

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

Present: Hon'ble Mr. Rajendra Singh

-----Acting Chairman

Hon'ble Mr. A.S.Rawat

-----Vice Chairman (A)

CLAIM PETITION NO. 107/NB/DB/2023

Sher Singh Rawat aged about 55 years, S/o of Sri Darban Singh Rawat,
r/o Friends Coloney, Bhotia Parao, P.S. Haldwani, Nainital.

.....Petitioner

Vs.

1. State of Uttarakhand through Secretary, Finance, Secretariat,
Dehradun.
2. Superintendent of Police, Vigilance Department, Dehradun.
3. Commissioner, Commercial Tax, Dalanwala, Dehradun.

.....Respondents

Present: Sri Dharmendra Barthwal, Advocate for the petitioner
Sri Kishore Kumar, A.P.O. for the respondents.

JUDGMENT

DATED: SEPTEMBER 18, 2026

Per: Hon'ble Sri A.S.Rawat, Vice Chairman (A)

By means of present claim petition, the petitioner seeks the
following reliefs:

“a) To quash and set aside the impugned termination order dated 13-11-2020 passed by respondents (contained as Annexure no. 1 to this petition) by which the respondents has terminated the services of the petitioner and removed from service and further claim sought in the present claim petition is that to direct the respondents to reinstate him in service on the ground that his conviction and sentence has been stayed by the High Court and grant him up to date salary and other benefits (including the period when his termination continued).”

"8(a) To direct the respondents to pay the salary to the petitioner from the date of his termination i.e. 13-11-2020 till 31-07-2025 taking the petitioner's services as continuous and uninterrupted."

"8 (a) (i) To direct the respondents to pay pension in as much as the same may be released on the basis of his last salary computed as on 31-07-2025 without being influenced by the impugned order dated 13-11-2020 (contained as Annexure No. 1 to this Claim Petition)."

b) To issue any other order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

c) Award cost of the petition."

2. Brief facts of the case are as under:

2.1 The petitioner was initially appointed as Stenographer on October, 1990 in the Sales Tax Department of the erstwhile State of Uttar Pradesh. The petitioner was promoted to the post of Trade Tax Officer in the year 2006. He was subsequently promoted to the post of Assistant Commissioner, Commercial Tax in the year May, 2011 and was serving on the said post on the date of alleged illegal trapping by the Vigilance Department on 12.06.2012.

2.2 On 14.06.2012, one complainant Irshad Ahmad R/o Sitarganj had preferred a motivated complaint against the petitioner and subsequently the Vigilance Department without applying its mind had arrested the petitioner after registering offences under Section 7,12(1)(d) read with Section 13(2) of Prevention of Corruption Act, 1988. Meanwhile, the petitioner had remained in judicial custody for 6 months *i.e.* from 14.06.2012 to 14.12.2012 and was released on bail on 14.12.2012. The petitioner was suspended from service on the charge of registration of a Criminal Case and subsequently as per the direction contained in Government Order no. 1626 dated 23.01.2003, the petitioner was reinstated in service w.e.f. 11.02.2014.

2.3 The Investigation Officer concerned had submitted charge sheet on 30.08.2019 before the competent court and the said court in Trial had convicted the petitioner vide order dated 30.08.2019 and

petitioner was awarded 5 years imprisonment and Rs 5000/- as fine. The respondent no. 1, however, vide order no. 1088, dated 19-12-2019 had suspended the services of the petitioner retrospectively w.e.f. 30-08-2019.

2.4 The petitioner has preferred an appeal on 19.09.2019 against the conviction order (being Criminal Appeal no. 431 of 2019 Sher Singh Rawat Vs. State of Uttarakhand') before the Hon'ble High Court whereupon, the Hon'ble Court by order dated 19.09.2019 has granted bail to the petitioner. Meanwhile, the petitioner was mechanically terminated and removed from service on 13.11.2020.

2.5 The Hon'ble High Court, vide order dated 15-03-2021 has been pleased to stay the conviction in appellant's Criminal Appeal no. 431 of 2019 Sher Singh Rawat Vs. State of Uttarakhand. Thus, the said Government Order does not provide for an automatic termination and/or removal from service and rather in the second last clause, provides a scenario where the incumbent is on bail and there is a conviction order and such incumbent files an appeal but the same is decided against him then in such case, the departmental punishment would still stand due to conviction in the appeal. Thus, in every case of conviction, the removal/termination is not automatic. Thus, there is total non-application of mind on the part of the respondents in passing the impugned order of termination/removal order dated 13.11.2020 and such order is liable to be set aside. The said stay on petitioner's conviction has further been extended by this Hon'ble Court vide order dated 29.03.2023. The petitioner then preferred a representation on 23.03.2021 before the Secretary, Finance, Govt. of Uttarakhand, to reinstate him in service on the ground that his conviction and sentence has been stayed by the Hon'ble High Court. The petitioner had further submitted that some other incumbents of other departments who were also terminated and removed from service on the ground of their conviction in a Criminal Case had been reinstated in service. Meanwhile, when respondent did not consider petitioner's reinstatement, the petitioner has again preferred his representation on

12.04.2023 before the respondent no. 1 for reinstatement of his service. After the stay of his conviction and sentence, the entire basis of the order of dismissal has been taken away and as such, the petitioner entitled for reinstatement.

2.6 Feeling aggrieved by the illegal inaction at the hands of respondents authorities, the petitioner approached the Hon'ble High Court of Uttarakhand at Nainital by filing a Writ Petition No. 216 of 2023 (S/B). The Hon'ble High Court vide its order dated 25.05.2023 dismissed the writ petition with liberty to the petitioner to approach this Tribunal.

2.7 This Tribunal had earlier pleased to dismiss the Claim Petition No. 107/NB/DB/2023 vide order dated 04-10-2024 on the ground of delay. A review petition preferred was also dismissed vide order dated 11-03-2025. Thereafter the petitioner preferred a Writ Petition No. 322 of 2025 (M/B) 'Sher Singh Rawat vs. State and others' before the Hon'ble High Court which was allowed and the Hon'ble High Court vide order dated 11-08-2025 remanded the matter back to this Tribunal for decision on merits of the case. During the pendency of the said Writ Petition (Writ Petition No. 322 of 2025 (M/B), the petitioner has superannuated from service on 31-07-2025." Due to the aforesaid impugned action of the respondents, the petitioner is suffering irreparable loss and injury which cannot be compensated in any manner.

3. C.A./W.S. has also been filed on behalf of the respondents stating therein that-

3.1 श्री इकशाद अहमद पुत्र श्री छोटे अहमद निवासी वार्ड नं० 2 सितारगंज जिला उधमसिंहनगर ने सतर्कता अधिष्ठान कार्यालय हल्द्वानी में दिनांक: 11.6.2012 को एक शिकायती प्रार्थना-पत्र शेर सिंह रावत, असिस्टेंट कमिश्नर, (कर निर्धारण), वाणिज्य कर खटीमा जिला उधमसिंह नगर के विरुद्ध प्रस्तुत किया, जिसमें अंकित किया कि वह "बी" क्लास गवर्मेन्ट ठेकेदार हैं। उसकी सितारगंज में कोका-कोला की न्यू हिन्द एजेन्सी के नाम से सिडकुल रोड पर एजेन्सी है, जिसका वह प्रोपराईटर है तथा व्यापार कर में पंजीकृत

त है। बिक्री कर विभाग खटीमा के असिस्टेंट कमिश्नर श्री एस०एस० रावत ने उसकी फर्म के वर्ष 2007-2008, 2008-2009, 2009-2010 तथा 2010-11 के नोटिस दिये तथा 6-7 महीने पहले उसे अपने आफिस में बुलाकर उससे कहा कि इन सभी केसों को सही करने के पच्चीस हजार रुपये साल के हिसाब से एक लाख रुपये दे दो। शिकायतकर्ता ने जब रुपये नहीं दिये तो श्री रावत ने उसके वर्ष 2007-2008 के केस में लगभग 50,000/- रु० टैक्स लगा दिया, जबकि शिकायतकर्ता के खुद के पच्चीस हजार रुपये विभाग पर निकलते थे। इसके बाद एस०एस० रावत ने उसकी फर्म के वर्ष 2008-09 के केस में दिनांक 12-01-2012 को एकतरफा फैसला करके रु० 6,25,000/- टैक्स लगा दिया।

3.2 शिकायतकर्ता ने इसके लिए दिनांक 27-02-2012 में धारा 31 में अपील की, जो सुनवाई के लिए एस०एस० रावत ने दिनांक 30-03-2012 को मंजूर कर ली। उसके बाद शिकायतकर्ता को दिनांक: 28-05-2012 को नोटिस मिला, जिस पर वह दिनांक: 28-05-2012 को एस०एस०रावत से उनके कार्यालय खटीमा में मिला तो श्री एस०एस० रावत ने फिर उससे कहा कि एक लाख रुपये दे दो, आपके सारे केस सही कर दूँगा। अगर रुपये नहीं दोगे तो ऐसे ही टैक्स लगता रहेगा। तुम अपील में जाते रहना। इसके बाद शिकायतकर्ता दिनांक 11-06-2012 को फिर श्री रावत से उनके कार्यालय खटीमा में मिला और उसके काफी खुशामद मिन्नते करने पर एस०एस० रावत बड़ी मुश्किल से पैंतालिस हजार रुपये रिश्वत लेकर केस सही करने को राजी हुआ और शिकायतकर्ता को रिश्वत के पैंतालिस हजार रुपये लेकर दिनांक 14-06-2012 को दिन में करीब दो बजे तक अपने कार्यालय खटीमा में बुलाया।

3.3 शिकायतकर्ता श्री इकशाद अहमद के प्रार्थनापत्र पर सेक्टर प्रभारी द्वारा निरीक्षक श्री राजन लाल आर्य को प्रार्थनापत्र की जांच कर आख्या प्रेषित करने का आदेश दिया गया। निरीक्षक श्री राजन लाल आर्य के द्वारा शिकायती प्रार्थना पत्र की जांच से लगाये गये आरोपों की पुष्टि होने, प्रकरण ट्रैप योग्य पाये जाने तथा आरोपी के राजपत्रित अधिकारी होने के कारण प्रमुख सचिव सतर्कता उत्तराखण्ड शासन से राजपत्रित अधिकारी को ट्रैप किये जाने की अनुमति प्राप्त की गयी। अनुमति प्राप्त होने के पश्चात् दिनांक 13-06-2012 को सेक्टर प्रभारी द्वारा ट्रैप टीम का गठन किया गया। दिनांक 14-06-2012 को शेर सिंह रावत, असिस्टेंट कमिश्नर (कर निर्धारण) वाणिज्य कर खटीमा जिला ऊधमसिंह नगर को शिकायतकर्ता श्री इकशाद अहमद से पैंतालिस हजार रुपये रिश्वत लेते हुए उत्तराखण्ड

सतर्कता अधिष्ठान सैक्टर नैनीताल (हल्द्वानी) की ट्रैप टीमद्वारा दो राजकीय साक्षियों के समक्ष रंगे हाथ गिरफ्तार किया गया तथा रिश्वत में लिये गये पैतालिस हजार रुपये शेर सिंह रावत, असिस्टेंट कमिश्नर, कर निर्धारण, वाणिज्य कर खटीमा जिला ऊधमसिंह नगर से मौके पर ही बरामद किये गये।

3.4 इस सम्बन्ध में थाना उत्तराखण्ड सतर्कता अधिष्ठान सैक्टर नैनीताल (हल्द्वानी) में दिनांक: 14-06-2012 को मु0अ0सं0-02/2012 धारा 7/13(1) (डी) सपठित 13(2) भ्र०नि०अधि०-1988 बनाम् शेर सिंह रावत, असिस्टेंट कमिश्नर, (कर निर्धारण), वाणिज्य कर खटीमा जिला ऊधमसिंह नगर का अभियोग पंजीकृत किया गया। विवेचना से आरोपों की पुष्टि होने पर आरोप पत्र माननीय न्यायालय प्रेषित किया गया। माननीय न्यायालय विशेष न्यायाधीश, भ्रष्टाचार निवारण अधिनियमध्वस्त न्यायाधीश, नैनीताल ने अपने निर्णय दिनांक 30-08-2019 के द्वारा अभियुक्त शेर सिंह रावत उपरोक्त को धारा 7 भ्रष्टाचार निवारण अधिनियम के अधीन दोषी पाये जाने के आधार पर उसे उक्त धारा के अन्तर्गत 05 वर्ष के सश्रम कारावास की सजा व पाँच हजार रुपये के अर्थदण्ड तथा अर्थदण्ड अदा न करने पर 03 माह के अतिरिक्त कारावास से दण्डित किया गया। अभियुक्त का धारा 13 (1) (डी) सपठित धारा 13 (2) भ्रष्टाचार निवारण अधिनियम के अन्तर्गत दोषी पाये जाने के आधार पर उसे उक्त धारा के अन्तर्गत 05 वर्ष के सश्रम कारावास की सजा व पाँच हजार रुपये के अर्थदण्ड तथा अर्थदण्ड अदा न करने पर 03 माह के अतिरिक्त कारावास से दण्डित किया जाचिकाकर्त्ता के द्वारा योजित की गयी वर्तमान याचिका असत्य एवं भ्रामक तथ्यों पर आधारित है, जिस कारण उक्त याचिका खारिज होने योग्य है।

4. R.A. has also been filed on behalf of the petitioner reiterating the same facts as have been stated in the claim petition.

5. Heard learned Counsel for the parties and perused the record.

6. Learned Counsel for the petitioner argued that the petitioner was terminated from the service vide order dated 13.11.2020 based on the conviction order passed by the Special Court, Prevention of corruption Act/Session Judge in a criminal case registered against Under Section 7, Prevention of Corruption Act, 1988 for imprisonment for the term of 5 years and fine of Rs 5000/-. The petitioner filed a Criminal Appeal 431 of 2019 against the conviction order in the Hon'ble High Court of

Uttarakhand at Nainital and the Hon'ble Court stayed the conviction of the petitioner vide order dated 15.03.2021. The respondents while passing the order of the termination of the petitioner mentioned that since the petitioner has been convicted, he stands terminated from the service, but such termination is not automatic. The order of the stay of the conviction has been further extended by the Hon'ble High Court vide order dated 29.03.2023.

7. In support of his contention, Learned Counsel of the petitioner has relied on the following judgements of the Hon'ble Courts:

i. ***Ravikant S. Patil vs. Sarvabhouma S. Bagali, (2007) 1 SCC 673.*** The Hon'ble Supreme Court has held as under:

“(11) It deserves to be clarified that an order granting stay of conviction is not the rule but is an exception to be resorted to in rare cases depending upon the facts of a case. Where the execution of the sentence is stayed, the conviction continues to operate. But where the conviction itself is stayed, the effect is that the conviction will not be operative from the date of stay. An order of stay, of course, does not render the conviction non-existent, but only non-operative. Be that as it may. Insofar as the present case is concerned, an application was filed specifically seeking stay of the order of conviction specifying that consequences if conviction was not stayed, that is, the appellant would incur disqualification to contest the election. The High Court after considering the special reason, granted the order staying the conviction. As the conviction itself is stayed in contrast to a stay of execution of the sentence, it is not possible to accept the contention of the respondent that the disqualification arising out of conviction continues to operate even after stay of conviction.

(12) We may now refer to the several other decisions of this Court, cited by the parties.

(12.1) The decision in B.R.Kapur v. State of Tamil Nadu, [2001] 7 SCC 231, will have no application as it was not a case of stay of conviction. In that case, only an order of suspension of sentence was made under Section 389 of the Code. In fact, the petitions seeking stay of the operation of the judgment in the criminal cases were dismissed by the High Court.

(12.2.) In State of Tamil Nadu v. A.Jaganathan, [1996] 5 SCC 329, the State challenged the order of the High Court which had granted suspension of the conviction as also the sentence, relying on Rama Narang (supra). This Court held that the principle laid down in Ram Narang (supra) was that conviction and sentence can both be suspended only if non-grant of suspension of conviction would result in damage which could

not be undone if ultimately the appeal/revision was allowed. On facts, it was found that even if stay of conviction was not granted, no prejudice would be caused to the convicted person, having regard to the fact that when the revisions against the conviction and sentences were ultimately allowed, the damage, if any, caused to the respondents therein with regard to payment of stipends etc. could well be revived and made good to the them. This Court noted that if such trifling matters involving slight disadvantage to the convicted person were to be taken into consideration, every conviction would have to be suspended pending appeal or revision. It was further noted that the High Court did not consider at all the moral conduct of the respondents inasmuch as the respondent Jaganathan who was a Police Inspector had been convicted under Sections 392, 218 and 466 IPC, while the other respondents who were also public servants had been convicted under the provision of Prevention of Corruption Act. Under those circumstances, the discretion exercised by the High Court in suspending the conviction was reversed.

(12.3.) In K.C.Sareen v. CBI, Chandigarh, [2001] 6 SCC 584, it was held that though the power to suspend an order of conviction, apart from the order of sentence, is not alien to Section 389(1) of the Code, its exercise should be limited to very exceptional cases. It was further held that merely because the convicted person files an appeal to challenge his conviction, the court should not suspend the operation of the conviction and the court has a duty to look at all aspects including the ramifications of keeping such conviction in abeyance. The Bench also noted that the evil of corruption has reached a monstrous dimension. While declining the prayer of the appellant for grant of an order of stay of conviction, the Bench observed that when conviction is on a corruption charge against a public servant, the appellate court should not suspend the order of conviction during the pendency of the appeal, even if the sentence of imprisonment is suspended. The Bench further observed that it would be a sublime public policy that the convicted public servant is kept under disability of the conviction in spite of keeping the sentence of imprisonment in abeyance till the disposal of the appeal or revision. These observations would equally apply when a prayer for stay of order of conviction is made so as to remove the disability to contest an election except, as already noted, in a very exceptional and rare case.

(12.4.) Lastly, reference may also be made to the decision of this Court in State of Maharashtra v. Gajanan & Anr., [2003] 12 SCC 432. In the said case, relying on the case of K.C.Sareen (supra), it was reiterated that only in exceptional cases, the court should exercise the power of stay of conviction. Since the High Court in the said case had not pointed out any exceptional fact or looked into the ramification of keeping such conviction in abeyance, the order of the High Court staying the conviction was set aside. In the cited case

of Union of India v. Atar Singh, [2003] 12 SCC 434, it was noted that the High Court had mechanically passed the order by suspending the conviction and the discretion ought not to have been exercised by the High Court by passing such an order suspending the conviction.

(12.5.) All these decisions, while recognising the power to stay conviction, have cautioned and clarified that such power should be exercised only in exceptional circumstances where failure to stay the conviction, would lead to injustice and irreversible consequences.

(13) Reverting to the present case, we are not called upon to decide the correctness of the order of stay of conviction dated 26th March, 2004. All that requires to be noticed is that on the dates of nomination and election, in view of the said order staying conviction, the appellant was not disqualified. The question whether subsequently the conviction was set aside in appeal or whether the matter is in further challenge before this Court is of no relevance for deciding the point in issue.”

- ii. ***BSES Rajdhani Power Limited vs. Madan Mohan Batawal and another (2009) SCC Online Del 579.*** The Hon’ble High Court of Delhi has held at para no. 31 & 32 as under:-

“31. In the present case, before the appeal was decided by the Appellate Authority, High Court of Allahabad had already stayed the conviction order. This is the second distinguishing feature between the present case and the decision of the Supreme Court in the case of K. Prabhakaran (supra). Admittedly, in case there was an order of stay on conviction before the date of scrutiny of nominations, the respondent in K. Prabhakaran's case (supra) would not have been disqualified. In the present case, on the date when the Appellate Authority had passed the order, the respondent's conviction had been stayed. This is a relevant factor and distinguishes the present case from the case of K. Prabhakaran (supra).

32. In these circumstances, we do not find any merit in the present appeal and the same is dismissed. However, we would like to clarify that the appellant will have to pass an order in respect of back wages for the period 7th February, 2006 till 23rd October, 2007 in accordance with the relevant service rules. The respondent will be at liberty to challenge the said order in case, if he so desires in accordance with law. The respondent will be entitled to full back wages with effect from 23rd October, 2007, i.e. from the date judgment was passed by the learned single Judge. Accordingly, with the aforesaid observations we quash the order of punishment/removal dated

6th February, 2006 and the order of the Appellate Authority dated 26th April, 2006. Back wages with effect from 23rd October, 2007 will be paid within 4 weeks.”

- iii. ***Sada Nand Misra vs. State of Uttar Pradesh, 1999 Supreme (All)1484.*** In this case, the Hon’ble High Court of Allahabad has held that: *“A government servant cannot be removed from service solely on the basis of a criminal conviction. The conduct of the government servant leading to the conviction must be considered to determine if further retention in public service is undesirable.”*

Aforesaid order of the termination of the petitioner is liable to set aside in view of the order of stay of conviction granted by the Hon’ble High Court as well as the judgements of the Hon’ble Courts and the claim petition is liable to be allowed.

8. Learned A.P.O. argued that the petitioner has been convicted and has been terminated from the service based on his conviction Under Section-7 of Prevention of Corruption Act, 1988. His conduct has been such that he cannot be reinstated. In view of the above, the Claim petition is liable to be dismissed.

9. Based on the arguments of the parties and perusal of the record, we find that the petitioner has been convicted by Special Court, Prevention of Corruption Act/Session Judge in a Criminal Case registered against under Section-7, Prevention of Corruption Act, 1988 for imprisonment for the term of 5 years and fine of Rs 5000/-. This operation of conviction has been stayed by the Hon’ble High Court of Uttarakhand at Nainital and the final decision of the Hon’ble Court is yet to come. Once the operation of conviction is stayed by an Appellate Court, the legal consequences flowing from the conviction remain suspended. The stay order deprives the order of its operating force for all practical purposes until the appeal is finally decided. In the present case, the termination order dated 13.11.2020 has been passed on the basis of the conviction of the petitioner. So, the order passed by the respondent authority is liable to be quashed and the petitioner is entitled to be reinstated from the date of staying the order of conviction

by the Hon'ble High Court and petitioner is entitled to get full salary from the date of stay order of conviction by the Hon'ble High Court till superannuation. Hence, the claim petition is liable to be allowed partly.

ORDER

The claim petition is hereby partly allowed. The impugned termination order dated 13.11.2020 is hereby quashed. The respondents are directed to reinstate the petitioner in service from the date of stay order of conviction by the Hon'ble High Court and the petitioner is entitled to get full salary from the date of stay order of operation of the Hon'ble High Court till superannuation. However, for grant of pensionary benefits to the petitioner, the respondent department shall take decision in the matter, in accordance with the Pension Rules.

Since the Criminal Appeal in the matter is pending before the Hon'ble High Court, the judgment of this Tribunal shall be subject to the decision of the Hon'ble High Court in the pending appeal.

No order as to costs.

(RAJENDRA SINGH)
ACTING CHAIRMAN

(A.S.RAWAT)
VICE CHAIRMAN (A)

DATE: SEPTEMBER 18, 2026
DEHRADUN.
KNP