

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

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

----- Member (A)

Claim Petition No. 39/NB/SB/2025

Mamta Deopla (Female) **Adhaar No. 625764294454**, aged about 39 years, W/o Sri Gokul Singh, R/o Manas Vihar, Bithoriya No. 1, Kusumkhera, Haldwani, District Nainital.

..... Petitioner

Versus

1. State of Uttarakhand, through Principal Secretary, Home Department, Dehradun.
2. Inspector General of Police, Kumoun Region, Nainital.
3. Senior Superintendent of Police Nainital, District Nainital.

..... Respondents

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

JUDGMENT

DATED : 06th NOVEMBER, 2025

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

- “(i). to quash the impugned orders dated 03.05.2025 and 18.04.2024 alongwith its effect and operation and direct the respondents to expunge the entry of censure from the service record of the petitioner

after calling the entire record or pass any other order direction which this Hon'ble Court may deem fit and proper under the facts and circumstances stated in the body of the claim petition.

- (ii). to issue any other order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. In brief, the facts of the case are that the petitioner was selected and appointed in the year of 2009 in the respondent department against substantive and permanent vacancy and also by due process of law and presently discharging the duties as ASI (M). From 2010 to 2016 when she was posted as ASI (M) in District Nainital she was directed to discharge the duties of Character Roll Clerk and directed to maintain the record of Inspectors, Sub-Inspectors, Head Constables and Constables of Armed Police (AP). Apart from this duty the petitioner was also assigned the duties of Character Roll Clerk (First) and directed to maintain the records of Deputy Superintendent of Police, Inspector C.P., Sub-Inspector C.P., Sub-Inspector Ministerial Cadre, Water Police, Horse riders police, B.D.S., Dog Handler, which were over 700 in numbers. During this period, the petitioner had fixed the pay of one Mr. Gokulanand Pathak, which was wrongly fixed and he got the excess salary and at the time of his superannuation when his service record was checked by the Pension Department then it was found that in the year of 2016 the salary of the aforesaid person was wrongly fixed and he got

excess payment of Rs. 23,08,264/- and thereafter recovery orders were passed against the aforesaid person and the Head Quarter also directed for enquiry in the matter. Pursuant to the directions of Head Quarter, the respondent No. 3 initiated the enquiry against the petitioner only and appointed the Enquiry Officer for preliminary enquiry and the Enquiry Officer vide its enquiry report dated 20.12.2023 found the petitioner guilty for wrong fixation and he has disowned the liabilities of the higher authorities, who are immediate supervisors of the petitioner and was also responsible for the wrong fixation. Thus, the Enquiry Officer on his whims and fancies concluded the enquiry against the petitioner by ignoring the principles that for collective and selective punishment cannot be given. Pursuant to the enquiry report, the respondent No. 3 issued a show-cause notice to the petitioner on 08.02.2024 and directed her to submit her reply within 15 days. The respondent No. 3 in its show-cause notice mentioned the punishment. The aforesaid act of the respondent No. 3 shows his pre-mind set condition. Thus seeking the reply of the petitioner is a futile exercise. The aforesaid act of disciplinary authority is against the provisions of law laid down by the Hon'ble Apex Court in the case of M.D. ECIL V/s B. Karunakaran and also it violation of the judgment and order of the Hon'ble High Court of Uttarakhand passed in WPSS No. 192 of 2017 Constable 51 AP Jogender Kumar Vs. State of Uttarakhand. After receiving the show-cause notice, the petitioner submitted her reply to the show-cause notice on 12.03.2024 and denied the allegations and requested to cancel the show-cause notice. Surprisingly the

disciplinary authority in utter hot haste passed the impugned order on 18.04.2024 without examining the submission made by the petitioner and maintained the punishment as mentioned in the show-cause notice, thus, the impugned order dated 18.04.2024 is not tenable in the eyes of law. Feeling aggrieved by the impugned order dated 18.04.2024, the petitioner preferred a statutory appeal before the respondent No. 2 through proper channel on 10.07.2024 and requested the respondent No. 2 to quash the order of censure entry. Thereafter, the Appellate Authority without applying his mind on the legal issue raised by the petitioner rejected the appeal on 03.05.2025 in a cursory manner and stereo type manner. Hence, this claim petition. Since the respondents have made their mind to punish the petitioner and, therefore, the disciplinary authority without going through the reply of petitioner and the Appellate Authority ignoring the grounds of the appeal rejected the appeal in a cursory manner. Thus, kind indulgence of this Hon'ble Court is required and the impugned orders are liable to be quashed. Apart from this, the impugned orders are running contrary to the judgment of the Hon'ble Apex Court in the case of **Rajendra Yadav** and the judgment of this Hon'ble Tribunal in **Dewaan Singh Negi's** case.

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 सब्यय निरस्त किये जाने योग्य है। इसके अतिरिक्त यह कथन करना है कि पुलिस महानिरीक्षक, मुख्यालय उत्तराखण्ड पुलिस मुख्यालय, देहरादून के पत्र संख्या: डीजी-ऑ0-146/2009 दिनांक 26.05.2023 द्वारा जनपद नैनीताल से सेवानिवृत्त हुये अ0उ0नि0 स0पु0 गोकुलानन्द ने पुलिस महानिदेशक, उत्तराखण्ड को प्रेषित प्रार्थना-पत्र के कम में शासनादेशों में निहित व्यवस्था के अनुसार पेंशन स्वीकृत हेतु यथाशीघ्र कार्यवाही किये जाने एवं शासनादेशों में निहित व्यवस्था इतर त्रुटिपूर्ण वेतन निर्धारण किये जाने की जाँच मुख्यालय द्वारा पूर्व के जारी पत्र डीजी-सात-59 (3)-2022 एवं 08, 2023 के कम में कराते हुए जाँच में पाये जाने वाले दोषी के विरुद्ध नियमानुसार उत्तरदायित्व निर्धारित करते हुए कृत कार्यवाही से पुलिस मुख्यालय को अवगत कराने के कम में प्रारम्भिक जाँच से यह स0लि0 वर्ष 2016 में चरित्र पेंजिका लिपिक स0पु0 के पद पर पुलिस कार्यालय, नैनीताल में कार्यरत थी, स0लि0 द्वारा वेतन निर्धारण करते समय कार्मिक की पुलिस विभाग में भर्ती तिथि 24.06.1981 अंकित की गयी, जबकि भर्ती की तिथि 31.12.1981 है। से0नि0 कर्मी की वर्ष 2016 के वेतन निर्धारण में दिनांक 26.06.1981 का आधार मानते हुये वेतन संशोधन कर वेतन निर्धारण में दिनांक 26.06.1995 को 14 वर्ष की सेवा पर प्रोन्नत वेतनमान तथा दिनांक 24.04.2005 को एक अतिरिक्त वेतनवृद्धि का लाभ तथा दिनांक 24.06.2005 को एक अतिरिक्त

वेतनवृद्धि का लाभ तथा दिनांक 24.06.2005 को द्वितीय प्रोन्नत वेतनमान स्वीकृत किया गया, जिस कारण सेवानिवृत्त पर वेतन परीक्षण से वेतन गलत निर्धारण के कारण अधिक वेतन भुगतान की वसूली रूपया 23,08,264/—आगणित होने के कारण से0नि0 कर्मी द्वारा पुलिस मुख्यालय को प्रार्थना-पत्र प्रेषित किया गया। इस प्रकार, से0नि0 कर्मी का पुलिस विभाग में भर्ती तिथि का सही अंकन न कर गलत तिथि 24.06.1981 को आधार मानकर वेतन का निर्धारण जाना एवं वेतन निर्धारण में सेवा के दौरान मिले दीर्घ/लघु एवं क्षुद्र दण्ड को भी सही आंकलन न करते हुये वेतन का गलत निर्धारण किया जाना स्पष्ट हुआ है, जिसके लिये इस स0लि0 को से0नि0 अ0उ0नि0स0पु0 गोकुलानन्द पाठक का वर्ष 2016 में गलत वेतन निर्धारण करने के लिये दोषी पाया गया है, जिसकी परिनिन्दा की जाती है।

3.2. यह कि याचिका के प्रस्तर संख्या-4.4 में वर्णित कथन जिस प्रकार उल्लिखित है, अस्वीकार है। प्रकरण में सम्पूर्ण प्रारम्भिक जाँच में पाया गया कि सेवानिवृत्त अपर उप-निरीक्षक स0पु0 गोकुलानन्द पाठक के वेतन में वर्ष 2016 में प्रशिक्षण अवधि जोड़ते हुये वेतन का निर्धारण होना था। तत्समय पुलिस कार्यालय में याचिकाकर्ता द्वारा सेवानिवृत्त अपर उप-निरीक्षक स0पु0 गोकुलानन्द पाठक जो माह जुलाई 2016 में बेसिक वेतन 13200/— व ग्रेड-पे 4600/— पा रहे थे, का वेतन निर्धारण में रूपया 15920/— ग्रेड-पे 4800/— अत्यधिक अंकित हुआ, जिस कारण माह अगस्त 2016 में उक्त कर्मी का वेतन बढ़कर मिलता रहा। चार्ज लिस्ट के अनुसार दिनांक 24.12.2016 तक याचिकाकर्ता चरित्र पंजिका लिपिक स0पु0 के पद पर कार्यरत थी। उक्त वेतन संशोधन हिन्दी आदेश पुस्तिका संख्या 769 दिनांक 29.08.2016 को अंकित हुआ है, जो याचिकाकर्ता के दौरान का है। वेतन निर्धारण की कार्यवाही में सेवानिवृत्त अपर उप-निरीक्षक स0पु0 गोकुलानन्द पाठक

की पुलिस विभाग में भर्ती तिथि 24.06.1981 अंकित की गयी है, जबकि भर्ती की तिथि 31.12.1981 है। फलस्वरूप, कार्मिक को वर्ष 2016 के वेतन निर्धारण में भर्ती तिथि 24.06.1981 को आधार मानकर ही वेतन संशोधन कर निर्धारण किया गया है, जिससे सेवानिवृत्त अपर उप-निरीक्षक स0पु0 गोकुलानन्द पाठक के वेतन में दिनांक 26.06.1995 को 14 वर्ष की सेवा पर प्रोन्नत वेतनमान तथा दिनांक 24.04.2000 को एक अतिरिक्त वेतनवृद्धि का लाभ तथा दिनांक 24.06.2005 को द्वितीय प्रोन्नत वेतनमान स्वीकृत किया गया। कार्मिक की भर्ती तिथि 31.12.1981 है, जिससे कार्मिक को 14 वर्ष की सेवा में 31.12.1995 एवं 24 वर्ष की सेवा में 31.12.2005 होनी थी। वर्ष 2016 में उक्त कर्मी को वेतन निर्धारण में सेवाकाल में मिले दण्डों का अवलोकन भी नहीं किया गया, जिस कारण ही कार्मिक का वर्ष 2016 में गलत वेतन निर्धारण हुआ और कार्मिक को अगस्त 2016 से प्रत्येक माह वेतन बढ़कर मिलता रहा। तत्कालीन प्रधान लिपिक द्वारा अपने कथन में बताया गया कि तत्समय सेवानिवृत्त अपर उप-निरीक्षक स0पु0 गोकुलानन्द पाठक की चरित्र पेंजिका एवं वेतन निर्धारण तत्कालीन सीआरके स0पु0 द्वारा किया गया है। चूँकि सशस्त्र पुलिस के कर्मचारियों के सेवा अभिलेखों का रख-रखाव का कार्य याचिकाकर्ता को आवंटित था, इसलिये सशस्त्र पुलिस के कार्मिकों की समस्त अधिष्ठान सम्बन्धी कार्यवाही की जिम्मेदारी इस सहायक उप-निरीक्षक (एम) याचिकाकर्ता की थी। याचिकाकर्ता को अपनी अल्प सेवा का ध्यान रखते हुये अभिलेखों का गहनता से अध्ययन/परीक्षण उपरान्त अभिलेखीय साक्ष्य के रूप में प्रधान लिपिक से प्रकरण का गहनता से परीक्षण कराना चाहिये था। चूँकि प्रारम्भिक जॉच से जो त्रुटि पाई गयी है वह कार्मिक की पुलिस विभाग में भर्ती तिथि का सही अंकन न कर गलत तिथि 24.06.1981 को आधार मानकर वेतन निर्धारण किया गया एवं वेतन निर्धारण में सेवा के दौरान मिले दीर्घ/लघु दण्ड एवं छद्म दण्ड का भी सही आंकलन न करते हुये वेतन का

गलत निर्धारण किया जाना स्पष्ट हुआ है, जिसके लिये याचिकाकर्ता को सेवानिवृत्त अपर उप-निरीक्षक स0पु0 गोकुलानन्द पाठक के वर्ष 2016 में गलत वेतन निर्धारण करने का दोषी पाया गया है।

3.3. यह कि प्रतिवाद पत्र के उपरोक्त कथनों के आधार पर याची की याचिका सब्यय अस्वीकार होने योग्य है। मा0 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 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 petitioner was a Clerk in the Police Department, who had been given responsibility of Character-Roll Clerk dealing with the subordinate police officers as well as the middle level Gazetted officers also. He conceded that due to a clerical mistake in the case of one Constable Gokulanand Pathak was made in the year 2016, which was found-out at the time of superannuation of the aforesaid Constable Gokulanand in December 2022. Because of the clerical mistake committed by the petitioner in the year 2016 the superannuating Police Constable Gokulanand Pathak was wrongly benefitted by a

huge amount of Rs. 23,08,264/- due to wrong fixation of salary and other perks. When this mistake came into light an enquiry was set-up by the respondent No. 3, the Senior Superintendent of Police, Nainital on the instructions of the respondent No. 2, the Inspector General of Police, Kumaon Region, Nainital. The enquiry was conducted by the C.O. City, Nainital, who submitted the enquiry report dated 20.12.2023 before the respondent No. 3. As per the pleadings of the learned Counsel for the petitioner, the fixation of pay, perks, arrears, and the retiral dues was a collective work wherein the petitioner was the junior most Clerical Assistant supervised by several Senior Assistants of Ministerial staff as well as of the Accounting service. Obviously, the clerical mistake was inadvertently committed by the petitioner in the year 2016, but more than the petitioner, the senior supervisors and Accountants were responsible for overlooking the documents and wrong salary fixations of the Constable Gokulanand, who retired as an A.S.I. (Civil Police) in December 2022. Thus, the entire supervisory team failed in its duty to correct the mistake under question, but all of them have been let-go scot-free in the enquiry report, while only the petitioner, being the junior most employee in this matter, has been singled out and punished for the entire episode. This is against the spirit and principle as laid down by the Hon'ble Apex Court in the case of Civil Appeal No. 1334 of 2013 (Arising out of SLP (Civil) No. 2070 of 2012, Rajendra Yadav Vs. State of M.P. & others, decided on 13 February, 2013, which has also been followed by this Tribunal in Claim Petition No. 09/NB/SB/2021 Deewan Singh Negi vs. State of

Uttarakhand and others. The learned Counsel for the petitioner prayed that not only the impugned punishment order and rejection order of appeal are null and void, but also the enquiry report must be quashed, as it has overlooked the entire accountability and responsibility of supervisory staff.

7. Learned A.P.O. has reiterated the facts and pleading as submitted in the CA/WS and emphasized that this Tribunal has to look only into the procedural aspect of the departmental enquiry which has held the petitioner guilty in its entirety. Therefore, the claim petition lacks any substance and deserves to be dismissed.

8. This Tribunal has gone into the record and has considered the arguments of both the Counsels at length and has noticed the following significant facts in this instant matter:-

- (i) The petitioner was the Character-Roll Clerk and was exclusively responsible for careful upkeep, scrutiny and recording of the same. It goes without saying that the petitioner committed a blunder admittedly. This cannot be said that the petitioner was overwhelmed by the volume of her official work as these records are supposed to be maintained very carefully.
- (ii) This is true that only one mistake made by the petitioner came into light in December 2022, but it does not establish that the petitioner committed

only this one mistake as an exception during her entire tenure as a Character-Roll Clerk. At the most, it can be said that only one mistake committed by the petitioner was caught at the higher levels. It would not be wrong to imagine that many more such mistake might have passed through without getting noticed at the higher levels.

- (iii). Therefore, there is no excuse or pardon for the petitioner in the instant matter.
- (iv). Nevertheless, this Tribunal has gone into the enquiry report with an open mind and has noticed that in this detailed report of about 10 pages statements of 06 witnesses have been recorded and a detailed scrutiny has been made but the enquiry report fails to underline as to what else was the supervisory duty of the superior assistants and the accounting staff, if they failed to take a look at the original character roll and entries of the concerned Constable Gokulanand Pathak during the entire period of 06 years under question till the time of his superannuation. So far as the responsibility of supervisory and accounting staffs is concerned they were very much duty bound to tick-off the petitioner for the mistakes at the initial levels, or to scrutinize the original, and various

connecting documents of Constable Gokulananad Pathak at the later stages before finalizing the retiral dues, and arrears of the superannuating employee. Therefore, it can be said that this important work was a collective team work, in which, the entire team committed the blunder. While the petitioner made simply a clerical mistake, the supervisory assistants and accounting staff made mistakes of higher volumes and were equally guilty and answerable for an illegal and avoidable surplus payment of Rs. 23,08,264/-. On this account alone, the entire enquiry report is erroneous and deserves rejection.

Though the learned Counsel for the petitioner has heavily relied upon the landmark Hon'ble Apex Court's ruling in the case of Civil Appeal No. 1334 of 2013 (Arising out of SLP (Civil) No. 2070 of 2012, Rajendra Yadav Vs. State of M.P. & others, decided on 13 February, 2013, which has also been followed by this Tribunal in Claim Petition No. 09/NB/SB/2021 Deewan Singh Negi vs. State of Uttarakhand and others, these judgments do not apply in this instant matter in totality. Nevertheless, the spirit is the same. The higher lever officers cannot let go the responsible supervisory and accounting assistants scot-free in this matter, and single out only the junior most assistant as a scapegoat. Therefore, not only the impugned orders dated 03.05.2025 and 18.04.2024 deserve to be

kept in abeyance, but also the enquiry report in question deserves to be supplemented by another supplementary departmental enquiry fixing the responsibility of supervisory and accounting staff for the loss of public money.

ORDER

Accordingly, the claim petition succeeds partly. The impugned orders dated 03.05.2025 (**Annexure No. 1** to the claim petition) and 18.04.2024 (**Annexure No. 2** to the claim petition) and the enquiry report dated 20.12.2023 (**Annexure No. 3** to the claim petition) are directed to be kept in abeyance. The respondents are directed to institute a fresh and supplementary departmental enquiry in this matter and to fix the responsibility of all the supervisory and accounting staff for this irregular payment under question. The impugned orders and the enquiry report under question shall be supplemented by the fresh departmental enquiry and the collective out comes thereof, shall be taken into account afresh in deciding the share of responsibility of the petitioner, and the other employees, who are found guilty in the supplementary departmental enquiry. No order as to costs.

(Capt. Alok Shekhar Tiwari)
Member (A)

DATE: **06th NOVEMBER, 2025**
NAINITAL
BK

