

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

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

----- Member (A)

Claim Petition No. 43/NB/SB/2025

Kishore Rautela (Male), Aged about 47 years, S/o Govind Singh, R/o Village Shantipuri No. 04, Thana-Pantnagar, Tehsil-Kichha, District Udham Singh Nagar.

..... Petitioner

Versus

1. State of Uttarakhand, through Secretary, Home, Government of Uttarakhand, Dehradun.
2. Inspector General of Police, Kumaon Division, Nainital.
3. Senior Superintendent of Police, District-Nainital.
4. Inspector In-Charge, Police Station-Lal Kuwa, District Nainital.

..... Respondents

Present : Sri Ketan Aswal, Advocate, Brief Holder for
Sri D.S. Mehta, Advocate for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents

JUDGMENT

DATED : **MAY 07th, 2026**

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

- "i. To issue an order or direction to quash the impugned order dated 22/04/2025 and 10.06.2024 of the respondent declaring the same as arbitrary, malafied and void and a nullity with its effects and operation, after calling entire records from

the respondents, or to mould the relief appropriately, keeping in view the facts highlighted in the body of the petition.

ii. To issue an order or direction which this court may deem fit and proper in the circumstances of the case in favour of the petitioner.

iii. To award the cost of petition.”

2. In brief, the facts of the case are that in the present claim petition, the petitioner is challenging the impugned order dated 22/04/2025 passed by the respondent No. 2 by which the appeal filed by the petitioner has been dismissed and order dated 10.06.2024 by which the respondent No. 3 ordered that the following “censure entry” shall be recorded in the character-roll of the petitioner:-

“In the year 2023 when the petitioner was posted at Lalkuwa Police Station, District Nainital, on dated 25.09.2023 at about 21:10 p.m., the petitioner quarreled and argued with Constable 902 Nagrik Police/Civil Police Chandrashekhar Malhotra at the Lalkuwa Police Station Gate regarding taking 2000/- rupees, due to which the image of the Police has been tarnished among general public. Whereas the Petitioner should have informed the higher authorities in case there was any dispute between the Petitioner and Constable 902 Nagrik Police/Civil Police Chandrashekhar Malhotra, but instead of doing so, the Petitioner quarreled and argued among themselves near the police station gate, public place. This act of the Petitioner to quarrel and argue among themselves in a public place while being posted in the disciplined police force is

indicative of his gross negligence, arbitrariness, indiscipline and negligence towards duty, which is condemned. ”

Further submission of the petitioner is that aforesaid “censure entry” based upon the conjectures and surmises and by rejecting the written explanation dated 08.04.2024 filed by the Petitioner is wholly illegal arbitrary and not sustainable in the eyes of law, therefore, in these peculiar facts and circumstances of the case, the respondent department cannot order to record the aforementioned “censure entry” in the character register of the Petitioner and this illegal action is against the procedure provided under the Uttarakhand Police Act ,2007, therefore, the petitioner is praying for issuance of an order or direction for quashing aforesaid impugned orders and subsequent orders.

2.1. In the year 2002, the petitioner was appointed on the post of Constable 810 Nagrik Police/Civil Police and currently working in the election cell/media cell in District Nainital.

2.2. On 25.09.2023, a Report No. 56 at 22.04 p.m. in Police Station-Lalkuwa, District Nainital was lodged against the petitioner alleging therein that at 21.10 hrs., Senior Sub-Inspector Harendra Singh Negi came to the Police Station and told that he was standing at the police station gate when Petitioner/Constable 810 Kishore Rautela, posted in 112 PC 05, came out of his vehicle.

Immediately after that, Constable 902 Chandrashekhar Malhotra came. Petitioner/Constable 810 Kishore Rautela started arguing with Constable 902 Chandrashekhar and started fighting. Even after he explained a lot to the Petitioner, he did not listen and was pacified with great difficulty. Fighting and being ready to do so in a disciplined force is a sign of indiscipline. Consequently, a report was registered against the Petitioner.

2.3. On 26.09.2023, the Inspector-In-Charge, Police Station-Lalkuwa, District-Nainital sent a letter to the Circle Officer, Lalkuwa, Nainital regarding the alleged incident mentioned in the Report No. 56 dated 25.09.2023 and requested the Circle Officer, lalkuwa, Nainital to take cognizance of the incident and take necessary actions.

2.4. Again on dated 26.09.2023, the Inspector-In-Charge, Police Station-Lalkuwa, District-Nainital sent a report to the Senior Superintendent of Police, District-Nainital regarding the alleged incident and stated therein that such act of the Petitioner is a gross indiscipline to fight themselves without telling the issue to the higher officials and requested to take further necessary actions.

2.5. Thereafter, a preliminary investigation was conducted regarding the alleged incident done by the Petitioner and dated

13.03.2024 a preliminary investigation report was sent by the Circle Officer, Bhowali, District-Nainital to the Senior Superintendent of Police, District-Nainital wherein the statements of 07 witnesses were recorded by the Circle Officer, Bhowali, District-Nainital and on the basis of documentary evidences and statements of witnesses, the Circle Officer, Bhowali, District-Nainital found the Petitioner guilty for showing indiscipline near the police station gate due to which the image of the police has been tarnished.

2.6. On 21.03.2024, the Senior Superintendent of Police, District-Nainital issued a show-cause notice to the Petitioner and the Petitioner was granted 15 days' time to submit his written explanation as to why the aforementioned "Censure Entry" should not be recorded in the character-roll as per the provision of Rule 4 (1) (b) (four) of Uttarakhand (Uttar Pradesh Subordinate Police Officers (Punishment and Appeal) Rules, 1991) Adaptation and Modification Order-2002 and the provision contained in Para-23 (2) (b) of Uttarakhand Police Act-2007.

2.7. The petitioner in pursuance to the show-cause notice dated 21.03.2024 filed his detailed written explanation wherein the petitioner, rejected all the allegations mentioned in the Preliminary Investigation Report as well as the Charge-Sheet and

further requested the department to sympathetically consider the explanation of the petitioner and cancel the show-cause notice dated 21.03.2024, otherwise the censure entry would have an adverse effect on the petitioner's excellent career and the petitioner had informed about the alleged incident to the Circle Officer, Lalkuwa.

2.8. By the impugned order dated 10.06.2024 the Senior Superintendent of Police, District-Nainital by rejecting the written explanation given by the Petitioner for being baseless and non-satisfactory and upheld the punishment proposed in the departmental proceedings and as per the provisions of Rule 4 (1) (b) (four) of Uttarakhand (Uttar Pradesh Subordinate Police Officers (Punishment and Appeal) Rules, 1991) Adaptation and Modification Order-2002 and the provision contained in Para-23 (2) (b) of Uttarakhand Police Act-2007 the Senior Superintendent of Police, District-Nainital ordered that the aforementioned censure note shall be recorded in the character-roll of the Petitioner.

2.9. On 13.06.2024, the Petitioner was again given a show-cause notice wherein it was stated that by the Office Order No. 199/2023 dated 28.09.2023 the Petitioner had been suspended in relation to demonstrating indiscipline at the police station gate and

by the Office Order No. 199/2023, the Petitioner had been reinstated with immediate effect without an adverse effect on the ongoing investigation proceedings against the Petitioner. It was further stated that on the basis of preliminary investigation the Petitioner was punished with punishment of censure. The Petitioner was further ordered that the Petitioner shall submit his written statements within 07 days of the receipt of this show-cause notice as to why the Petitioner should not be given only the subsistence salary and allowances for the suspended period from 28.09.2023 to 31.10.2023 which the Petitioner had already received during the suspension period.

2.10. The petitioner in response to the show-cause notice dated 13.06.2024 submitted his written explanation on 25.06.2024 stating therein that since the Petitioner had already been punished for the alleged offence then not paying salary and other allowances of the suspension period to the Petitioner will amount to double punishment which is against the principles of Natural Justice. Moreover, non-payment of salary and other allowances during the suspension period to the Petitioner will cause great financial hardship to the Petitioner.

2.11. Senior Superintendent of Police, District-Nainital on order dated 12.07.2024 passed an order and held the Petitioner

guilty of the alleged offences and upheld the punishment of “censure entry” and rejected the written statements submitted by the Petitioner. Moreover, the Senior Superintendent of Police, District-Nainital further ordered that the suspension period of the Petitioner will be counted in pension, promotion and leave etc.

2.12. The petitioner preferred an appeal against the impugned order dated 10.06.2024 passed by the Senior Superintendent of Police, District-Nainital.

2.13. The respondent No. 2/Inspector General of Police, Kumaon Division, Nainital without considering the grounds mentioned in the appeal and against the real facts and circumstances of the case dismissed the appeal by the impugned order dated 22.04.2025.

2.14. From perusal of appeal dismissal order dated 22.04.2025 passed by the respondent no. 2 it is clear that this impugned order was passed in a stereotype manner and respondent No. 2 failed to consider the real facts of the incident and that the respondent department had taken shelter of second proviso of Article 311 (2) of the Constitution of India, but the said proviso is not applicable in the present situation because the allegations in report are not related with the official functioning of

the petitioner, therefore, with the aid of aforesaid provision of law the services of the petitioner ought not to have affected by “censure entry” in the character register of the Petitioner, so that in these facts and situations impugned order is bad in the eyes of law and same is liable to be quashed.

2.15. On the date of alleged incident the Petitioner was merely opposing the false allegation of bribery levelled upon him by the Constable Chandrashekhar Malhotra as the Petitioner had worked honestly throughout his service, but the impugned order dated 22.04.2025 was passed on the basis of conjectures and surmises by not considering this fact.

2.16. It is not correct for the Enquiry Officer to mention in his enquiry report that due to this incident the image of the Police was tarnished among the public. The Enquiry Officer had neither taken any statement in this regard in the enquiry nor had mentioned any substantial evidence. If this incident had happened among the public, then the image of the police could have been tarnished, if this had happened then the Enquiry Officer should have also recorded the statements of people of the public as independent witnesses present nearby at the time of the incident. But this has not been done by him, on the basis of mere conjecture, the tarnished image among the public has been mentioned in the

enquiry report. Thus, the enquiry report made on the basis of inconsistent and imaginary facts is erroneous, due to which the impugned orders are liable to be quashed.

2.17. It is pertinent to mention here that in the preliminary enquiry, the Enquiry Officer has no right to give a finding that the accused is found negligent/guilty. In this regard, the Hon'ble Allahabad High Court has ruled-out in the case of Vishwanath Mishra Vs. Uttar Pradesh Public Service Tribunal, 1985 (2) S.L.R. All. Page 708 that:

“Enquiry Officer cannot give any findings regarding integrity or frail order of removal illegal.”

But the Respondent Authorities have completely ignored this erroneous act of the Enquiry Officer; hence the impugned orders are liable to be quashed.

2.18. During the preliminary enquiry, the Enquiry Officer neither recorded the statement of any independent witness from the public nor took the footage of the CCTV cameras of the police station and the whole enquiry was done superficially.

2.19. Although the petitioner had rendered almost 23 years of service with utmost dedication, sincerity and honesty and has followed all the instructions and orders given by the higher

authorities during his whole service period, thus, Constable Chandrashekhar had falsely implicated the petitioner for taking bribe and when the Petitioner inquired from the Constable Chandrashekhar regarding the alleged false allegation of bribery then they had an argument but no fight or quarrel took place. If there had been a fight or the Petitioner had consumed intoxicants then the Inspector-in-Charge would have definitely got the Petitioner medically examined but this was not done by the Inspector-in-Charge during the initial investigation which is not lawful and against the settled principle of law and the principles of Natural Justice.

2.20. In the instant case the Petitioner was not provided the copy of statements of witnesses examined during investigation and produced at the inquiry in support of charge levelled against the Petitioner, which is totally against the guidelines given by the Supreme Court in Kashinath Dikshita Vs. Union of India, AIR 1986 SC 2118 : 1986 IILLJSC 468.

“It is unjust and unfair to deny the government servant copies of witnesses examined during investigation and produced at the enquiry in support of the charges levelled against the government servant. A synopsis does not satisfy the requirements of giving the government a reasonable opportunity of showing cause against the action proposed to be taken.”

2.21. In respect of any type of punishment to the Petitioner, whether it is a long punishment or a short punishment, it has been clearly provided in Section-22 of the Uttarakhand Police Act-2007 that, subject to the provisions of Article-311 of the Constitution, only disciplinary departmental action can be taken against the applicant under the rules and regulations made under the Uttarakhand Police Act-2007, and this Section-22 is read as follows-

Uttarakhand Police Act-2007 Disciplinary penalties

Section-22 Subject to the provisions of Article 311 of the Constitution of India, disciplinary proceedings shall be conducted as per the Rules and Regulations made under this Act.

But in this regard, it is noteworthy that till date no manual or rule has been framed by the Uttarakhand government regarding taking disciplinary departmental action in compliance or sequence of the provisions made under Section-22 of the Uttarakhand Police Act-2007 and all types of departmental action against all subordinate police officers of Uttarakhand Police are taken only under the provisions of Uttarakhand (Uttar Pradesh Subordinate Category Police Officer/Employee's Punishment and Appeal Rules-1991) Adaptation and Modification Order-2002.

2.22. It becomes absolutely clear that the provisions of Section-23 of Uttarakhand Police Act-2007 for taking departmental action against the Petitioner are not applicable to the applicant at all because in this Section only provision has been made by describing the punishment but there is neither any description nor provision of the process of providing them and for this, orders have been given to make rules in Section-22 of Uttarakhand Police Act-2007 but the process of giving punishment in compliance with these orders has not been formed till date. But a show-cause notice has been issued against the Petitioner under Section 23 (2) (B) of Uttarakhand Police Act-2007 and on the basis of this, the sentence has also been issued, which is unfair. From the abovementioned facts, it is crystal clear that due to the above reasons, the sentence in question is not at all maintainable and for the above reasons the sentence of the learned Respondent Authorities is liable to be cancelled.

2.23. The applicant had given a detailed explanation to prove his innocence regarding the show-cause notice in question, but it was not considered step-by-step and the explanation was rejected by merely making the following remark:-

“Therefore, the arguments/facts mentioned in the explanation dated 08.04.2024 of Constable 810 Kishore Rautela were baseless/unsatisfactory, and the

explanation was not found satisfactory, keeping the punishment proposed in the departmental proceedings intact, the provisions of Rule 4 (1) (b) (four) of Uttarakhand (Uttar Pradesh Subordinate Category Police Employee/Officer (Punishment and Appeal) Rules-1991) Adaptation and Modification Order-2002 and as per the provisions of Para-23 (2) (b) of Uttarakhand Police Act-2007, orders are passed to enter the following censure entry in the character register.”

2.24. The Respondent Authority has rejected the explanation of the Petitioner without giving any reasoning on the facts mentioned by the applicant, which clearly shows that the Respondent Authority has failed in applying his judicial mind which is completely against the law.

2.25. It is well-settled that a disciplinary enquiry has to be a quasi-judicial enquiry held according to the principles of the natural justice and the Enquiry Officer has a duty to act judicially. The Enquiry Officer did not discuss the evidence. He merely recorded his ipse dixit that the charges are proved. He did not assign a single reason why the evidence produced by the appellant did not appeal to him or was considered not

creditworthy. He did not a peep into his mind as to why the evidence produced by the management appealed to him in preference to the evidence produced by the appellant. An enquiry report in a quasi-judicial enquiry must show the reason for the conclusion. It cannot be ipse dixit of the Enquiry Officer. It has to be a speaking order in the sense that the conclusion is supported by reasons.

2.26. The opinion which has been expressed by the Supreme Court in case of Nathaniel Ghose Vs. Union Territory of Arunachal Pradesh, (1980) 2 SLR 733 regarding speaking orders is that:-

“The Supreme Court and the High Court have emphasized that the appellate authorities must give reasons and there should be some discussion of the evidence on record. An Appellate Authority has a legal duty to adjudicate the matter upon merits before confirming, enhancing, reducing or setting-aside the penalty.

2.27. The aim of the rules of natural justice is to secure justice or to put it negatively to prevent miscarriage of justice. These rules can operate only in areas not covered by any law validly made. In other words they do not supplant the law of land

but supplement it. The concept of natural justice has undergone a great deal of change in recent years. In the past it was thought that it included just two rules, namely- (1) No man shall be a judge in his own case (*nemo debet iudex propria causa*) and (2) No decision shall be given against a party without affording him a reasonable hearing (*audi alteram partem*). The concept of natural justice has undergone a great deal of change in recent years and the rule that enquiries must be held in good faith and without bias, and not arbitrarily or unreasonably, is now included among the principles of natural justice. Where it is his duty to exercise that assumed jurisdiction whether it be administrative, executive or quasi-judicial, fairly, by which I mean applying his mind dispassionately to a fair analysis of the particular problems and the information to him in analyzing it.

2.28. The statutory discretion if vested in an authority, then such discretion should be exercised not in arbitrary, whimsical and fanciful manner. It must be reflected from the outcome of event that the authority concerned has exercised discretion within the sound principle of law, skill and wisdom with vigilant circumspection and care. The discretionary power imposes a heavy responsibility on a person or authority. The latitude or liberty accorded by statute, Circular or Order to the higher

authority does not permit to exercise such power in unjust and unfair manner. In the case of Kuldeep Singh (supra), their

Lordships of Apex Court further held as under:

“If a certain latitude or liberty is accorded by a statute or Rules to a judge as distinguished from a ministerial or administrative official, in adjudicating on matters brought before him, it is judicial discretion. It limits and regulates the exercise of discretion, and prevents it from being wholly absolute, capricious or exempt from review.”

2.29. The action of the respondents is wholly, illegal, arbitrary and in utter derogation of Article 12, 14, 19 (1) (g), 21 and 311 (2) of the Constitution of India and, therefore, impugned orders are not sustainable in the eyes of law as well as being against the spirit and mandate of the service jurisprudence.

2.30. Feeling aggrieved and having no other efficacious remedy, the petitioner is left with no option except to invoke the jurisdiction of this Hon'ble Tribunal under Section-4 of the PST Act.

3. CA/WS has been filed on behalf of the respondents No. 1 to 4 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 याची द्वारा लिखे गये समस्त प्रस्तर अस्वीकार है एवं केवल वहीं प्रस्तर जो अभिलेखों पर आधारित है स्वीकार है।

3.2. 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 सुनवाई हेतु अंगीकृत किय 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 थाना लालकुंआ, जनपद नैनीताल में नियुक्त था, तो दिनांक 25.09.2023 को समय लगभग 21:10 बजे इसके द्वारा थाना लालकुंआ गेट पर कान्स0 902 ना0पु0 चन्द्रशेखर मल्होत्रा के साथ दो हजार रुपये लेने की बात को लेकर आपस में झगड़ा एवं बहस की गयी, जिसमें आम जनता में पुलिस की छवि धूमिल हुयी। जबकि इस कान्स0 को चाहिये था कि इनके मध्य यदि किसी बात को लेकर विवाद था तो इस सम्बन्ध में उच्चाधिकारियों को अवगत कराता, किन्तु इसके द्वारा ऐसा न कर सार्वजनिक स्थान थाना गेट के पास आपस में बहस व झगड़ा किया गया। अनुशासित पुलिस बल में नियुक्त रहते हुये सार्वजनिक स्थान पर आपस में बहस कर झगड़ा करना कान्स0 का यह कृत्य कर्तव्य के प्रति इसकी घोर लापरवाही, स्वेच्छाचारिता, अनुशासनहीनता एवं प्रमाद का परिचायक है।

3.3. यह कि निर्देश याचिका के प्रस्तर संख्या-4.9 में वर्णित कथनों के सम्बन्ध में स्पष्ट करना है कि जांच अधिकारी द्वारा सम्पादित जांच के दौरान याचिकाकर्ता द्वारा अपने कथनों में अंकित कराया गया है कि दिनांक 25.09.2023 को रात्रि करीब 08:15 बजे जब यह डायल 112 की ड्यूटी पर था तो वह शराब पकड़कर थाना आया तो उसे कान्स0 प्रहलाद मर्तोलिया द्वारा कहा गया कि कानि0 चन्द्रशेखर मल्होत्रा कह रहा है कि उसने और याचिकाकर्ता ने शनि, जो शराब बेचता है, से 2000 रुपये लिये। यह बात सुनकर याचिकाकर्ता तुरन्त शनि के पास गया तो वह घर पर नहीं मिला, सड़क पर उसे शनि के जीजाजी मिले, याचिकाकर्ता ने जीजाजी से कहा कि शनि से पूछो कि मैंने कब 2000 रुपये लिये, उससे फोन पर बात की तो शनि ने कहा कि वह याचिकाकर्ता पर झूठा आरोप लगा रहे हैं, जिसकी फोन में हुयी बात की रिकार्डिंग भी याचिकाकर्ता के पास है। उसके बाद याचिकाकर्ता जैसे ही थाने गेट पर पहुँचा तो एसएसआई श्री हरेन्द्र सिंह वहां पर खड़े थे, याचिकाकर्ता ने एसएसआई श्री हरेन्द्र सिंह से कहा कि सर देखो कमल और चन्द्रशेखर उसे बदनाम कर रहे हैं। इतने में चन्द्रशेखर वहाँ पर पहुँच गया, याचिकाकर्ता ने चन्द्रशेखर से कहा कि आपसे किसने कहा कि मैंने 2000 रुपये लिये हैं, शनि तो मना कर रहा है। इस बात को लेकर दोनों में बहस हो गयी, जिस पर इन दोनों में धक्का-मुक्की हुयी, किसी प्रकार की लड़ाई नहीं हुयी। सम्पूर्ण प्रारम्भिक जांच के मध्य अभिलिखित कथन से पाया गया कि याचिकाकर्ता एवं कानि0 902 ना0पु0 चन्द्रशेखर के मध्य 2000 रुपये लेने की बात को लेकर आपस में बहस व झगड़ा हुआ। अनुशासित पुलिस बल में नियुक्त रहते हुये आपस में झगड़ा कर अनुशासनहीनता एवं मनमाने आचरण के परिलक्षित होने पर उत्तराखण्ड (उ0प्र0 अधीनस्थ श्रेणी के पुलिस अधिकारियों की (दण्ड और 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 प्रावधान के अनुसार चरित्र-पंजिका में परिनिन्दा लेख अंकित किये जाने के सम्बन्ध में कारण बताओ नोटिस निर्गत किया गया, जिसके प्रतिउत्तर में याचिकाकर्ता ने अपना लिखित स्पष्टीकरण प्रस्तुत किया। याचिकाकर्ता द्वारा प्रस्तुत स्पष्टीकरण में अंकित तर्क/तथ्यों के सम्बन्ध में पत्रावली पर उपलब्ध अभिलेखों एवं स्पष्टीकरण पर गहनता/गम्भीरता से अध्ययन करने के उपरान्त ही याचिकाकर्ता को दण्डादेश संख्या: द-25/2024 दिनांक 10.06.2024 से दण्डित किया गया, जो विधिसम्मत आदेश है।

3.4. यह कि निर्देश याचिका के प्रस्तर संख्या-4.11 में वर्णित कथन जिस प्रकार उल्लिखित है, अस्वीकार है। स्पष्ट करना है कि याचिकाकर्ता को विधिसम्मत प्रक्रिया अपनाते हुये परिनिन्दा लेख से दण्डित किया गया है। क्षेत्राधिकारी लालाकुंआ द्वारा याचिकाकर्ता को ड्यूटी पर रहते हुये थाना गेट पर झगड़ा करने एवं उच्चाधिकारियों के निर्देशों का अनुपालन न किये जाने के सम्बन्ध में अवगत कराया गया, जिस कारण याचिकाकर्ता को तत्काल निलम्बित करते हुये प्रकरण की जाँच क्षेत्राधिकारी भवाली से सुपुर्द की गयी। सम्पूर्ण प्रारम्भिक जाँच के मध्य अभिलिखित कथन से पाया गया कि याचिकाकर्ता एवं कानि0 902 ना0पु0 चन्द्रशेखर के मध्य 2000 रुपये लेने की बात को लेकर आपस में बहस व झगड़ा हुआ। अनुशासित बल में नियुक्त रहते हुये आपस में झगड़ा कर अनुशासनहीनता एवं मनमाने आचरण के परिलक्षित होने पर याचिकाकर्ता को दण्डित किया गया है। याचिकाकर्ता द्वारा इस प्रस्तर में दिया गया तर्क केवल सहानुभूति अर्जित करने हेतु प्रस्तुत किया गया है, जिसे स्वीकार नहीं किया जा सकता।

3.5. यह कि निर्देश याचिका के प्रस्तर संख्या—4.12 एवं 4.13 में वर्णित कथन अभिलेखानुसार सत्य है।

3.6. यह कि निर्देश याचिका के प्रस्तर संख्या—4.14 एवं 4.15 में वर्णित कथनों के सम्बन्ध में स्पष्ट करना है कि याचिकाकर्ता ने अपील में ऐसा कोई तथ्य/साक्ष्य प्रस्तुत नहीं किया है, जिससे वह निर्दोष सिद्ध होती हो। याचिकाकर्ता को दिया गया दण्ड उचित पाते हुये, याचिकाकर्ता की अपील अस्वीकृत की गयी है, जो विधिसम्मत, न्यायोचित एवं प्राकृतिक न्याय के सिद्धान्त के अनुकूल है।

3.7. यह कि निर्देश याचिका के प्रस्तर संख्या—4.16 में वर्णित कथन जिस प्रकार उल्लिखित है, अस्वीकार है। स्पष्ट करना है कि याचिकाकर्ता द्वारा थाना लालकुंआ गेट पर कानि0 902 ना0पु0 चन्द्रशेखर मल्होत्रा के साथ दो हजार रुपये लेने की बात को लेकर आपस में झगड़ा एवं बहस की गयी, जिससे आम जनता में पुलिस की छवि घूमिल हुयी, जबकि याचिकाकर्ता को चाहिये था कि इनके मध्य यदि किसी बात को लेकर विवाद था तो यह इस सम्बन्ध में उच्चाधिकारियों को अवगत कराते, किन्तु इनके द्वारा ऐसा न कर सार्वजनिक स्थान थाना गेट के पास आपस में बहस एवं झगड़ा किया गया।

3.8. यह कि निर्देश याचिका के प्रस्तर संख्या—4.17 में वर्णित कथनों के सम्बन्ध में स्पष्ट करना है कि अनुशासित बल में नियुक्त रहते हुये सार्वजनिक स्थान पर अपने ही सहकर्मी से विवाद करना स्वयं में पुलिस विभाग की छवि प्रभावित होती है और ऐसे अनुशासित आचरण से आम जनता में पुलिस विभाग के प्रति नकारात्मक संदेश जाना स्वाभाविक है। प्रकरण में नियमानुसार जांच

सम्पादित की गयी है तथा पत्रावली में अवस्थित अभिलेखों एवं बयानों के आधार पर ही याचिकाकर्ता को दण्डित किया गया है।

3.9. यह कि निर्देश याचिका के प्रस्तर संख्या—4.18 में वर्णित कथन अस्वीकार है। जांच अधिकारी द्वारा सम्पादित प्रारम्भिक जांच को उद्देश्य सम्भावित अनुशासनहीनता की प्रथमदृष्ट्या पुष्टि करना होता है। प्रकरण में सम्पादित जांच का गहनता से अवलोकन करने के उपरान्त ही याचिकाकर्ता को अपने पक्ष रखे जाने हेतु कारण बताओ नोटिस प्रेषित किया गया। याचिकाकर्ता द्वारा प्राप्त स्पष्टीकरण एवं सम्पादित जांच का अवलोकन करने के उपरान्त ही याचिकाकर्ता को दण्डित किया गया है। अतः इस प्रस्तर में वर्णित मा0 न्यायालय की रूलिंग याचिकाकर्ता के प्रकरण में लागू नहीं होती है।

3.10. यह कि निर्देश याचिका के प्रस्तर संख्या—4.19 में वर्णित कथन अस्वीकार है। स्पष्ट करना है कि प्रकरण में सम्पादित प्रारम्भिक जांचानुसार थाना परिसर में हुयी घटना के दौरान उ0नि0 हरेन्द्र सिंह नेगी थाना गेट पर ही मौजूद थे, एवं उ0नि0 हरेन्द्र सिंह नेगी के समक्ष ही कानि0 चन्द्रशेखर एवं याचिकाकर्ता के बीच बहस एवं मारपीट हुयी। प्रभारी निरीक्षक लालकुंआ एवं थाना परिसर पर मौजूद कर्मचारियों के बयानों से स्पष्ट है कि याचिकाकर्ता द्वारा थाना गेट पर बहस एवं मारपीट की गयी।

3.11. यह कि निर्देश याचिका के प्रस्तर संख्या—4.20 में वर्णित कथन अस्वीकार है। स्पष्ट करना है कि प्रकरण में याचिकाकर्ता द्वारा न तो शारीरिक रूप से किसी प्रकार की चोट का आरोप है और न ही यह घटना किसी शारीरिक हमले की श्रेणी में आती है। बल्कि यह अनुशासनहीन आचरण की

श्रेणी में आती है। याचिकाकर्ता का यह तर्क कि उनका मेडिकल परीक्षण नहीं हुआ, तथ्यात्मक, विधिक व औचित्य के अभाव में है।

3.12. यह कि निर्देश याचिका के प्रस्तर संख्या-4.21 में वर्णित कथनों के सम्बन्ध में स्पष्ट करना है कि याचिकाकर्ता को कारण बताओ नोटिस के साथ जांच अधिकारी द्वारा सम्पादित जांच आख्या उपलब्ध करायी गयी है। जांच आख्या में क्षेत्राधिकारी लालकुंआ, प्रभारी निरीक्षक लालकुंआ, उ०नि० हरेन्द्र सिंह नेगी, कानि. 810 ना०पु० किशोर रौतेला, कानि० 902 ना०पु० चन्द्रशेखर, कानि० 358 ना०पु० प्रहलाद सिंह एवं कानि० 69 स०पु० जितेन्द्र सिंह के बयान अंकित है। याचिकाकर्ता द्वारा वर्णित मा० न्यायालय की रूलिंग प्रश्नगत् प्रकरण में याचिकाकर्ता के पक्ष में लागू नहीं होती है।

3.13. यह कि निर्देश याचिका के प्रस्तर संख्या-4.22 एवं 4.23 में वर्णित कथनों के सम्बन्ध में स्पष्ट करना है कि प्रारम्भिक जांच में अंकित अभिलेखों एवं याचिकाकर्ता द्वारा प्रस्तुत स्पष्टीकरण पर गहनता/गम्भीरता से अध्ययन करने के उपरान्त ही याचिकाकर्ता को परिनिन्दा लेख से दण्डित किया गया है। दिया गया दण्ड नैसर्गिक न्याय के सिद्धान्तों के विपरीत नहीं है।

3.14. यह कि निर्देश याचिका के प्रस्तर संख्या-4.24, 4.25, 4.26 एवं 4.27 में वर्णित कथनों के सम्बन्ध में स्पष्ट करना है कि याचिकाकर्ता के विरुद्ध सम्पादित प्रारम्भिक जांच में याचिकाकर्ता द्वारा अपने कथनों में स्वयं उल्लेख किया गया है कि उसके एवं कानि० 902 ना०पु० चन्द्रशेखर के बीच 2000 रुपये को लेकर धक्का-मुक्की हुयी, जो कि याचिकाकर्ता के अनुशासनहीनता को दर्शाता है। याचिकाकर्ता का अगर अपने सहकर्मी से किसी बात का लेकर विवाद था तो सर्वप्रथम इस सम्बन्ध में अपने से उच्चाधिकारियों को अवगत

कराना चाहिये था, जो कि याचिकाकर्ता द्वारा नहीं किया गया। बल्कि स्वयं ही थाना गेट के पास आपस में बहस व झगड़ा किया गया। याचिकाकर्ता के विरुद्ध सम्पादित प्रारम्भिक जांच एवं दण्डात्मक कार्यवाही पूर्णतः नियमानुकूल है।

3.15. यह कि निर्देश याचिका के प्रस्तर संख्या-4.27, 4.28, 4.29, 4.30 एवं 4.31 में वर्णित कथनों के सम्बन्ध में विस्तृत एवं स्पष्ट उत्तर प्रतिवाद-पत्र के उपरोक्त प्रस्तरों में दिया जा चुका है। इसके अतिरिक्त यह अवगत कराना है कि दण्डादेश में याचिकाकर्ता द्वारा प्रस्तुत स्पष्टीकरण में अंकित तर्क/तथ्यों के सम्बन्ध में पत्रावली पर उपलब्ध अभिलेखों एवं स्पष्टीकरण का गहनता/गम्भीरता से अध्ययन कर मनन किया गया। याचिकाकर्ता द्वारा कारण बताओ नोटिस में अंकित आरोपों के सम्बन्ध में तर्कहीन एवं आधारहीन तथ्य अंकित करते हुये अपना स्पष्टीकरण प्रस्तुत किया, जिसका कोई लाभ याचिकाकर्ता को नहीं मिल सकता है। यह तथ्य मा. अपने को निर्दोष साबित करने के उद्देश्य से अंकित किये गये हैं। याचिकाकर्ता द्वारा वर्णित विभिन्न मा० न्यायालयों की रूलिंग प्रश्नगत् प्रकरण में याचिकाकर्ता के पक्ष में लागू नहीं होती है। प्रकरण में नैसर्गिक न्याय के सिद्धान्तों का पूर्णरूपेण पालन करते हुये प्रकरण में नियमानुसार विभागीय जांच कराकर, याचिकाकर्ता को कारण बताओ नोटिस निर्गत कर उसके प्रतिउत्तर में प्राप्त स्पष्टीकरण का गहनतापूर्वक अध्ययन करते हुये याचिकाकर्ता को बचाव का युक्तियुक्त अवसर प्रदान किये जाने एवं अभिलेखीय साक्ष्य के आधार पर दण्डादेश संख्या: द-25/2004 दिनांक: 12.07.2024 से दण्डित किया गया, जो विधिसम्मत आदेश हैं। अतः याचिकाकर्ता द्वारा प्रस्तुत याचिका भ्रामक एवं बलहीन/आधारहीन होने के कारण याचिका निरस्त किये जाने योग्य हैं।

3.16. यह याचिका के प्रस्तर नं०-05 अस्वीकार है तथा GROUNDS-5 के उप-प्रस्तरों के सम्बन्ध में कथन है कि याची के द्वारा याचिका के पूर्ववर्ती प्रस्तरों में वर्णित तथ्यों व कथनों को ही आधार के रूप में भी वर्णित किया गया है, जिनका उत्तर प्रतिशपथ-पत्र/लिखित विवेचन-पत्र के पूर्ववर्ती प्रस्तरों में दिया जा चुका है, याची की याचिका के आधार स्वीकार नहीं है एवं याची का याचिका आधारहीन होने के कारण निरस्त किये जाने योग्य है।

3.17. यह कि प्रतिवाद-पत्र के उपरोक्त कथनों के आधार पर याची की याचिका सव्यय अस्वीकार होने योग्य है। मा० अधिकरण स 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 initially brought about the chronology of the matter before the Tribunal and indicated that this is a case of double jeopardy for the petitioner as he has been punished twice for a presumed indiscipline that he never did. On 25.09.2023, a GD report No. 56 at 22.04 p.m. in Police Station-Lalkuwa, District-Nainital was recorded against the

petitioner alleging therein that at 21.10 hrs., Senior Sub-Inspector Harendra Singh Negi came to the Police Station and reported that he was standing at the police station gate when Petitioner/Constable 810 Kishore Rautela, posted in 112 PC 05, came-out of his vehicle. Immediately after that, Constable 902 Chandrashekhar Malhotra also came. Petitioner/Constable 810 Kishore Rautela began arguing and quarreling with Constable 902 Chandrashekhar. Even after he tried to explain the matter to the Petitioner, he did not listen and was pacified with great difficulty. In a disciplined force of Police, this is an act of indiscipline. Consequently, a report was registered against the Petitioner. On 26.09.2023, the Inspector-in-Charge, Police Station-Lalkuwa, District-Nainital sent a report to the Circle Officer, Lalkuwa, Nainital regarding the alleged incident mentioned in the report No. 56 dated 25.09.2023 and requested the Circle Officer, Lalkuwa, Nainital to take cognizance of the incident. On 26.09.2023, the Inspector-in-Charge, Police Station-Lalkuwa, District-Nainital submitted a report to the Senior Superintendent of Police, District-Nainital also regarding the alleged incident and stated therein that such an act of the Petitioner is a gross indiscipline and requested to take further necessary actions. As a result, a preliminary investigation was got done regarding the alleged misbehaviour conducted by the Petitioner and on 13.03.2024 the preliminary

investigation report was submitted by the Circle Officer, Bhowali, District Nainital to the Senior Superintendent of Police, District-Nainital wherein the statements of 07 witnesses were recorded. On the basis of documentary evidences and statements of witnesses, the Circle Officer, Bhowali, District-Nainital found the Petitioner guilty for showing indiscipline near the police station gate due to which the image of the Police Department had been tarnished. On 21.03.2024, the Senior Superintendent of Police, District Nainital issued a show-cause notice to the Petitioner and the Petitioner was granted 15 days' time to submit his written statements as to why the aforementioned "Censure Entry" should not be recorded in the character-roll as per the provision of Rule 4 (1) (b) (four) of Uttarakhand (Uttar Pradesh Subordinate Police Officers (Punishment and Appeal) Rules, 1991) Adaptation and Modification Order-2002 and the provision contained in Para-23 (2) (b) of Uttarakhand Police Act-2007. On 08.04.2024, the petitioner in pursuance to the show-cause notice dated 21.03.2024 filed his detailed written explanation wherein the Petitioner rejected all the allegations mentioned in the Preliminary Investigation Report as well as the charge-sheet and further requested the department to sympathetically consider the explanation of the Petitioner and to cancel the show-cause notice dated 21.03.2024, as the censure entry would have an adverse

effect on the Petitioner's excellent service record till date. By the impugned order dated 10.06.2024, the Senior Superintendent of Police, District-Nainital rejected the written explanation given by the Petitioner as baseless and unsatisfactory and upheld the punishment proposed in the departmental proceedings. As per the provision of Rule 4 (1) (b) (four) of Uttarakhand (Uttar Pradesh Subordinate Police Officers (Punishment and Appeal) Rules, 1991) Adaptation and Modification Order-2002 and the provision contained in Para-23 (2) (b) of Uttarakhand Police Act-2007 the Senior Superintendent of Police, District Nainital ordered that the aforementioned censure entry to be recorded in the character-roll of the Petitioner. On 13.06.2024, the Petitioner was given a show-cause notice again wherein it was stated that by the Office Order No. 199/2023 dated 28.09.2023 the Petitioner had been suspended in relation to having demonstrated indiscipline at the police station gate in the alleged incident and by the subsequent Office Order No. 199/2023 dated 01.11.2023, the Petitioner has been reinstated with immediate effect without an adverse effect on the ongoing investigation proceedings against the Petitioner. It was further stated that on the basis of preliminary investigation the Petitioner had been punished with censure entry. The Petitioner was further ordered to submit his explanation within 07 days of the receipt of the show-cause notice as to why the

Petitioner's emoluments should not be restricted only upto the limited salary and allowances for the suspension period w.e.f. 28.09.2023 to 31.10.2023 which the Petitioner had received during the suspension period. On 25.06.2024, the Petitioner in response to the show-cause notice dated 13.06.2024 submitted his written explanation stating therein that since the Petitioner has already been punished for the alleged offence, therefore, not paying the full salary and other allowances of the suspension period to the Petitioner will amount to double punishment which is against the principles of Natural Justice. Moreover, non-payment of salary and other allowances during the suspension period to the Petitioner will cause great financial hardship to the Petitioner. On 12.07.2024, the Senior Superintendent of Police, District-Nainital passed an order and held the Petitioner guilty of the alleged offences and upheld the punishment of "censure entry" and rejected the written statements submitted by the Petitioner. Moreover, the Senior Superintendent of Police, District-Nainital further ordered that the suspension period of the Petitioner will be counted in pension, promotion and leave etc.

7. The petitioner preferred a departmental appeal against the impugned order dated 10.06.2024, which was dismissed by the Appellate Authority on 22.04.2025.

8. Learned Counsel for the petitioner drew the attention of the Tribunal towards the fact that on the date 25.09.2023 the quarrel took place between two constables of Civil Police at the gate of the Police Station. It was not any other place where general public was present. As per the record, there is no evidence of battery, assault or injury to anybody. This was a simple altercation between the two persons. This is also evident from the two General Diary entries in the Police Station concerned, and the written reports that none of the two persons was beaten-up or injured. It was a simple incident where the petitioner lost his temper and quarrelled with a colleague. The Punishing Officer awarded adverse entry to the petitioner without conducting any disciplinary proceeding. After this punishment of the adverse entry the Punishing Officer again gave him the second punishment by ordering that the petitioner would not be given his full salary, but for only that subsistence amount which the petitioner drew during his suspension period. This double jeopardy of two punishments given to the petitioner is violative of the Punishment Rules and, therefore, illegal.

9. Learned A.P.O. in his arguments mentioned that both the Constables who were involved in the ugly incident of quarrel on 25.09.2023 have been punished for indiscipline by the Punishing Officer as per the rules. For minor punishments only a

preliminary inquiry is sufficient, after which an adverse entry was given to the petitioner. The other order passed by the Punishing Officer is simply the outcome of the suspension of the petitioner which was for a period of about 34 days, therefore, this is not a case of double punishment and the claim petition deserves to be dismissed with costs.

10. The Tribunal has perused the record and has noticed the following significant points as follows:-

- (a) The incident took place at the public place between two Police Constables and involved a heated quarrel, pushing around of each other, abusive language and loud altercations about an alleged bribery insinuation involving reference to illegal liquor vendors, openly before the eyes of general public,
- (b) As the documentary evidences indicate both the quarrelling person were very well-known to the general public around that they were police employees.
- (c). The petitioner has not been punished one sidedly and exclusively, rather his opponent Constable

has also been punished for this shared indiscipline.

- (d). Though the petitioner may be right to say that the incident did not involve any beatings or injury to the quarreling parties, nevertheless the petitioner has not been punished under IPC or under any criminal charges, but under the Conduct Rules for his grave indiscipline maligning the image of the Police Department in the eyes of general public, as per the Police Regulations.
- (e). The contention of two punishments is incorrect because withholding the partial salary of the petitioner in the punishment order is merely a consequence of the censure entry and constitutes only a single punishment awarded by the Punishing Authority for a suspension period of 34 days. There is no irregularity in such a punishment order.
- (f). The departmental appeal submitted by the petitioner before the Appellate Authority has been dismissed by the Appellate Authority because the appeal evidently lacked substance or legality.

11. In the light of abovementioned observations, it is clear before the Tribunal that the petitioner's assumption of the double jeopardy by two punishments is misplaced interpretation of punishment laws. The claim petition lacks substance and, therefore, deserves to be dismissed.

ORDER

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

(Capt. Alok Shekhar Tiwari)
Member (A)

DATE: MAY 07th, 2026
NAINITAL
BK