mohd. Khatadi, Ramnagar, District Nainital, Dr. Basant Ballabh and also taken the statement of Mrs. Deepa Tiwari. The petitioner presented all real facts and evidence before the Enquiry Officer, but the Enquiry Officer without any creditable evidence hold that there negligence on the part of the petitioner. In compliance with s.pra.-single window-34(33)/2023/6165 dated 18.08.2023 s.pra.DGP-aakhaya 34 (40)/2023/6402 dated 14.08.2023, on the complaint of Kishore Chandra Tiwari, the said enquiry constituted, during the enquiry, the Enquiry Officer obtained the report from Inspector-In-Charge, Haldwani, in which, Mrs. Deepa Tiwari stated that her husband quarreled with her out of suspicion and keeps making false allegation against her every day, she also stated that on 16.08.2023, she called her acquaintance police constable Harish to her house to convince her husband. The petitioner had a cough problem since the Corona period, which was continuously increasing and in the month of May 2024, the petitioner's cough-related problem was increasing even after getting treatment, the petitioner's cough problem was not getting cured, due to which the petitioner started getting treatment from Dr. Ahmed, a Doctor of Sanjeevani Homeo Care, from 02.07.2023. On 15.08.2023, when the petitioner was posted at Outpost Dhela, Police Station Ramnagar, on the night of the said date

15.08.2023, suddenly while coughing, blood started coming out of the mouth, due to which the petitioner went to Dr. Sushila Tiwari Hospital, Haldwani for his treatment on the next day, i.e., 16.08.2023. Keeping in view of his health at that time, the petitioner informed the then Chowki Dhela In-charge S.I. Deepak Bisht over phone and requested for his departure, to which the Chowki Dhela In-charge also gave a verbal consent due to which the petitioner was assured that his departure to Haldwani for treatment would have been registered. It has clearly been mentioned by the Enquiry Officer in his enquiry report dated 31.01.2024 that as per the statement of Mrs. Deepa Tiwari, her husband quarrels with her out of suspicion and keeps filing applications against her by making false allegations against her every day. The Enquiry Officer has also mentioned in his enquiry report that Deepa told that on 16.08.2023, she called the police Constable Harish to her house to convince her husband where the said policeman greeted Deepa's husband, after which Deepa's husband locked Deepa and the said policeman inside the room and locked it from outside. Deepa also told that she has no illicit relationship with Constable Harish. The Enquiry Officer in his enquiry report has confirmed/held that the presence of the constable and the complainant's wife Deepa in an objectionable situation has not been confirmed. The enquiry proceedings which were being conducted by the Enquiry Officer in the sequence of the complaint application dated 14.08.2023, the case of the petitioner was also attached in the said investigation proceedings, whereas on 14.08.2023 the petitioner was working at his workplace Chowki Dhela. The Enquiry Officer, without any basis, involved the petitioner in the enquiry proceedings of

S.Pra.-DGP-Report-34 (40)/2023/6402 dated 14.08.2023 and sent the enquiry report dated 31.01.2024 to opposite party No. 3 and on the basis of the said investigation report dated 31.01.2024, the opposite party No. 3 passed the order dated 18.04.2024 in a cursory manner without applying his mind. The petitioner after receiving the show-cause notice dated 11.03.2024 sent the reply/clarification letter dated 16.03.2024 to the respondent No. 3, but the respondent No. 3 without considering the reply/clarification letter dated 16.03.2024 and material available on record, straight-line and cursory manner on the basis of preliminary enquiry report passed the impugned order dated 18.04.2024, whereby, the respondent No. 3 ordered to the authority concerned to mention the reprimand or censure in character-roll of the petitioner in service-book under Uttarakhand (U.P. Subordinate Ranker Police Officer/Employee (Punishment & Appeal) Rules, 1991, under Rule 4 (1) (kha) of (4) of Adaptation and Modification Order, 2020 of departmental proceeding as well as para 23 (2) (kha) of Uttarakhand Police Act-2007. Aggrieved from the impugned order dated 18.04.2024, the petitioner has filed a departmental appeal before the respondent No. 2, but the respondent No. 2 without considering the appeal of the petitioner, rejected the appeal of the petitioner vide order dated 17.12.2024 and affirmed the impugned order dated 18.04.2024. The respondents No. 2 & 3 on the basis of faulted preliminary enquiry report passed the impugned order dated 17.12.2024 as well as 18.04.2024 & 13.06.2024, which are arbitrary, illegal and against the law. Hence, this present claim petition.

3. प्रतिवादी संख्या-1, 2 एवं 3 की ओर से श्री किशोर कुमार, सहायक प्रस्तुतकर्ता अधिकारी द्वारा लिखित विवेचन-पत्र दाखिल किया गया, जो इस प्रकार है:-

3.1. यह कि याचिका के प्रस्तर संख्या-1 में वर्णित कथन अभिलेखीय है परन्तु याची के 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 जाने 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। इसके अतिरिक्त यह कथन करना है कि वर्ष-2023 में जब यह कान्स0 पुलिस चौकी ढेला, थाना रामनगर, जनपद नैनीताल में नियुक्त था, तो दिनांक 16.08.2023 को यह कान्स0 बिना अवकाश/अनुमति के तथा उच्चाधिकारियों को अवगत कराये बिना श्रीमती दीपा तिवारी के घर राजकीय मेडिकल कॉलेज परिसर हल्द्वानी चला गया, जिस सम्बन्ध में श्री किशोर चन्द्र तिवारी, नि0 राजकीय मेडिकल परिसर हल्द्वानी द्वारा स्वयं की पत्नी श्रीमती दीपा तिवारी के साथ इस कान्स0 को आपत्तिजनक स्थिति में पाये जाने सम्बन्धी कतिपय आरोप अंकित कर शिकायती प्रार्थना-पत्र प्रेषित किये गये। प्रकरण में प्रचलित की गयी प्रारम्भिक जाँच के मध्य इस कान्स0 ने अपने कथनों में अंकित कराया कि वह अपने उपचार हेतु सुशीला तिवारी अस्पताल हल्द्वानी गया था। यदि इस कान्स0 का स्वास्थ्य वास्तव में खराब था तो इसको इस सम्बन्ध में उच्चाधिकारियों को अवगत कराते हुये अनुमति प्राप्त कर नियमानुसार चौकी/थाने से रवानगी कर जाना चाहिये था, किन्तु इसके द्वारा ऐसा न कर यह कान्स0 बिना अवकाश/अनुमति के स्वयं के कार्यक्षेत्र से बाहर चला गया। इस प्रकार कान्स0

का यह कृत्य कर्तव्य के प्रति इसकी घोर लापरवाही, स्वेच्छाचारिता एवं अनुशासनहीनता का दोषी पाया गया और परिनिन्दा के दण्ड से दण्डित किया गया है।

3.2. यह कि निर्देश याचिका के प्रस्तर संख्या—4.4, 4.5 एवं 4.6 में वर्णित कथनों के सम्बन्ध में स्पष्ट करना है कि अपीलकर्ता द्वारा अपने कथनों में अंकित कराया गया है कि वह अपने बेहतर ईलाज हेतु सुशीला तिवारी अस्पताल गया था, परन्तु याचिकाकर्ता अस्पताल पहुँचने से पूर्व ही दीपा तिवारी के घर चला गया और दीपा तिवारी के पति (श्री किशोर चन्द्र तिवारी) द्वारा बाहर से कुण्डा लगाकर बन्द कर दिया गया तथा स्थानीय पुलिस को शिकायत की गयी। जॉचकर्ता अधिकारी द्वारा अपनी जॉच में याचिकाकर्ता को नियम विरुद्ध श्री किशोर चन्द्र तिवारी के घर जाने का दोषी पाया गया है। याचिकाकर्ता द्वारा थाना रामनगर में तैनात होने के बावजूद अपने उच्चाधिकारियों से बिना अवकाश/अनुमति प्राप्त किये बिना ही थाना हल्द्वानी क्षेत्रान्तर्गत स्थित श्रीमती दीपा तिवारी के घर जाकर पुलिस नियमों का उल्लंघन किया है। याचिकाकर्ता का यह कृत्य पुलिस जैसे अनुशासित बल की छवि को धूमिल करता है एवं दण्ड का पूर्ण रूप से पात्र है।

3.3. यह कि निर्देश याचिका के प्रस्तर संख्या 4.9 एवं 4.10 में वर्णित कथनों के सम्बन्ध में स्पष्ट करना है कि याचिकाकर्ता का स्वास्थ्य वास्तव में गम्भीर था तो याचिकाकर्ता का यह दायित्व था कि वह अपने उच्चाधिकारियों का यथासंभव शीघ्र सूचित करें तथा नियमानुसार अवकाश या रवानगी की स्वीकृति प्राप्त करें। इसके अतिरिक्त, यदि उक्त स्थिति पूर्व से ही ज्ञात थी और याचिकाकर्ता ईलाज ले रहा था, तो उसे अग्रिम रूप से विभाग को इस बारे में अवगत कराना चाहिये था, जिससे सेवा अनुशासन का पालन हो सके। बिना सूचना और बिना अनुमति ड्यूटी छोड़कर जाने का कार्य, चाहे वह स्वास्थ्य

कारण से ही क्यों न हो, सेवा-नियमों के विरुद्ध एवं अनुशासनहीनता की श्रेणी में आता है।

3.4. यह कि प्रतिवाद पत्र के उपरोक्त कथनों के आधार पर याची की याचिका सब्यय अस्वीकार होने योग्य है। मा० न्यायाधिकरण से प्रार्थना 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 मा० 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 argued that the respondent No. 3 erroneously held the petitioner guilty of indiscipline and dereliction of duty in the impugned punishment order dated 18.04.2024 despite the fact that in the concluding paragraphs of the preliminary enquiry report dated 31.01.2024 submitted by C.O. Ramnagar, Nainital the petitioner has not been held guilty of objectionable character towards the wife of the complainant Kishore Chandra Tiwari. As per the learned Counsel the preliminary enquiry report has indicated that the complaint against the petitioner, in all likelihood, appears to be falsely fabricated. So far as the other charges against the petitioner are concerned, there are explicit reasons for those events. Learned Counsel has emphatically pointed out that a mere

observation of the opening paragraph of the enquiry report shows that there were two separate complaints by the same complainant against the petitioner and they should have been enquired upon separately. Learned Counsel for the petitioner has relied upon the judgment dated 13.02.2013 in the case of Rajendra Yadav Vs. State of M.P. & others Civil Appeal No. 1334 of 2013 (Arising out of SLP (Civil) No. 2070 of 2012. So far as the question of the petitioner absenting himself unauthorizedly from duty without permission is concerned, this is not true as the petitioner had telephonically taken permission from the Police Chowki Incharge Sub-Inspector Deepak Bisht for visiting the hospital, as the petitioner was not well. In the enquiry report no statement had been recorded of the aforesaid Police Chowki Incharge, otherwise it would have been proven beyond doubt that the petitioner had left his place of duty with prior permission.

7. Learned A.P.O., in his arguments, has reiterated the contents of the C.A./W.S. and emphasized that the petitioner was positively guilty of indiscipline and dereliction of duty. So far as the Rajendra Yadav's ruling is concerned, it is not relevant in this case.

8. A thorough comparison of the pleadings of the learned Counsel for the petitioner with the enquiry report dated 31.01.2024 manifests that the learned Counsel for the petitioner has misrepresented the opening paragraph as well as the conclusive paragraphs of the enquiry report. The enquiry report is of course not emphatic or conclusive about the petitioner's promiscuous behaviour

towards the complainant's wife, however, it is very much emphatic and conclusive about the petitioner indiscipline, arbitrariness and dereliction of duty by his absence from duty without prior departmental permission as per the provisions of Police Regulation. Incidentally, the adverse entry that has been awarded to the petitioner is not exactly about his promiscuous behaviour, rather it is very much based upon the fact that the petitioner had left his place of duty without any prior permission. The fact that he visited the house of complainant alongside the hospital is a secondary and immaterial point of consideration. After this preliminary enquiry the procedure of departmental proceedings has also been followed as stipulated.

9. A through reading of the enquiry report and the departmental proceedings establish the petitioner's indiscipline beyond any doubt. Therefore, the petition does not hold water and deserve to be dismissed.

ORDER

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

(Capt. Alok Shekhar Tiwari)
Member (A)

DATE: 18th DECEMBER, 2025
NAINITAL
BK

