

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

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

----- Member (A)

WRIT PETITION NO. 40 (S/S) OF 2022
[RECLASSIFIED AND RENUMBERED AS CLAIM PETITION NO. 131/NB/SB/2022]

Mahendra Singh, aged about 41 years (Male), S/o Late Shri Kishan Singh, R/o P.S. I.T.I., Kashipur, Distt. U. S. Nagar.

..... Petitioner

Versus

1. State of Uttarakhand, through Secretary (Home), Government of Uttarakhand, Secretariat, Subhash Road, Dehradun.
2. Inspector General of Police, Kumaon Range, Nainital.
3. Senior Superintendent of Police, Bageshwar.

..... Respondents

Present : Sri Bhupendra Bisht & Sri Siddhant Manral,
Advocates for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents

JUDGMENT

DATED : **MARCH 25, 2026**

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

- “i). issue a writ, order or direction in the nature of certiorari, quashing the enquiry report dated 08.06.2020 as well as impugned order dated 22.09.2020 (marked as Annexure No. 1 to this writ petition), passed by the Superintendent of Police (arrayed as Respondent No. 3 herein) whereby censure entry has been made against the petitioner.

- ii). issue a writ, order or direction in the nature of certiorari, quashing the impugned order dated 16.02.2021 (marked as Annexure No. 1 to this writ petition), passed by the Inspector General, Kumaun Region (arrayed as Respondent No. 2 herein), Nainital whereby the appeal of the petitioner herein was dismissed and the punishment order passed by the Superintendent of Police, Bageshwar was upheld.
- iii) issue a writ, order or direction in the nature of mandamus, directing the Respondents not to record the censure entry against the petitioner in his service records and further, not to treat the impugned orders as impediment in future service of the petitioner and pay all the service benefits to the petitioner prior to issuance of the impugned order.
- iv). award the cost of the writ petition to the petitioner.”

2. Brief facts of the case are that by means of the present petition the petitioner herein is assailing the legality and validity of the entire disciplinary proceedings, including the enquiry report dated 08.06.2020, as well as punishment order dated 22.09.2020 passed by the Superintendent of Police, Bageshwar, whereby the Superintendent of Police, Bageshwar had passed an order of censure against the petitioner and also order dated 16.02.2021, passed by the Inspector General, Kumaun Region, Nainital whereby the appeal of the petitioner herein was dismissed and the punishment order passed by the Superintendent of Police, Bageshwar was upheld. The petitioner is aggrieved by both the punishment order dated 22.09.2020 as well as order dated 16.02.2021 passed by the respondents in as much as the entire procedure has been by-passed

by the respondents and in a wholly cursory, arbitrary and discriminatory manner the petitioner has been punished, which is unsustainable in the eyes of law. The petitioner was recruited by the Police Department on 10.10.2001 and thereafter, the petitioner underwent training at 31, P.A.C. and after successfully completing the training and other formalities, he was appointed as Constable in the year 2002 and was posted at P.S. Lalkuan. It has been alleged by the Police Department, that while the petitioner was posted at Special Operations Group (S.O.G.) in the year 2019, then on 07.06.2019 an informant, namely, Shri Neeral Pilakhwal informed that one Shri Deepak Goswami, who is a police constable was gambling at his residence alongwith certain civilians, namely, Shri Darshan Tamta, Sunder Rawat and Vinod Joshi. Thereafter, the petitioner alongwith another constable namely Shri Chandan Singh inspected the alleged site of gambling and recovered Rs. 1,20,000/- and the said incident was neither reported to the higher officials by the petitioner and nor was the recovered money furnished before the higher officials. Further, as per the story of the Police Department, on the next day of the incident, the petitioner returned the recovered amount to the alleged gamblers under pressure of some influential persons. The Superintendent of Police, Bageshwar vide its order dated 15.06.2019 suspended the services of the petitioner and initiated a departmental enquiry against the petitioner under Rule

4 (1) (b) of Uttarakhand (U.P. Police Officer of the Subordinates Rank (Punishment and Appeal) Rules, 1991 (Adoption and Modification Order 2002) and appointed Shri Mahesh Chandra Joshi, Deputy Superintendent of Police, Bageshwar as the Inquiry Officer. The Inquiry Officer in a wholly arbitrary and cursory manner conducted inquiry against the petitioner without following the due procedure as established under law, the Inquiry Officer on its own whims and fancies proceeded with the investigation. It is pertinent to mention at this juncture that not even the copy of the complaint was served to the petitioner and the inquiry was conducted in a wholly arbitrary and discriminatory manner without adhering to the principles of natural justice. Thereafter, the Inquiry Officer submitted its inquiry report dated 08.06.2020 to respondent No. 3. It is pertinent to mention at this juncture that throughout the investigation, no charge-sheet was ever served to the petitioner. The Superintendent of Police, Bageshwar in pursuance to the inquiry report, issued a show-cause notice dated 23.07.2020 to the petitioner wherein the alleged incident was narrated and the petitioner was asked to file its reply within 15 days and if he does not file its written reply within the stipulated time period, in that case it'll be understood that the petitioner admits the alleged incident. The petitioner acting in a bona-fide manner and in order

to prove his innocence, filed its written reply dated 08.08.2020 to the show-cause notice and categorically denied the alleged incident and also stated all the relevant facts and circumstances in order to assist the respondents and requested the respondents to absolve him from the alleged incident. The respondents without even considering the case of the petitioner which was put forward by him vide his reply to the show-cause notice and without ascertaining the proper facts and circumstances of the matter, issued punishment order dated 22.09.2020 (marked as Annexure No. 1 to this writ petition) whereby the respondent No. 3 had passed an order of censure against the petitioner as well as adverse entry in the petitioner's Annual Confidential Report and the same will always have a bearing on his future promotions or upgradations. The alleged incident and the disciplinary proceeding into the said incident suffers from procedural flaws and apparently the same seems to be fabricated and is merely an attempt to rope in the petitioner and tarnish his reputation. On a plain reading of the inquiry report, it becomes clear that the Inquiry Officer has no reasons of his own but has merely relied upon a confidential report wherein the phone numbers of the petitioner as well as other persons were scrutinized. It is pertinent to mention that even the said confidential report does not place the petitioner at the site of

alleged incident on the alleged date and time and hence, the Inquiry Officer in an arbitrary and discriminatory manner has roped in the petitioner despite there being no iota of evidence against the petitioner. The disciplinary proceeding, the inquiry report and the punishment order, all suffer from vices of illegalities and procedural irregularities in as much as neither the Inquiry Officer nor the disciplinary body issued a charge-sheet to the petitioner stating the charges against the petitioner and the nature of charges. Moreover, the petitioner was merely treated as a mule in the entire disciplinary proceedings. Therefore, the disciplinary proceeding, the inquiry report and the punishment order are all arbitrary and against the settled tenets of law and hence, liable to be set-aside by this Hon'ble Court. The petitioner being aggrieved by punishment order dated 22.09.2020, preferred an appeal against the punishment order before the Inspector General, Kumaun Range, Nainital, i.e., respondent No. 2 and prayed that the punishment order dated 22.09.2020 be set-aside. Respondent No. 2 without recording any reason of its own and without granting any opportunity of hearing to the petitioner passed its order dated 16.02.2021, whereby, the punishment order was passed. There is no evidence available on record which may prove the guilt of the petitioner. Moreover, the persons who have deposed before the Inquiry Officer have

categorically denied the alleged incident and also the involvement of the petitioner in the alleged incident. Further, even if for the sake of argument, the statements of these persons are considered to be false, even then the facts, circumstances and the evidence on record do not corroborate the version of the Inquiry Officer and as such, the inquiry report is fabricated and lacks substance. The G.D. entries of P.S. Kotwali, Bageshwar crystallize that on the date and time of the alleged accident, the petitioner was discharging his duty and as such the record speaks of the innocence of the petitioner. The authorities completely failed to consider the evidence available on record and without application of mind, the respondents have passed the impugned punishment order as well as the order passed in appeal. The impugned orders apparently seem to have been passed in haste and in an arbitrary manner without adhering to the principles of natural justice or the procedure laid down.

3. 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. 40 (S/S) of 2022, which was relegated by the Hon'ble High Court to this Tribunal vide its order dated 15.10.2022/01.11.2022, 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, have been 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 shortcoming, the claim petition is not being dismissed.

4. On 26.02.20222, Sri Sachin Mohan Singh Mehta, Brief Holder for Government of Uttarakhand has filed Counter Affidavit on behalf of the respondent No. 3 before the Hon'ble High Court of Uttarakhand at Nainital, in which it has been stated that:

4.1. The contents of paragraph No. 1 of the writ petition are matter of record, however, it is submitted here that on 07.06.2019 when the petitioner was posted in S.O.G., information by one informer namely Neeraj Pilakhwal has been given to him that some people from the public namely Sri Vinod Sahi, Sri Sundar Rawal, Sri Kunal Danu alongwith Constable 150 C.P. Deepak Goswami (dakrunner) and Darshan Kumar are gambling in a room rented by constable 150 C.P. Deepak Goswami. On having information in relation to the aforesaid, without informing the superior authorities about the persons who are gambling, the petitioner has illegally kept the money with him which he has recovered in searching of the persons who are

gambling and for the same he has not again informed his authorities.

The inquiry of the aforesaid incident has been concluded by the Deputy Superintendent of Police, Bageshwar. In the inquiry report dated 08.06.2020 the Inquiry Officer has clearly mentioned in his conclusion that the information about the gambling in the room of Deepak Goswami has been given by informer Neeraj Pilakhwal to constable 01 C.P. Mahendra Singh. On having information as constable 01 C.P. Mahendra Singh and constable 93 C.P. Chandan Singh (who is absent from duty) have made a search of the aforesaid persons, who are involved in gambling in the room rented by constable Deepak Goswami and they have illegally kept the money with them which they have recovered from the aforesaid persons. They have not given any information about the aforesaid to their higher authorities, for which constable 01 C.P. Mahendra Singh and constable 93 C.P. Chandan Singh are guilty.

After going through with the inquiry report in the matter, consequently on concluding of departmental proceeding under the provisions of Sub-Rule 4 of Rule 4 (1) (Kha) of Uttarakhand (U.P. Subordinate Category Adaption and Modification 2002 a decision to punish the petitioner with censure entry under the provisions of para 23 (2) (Kha) of

Uttarakhand Police Act, 2007 has been taken. In pursuant to which show-cause notice dated 17.07.2020 has been issued to the petitioner by the office of Deputy Superintendent of Police, Bageshwar. In the written clarification the petitioner has not mentioned any solid reason in his defence, on the basis of which the charges against the petitioner have been denied.

Therefore, on having the clarification given by the petitioner as unsatisfactory the punishment proposed in the show-cause notice, i.e., censure entry has been confirmed vide order dated 22.09.2020.

Feeling aggrieved by the punishment order in question the petitioner preferred an appeal before the respondent No. 2 which has been dismissed by the respondent No. 2, i.e., vide order No. COK-Appeal-60/2020 dated 16.02.2021.

4.2. The contents of paragraph No. 5 of the writ petition need no comments. It is clarified here that the punishment given by the petitioner in relation to the act in question in the year 2020 is not related to any of his previous service. This punishment has been awarded to him only for his act in question.

4.3. The contents of paragraph No. 7 of the writ petition as stated are not admitted. In this regard although clear and complete details have been given in the above paragraphs, it is

to be clarified here again that the departmental inquiry in relation to the case was conducted by Shri Mahesh Chandra Joshi, Deputy Superintendent of Police Bageshwar, by whom the statements of all the concerned were included. On the basis of clear conclusion made in the inquiry report by the Inquiry Officer, the decision of punishment with censure entry to the petitioner has been taken.

5. Rejoinder Affidavit has been filed on behalf of the petitioner denying the contention of the respondents and has reiterated the averments made in the writ petition (Claim Petition).

6. I have heard learned Counsel for the parties and perused the record carefully.

7. The instant claim petition hinges upon an important argument by the learned Counsel for the petitioner that the entire case against the petitioner is based merely upon suspicion, presumption and imagination of a guilt that in reality never existed, as there are no evidences or witnesses to the alleged guilt, the whole episode banks upon only hearsay of a police informer, which in all probability might have arisen due to a misinformation, jealousy or an old grudge towards the petitioner.

8. Learned Counsel for the petitioner has emphasized that at the most only circumstantial evidences are there, on the basis of which there has been created an assumption of guilt by

the Enquiry Officer in his report dated 08.06.2020. The Enquiry Officer has recorded statements of public person as well as the police personnel, who had been alleged of the said crime. These statements do not confirm to the police story against the petitioner. Therefore, the Enquiry Officer has concluded his enquiry based upon the call records of the suspect and has tried to spin a story, which revolves around the information as provided by the police informer in question. Therefore, the guilt has been created retrogressively against the petitioner.

9. Learned A.P.O. argued that a proper procedure has been followed for the departmental proceeding and the guilt has been established beyond doubt. According to him, the information provided by the police informer cannot be rejected just because it was an informal information. In fact, the very tradition and role of police informer is an old one, and is a reliable tool in the crime control in the Police Departments all over the world, and quite often these informations, though factually true, many a times lack sustainable evidence and witness; but they are acted upon by the concerned police officers and are mostly successful in controlling the crime. Therefore, in this instant case also, the information provided by the police informer cannot be rejected without proper scrutiny. As per the learned A.P.O., the recorded statements of certain independent

police personnel who were on duty on that fateful night of 07.06.2019, namely, S.I. Madan Lal, Constable 64 Civil Police Tara Dutt Kapri, Constable 197 Civil Police Prakash Singh Gaira and S.I. Triveni Prasad are sufficient to connect the dots. Their statements clearly establish that suspended Constable 93 Civil Police Chandan Singh had absented himself from the assigned policing duty on that fateful night to participate in the alleged sport of gambling at the residential quarters of suspended Constable 150 Civil Police Deepak Goswami.

10. Though the statements of all the alleged culprits have taken alibi of absence, or ignorance of the alleged venue of crime, or ignorance of mobile number of the suspended Constable 150 Deepak Goswami etc., the call records not only contradict there alibi but also corroborate the entire allegations, when compared with the recorded statements of independent police witnesses.

11. In the Court's opinion, when the police enquiry report dated 08.06.2020 is perused in its entirety, particularly the conclusion of the Enquiry Officer, it becomes crystal clear that the petitioner was guilty of the alleged crime and, therefore, has been punished accordingly as per law. The Tribunal does not agree with the learned Counsel for the petitioner that the petitioner has been punished merely on the basis of assumption.

Rather, the circumstantial evidences, recorded statements, and particularly the call records analysis indicate that the conduct of the petitioner was not above the Board. A Police Officer, who is part of Special Operation Group (S.O.G.) is expected to be an ideal police personnel not only by his actions during the crime control operations, but also in his day-to-day conducts. Therefore, the departmental proceeding and punishment concluded against the petitioner have been found in order and as per rules. The claim petition deserves to be dismissed.

ORDER

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

(Capt. Alok Shekhar Tiwari)
Member (A)

DATE: MARCH 25, 2026
NAINITAL
BK

