

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
AT DEHRADUN**

Present: Hon'ble Mr. Rajendra Singh

----- Acting Chairman

Hon'ble Mr. Arun Singh Rawat

-----Vice Chairman (A)

**CLAIM PETITION NO.163/DB/2024**

Sri Sunil Kumar, Constable, age 36 years, s/o Sri Dharm Lal Bhilangwal, r/o Kewli, District Rudraprayag, Presently posted in Police Line, Roshanabad, Haridwar.

**.....Petitioner**

**vs.**

1. The Secretary, Home Department, Government of Uttarakhand, Dehradun.
2. The Additional Director General of Police, Uttarakhand, Dehradun.
3. The Inspector General of Police, Garhwal Range, Dehradun.
4. The Deputy Inspector General of Police, Garhwal Range, Dehradun.
5. The Senior Superintendent of Police, District Haridwar, Uttarakhand.

**.....Respondents**

Present: Sri Uttam Singh, Advocate, for the petitioner.  
Sri V.P.Devrani, A.P.O., for the Respondents.

**JUDGMENT**

**DATED: OCTOBER 09, 2026**

**Sri Arun Singh Rawat, Vice Chairman (A)**

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

“ I) To set aside the Charge sheet dated 5-02-2020 issued by the Enquiry Officer / non disciplinary authority. (Annexure No A-1)

II) To set aside the punishment order dated 20-4-2022 vide which the respondent disciplinary authority has reduced to the lower stage/pay scale for a period of one year, which is major punishment ( Annexure No A-2).

III) To set aside the order dated 25-7-2023 vide which the respondent appellate authority has rejected the appeal (Annexure No A-3).

(IV) To set aside the order dated 30-9-2024 vide which the respondent revisional authority has rejected the revision. (Annexure No A-4).

V) To direct the respondent to grant full salary of the suspension period from 22-10-2019 to 27-12-2019.

VI) Any other relief the Hon'ble Tribunal may deem fit in the circumstances of the case.

VII) Award the cost of the petition to the petitioner.”

2. Facts necessary for disposal of the present claim petition are as follows:

2.1 The petitioner was appointed as Constable/Civil Police on 01.06.2009 and, from 2018, was posted at Police Line Roshanabad, Haridwar, while performing duty at the Labour Court, Haridwar. On 21.10.2019, he was detailed for guard duty in shifts, including a shift from 18:00 to 21:00 hours and the next shift from 03:00 to 06:00 hours on 22.10.2019. After completing his evening duty, he went to his friend's house for dinner and thereafter returned to the Labour Court on his scooter in uniform.

2.2 While returning, the petitioner saw some persons quarrelling on the road at Jamalpur Khurd. Being in uniform, he stopped and asked them not to create a nuisance on the public road. When they continued quarrelling and allegedly abused him, the petitioner himself called the patrolling police on 100. The police reached the spot and took the persons involved, including the petitioner, to Ranipur Police Station. After the matter was pacified, everyone was allowed to go home and no FIR was registered.

2.3 At about 02:00–02:30 hours on 22.10.2019, the petitioner was sent to the District Hospital for medical examination. The Medical Officer found no fresh injury except the one mentioned in the report and specifically opined that there was **no intoxication**. The petitioner thereafter attended his scheduled duty from 03:00 to 06:00 hours. However, he was suspended on 22.10.2019 on the allegation that he had consumed liquor and created a nuisance at Police Post Industrial Area, Kotwali Ranipur.

2.4 A complaint by one Saddam, relating to the alleged incident, was received in the office of the SSP, Haridwar on 01.11.2019. The petitioner states that the complaint was false, no FIR was registered, and Saddam subsequently withdrew the complaint in writing on 02.11.2019, stating that it had been made at the instigation of a reporter. Despite this, the Preliminary Enquiry Officer submitted a report dated 21.12.2019 holding the petitioner guilty. His suspension was revoked on 27.12.2019.

2.5 Thereafter, a departmental enquiry was initiated and a charge-sheet was issued on 05.02.2020. The petitioner submitted a detailed reply. The Enquiry Officer submitted his report on 20.04.2021. The petitioner denied consuming liquor and relied upon the medical report showing that he was not intoxicated. He also contended that neither blood nor urine testing was conducted and that the Medical Officer was not examined during the enquiry. He further pointed out that the prosecution witnesses did not establish that he was intoxicated; some witnesses specifically stated that he was not in an intoxicated state.

2.6 The Enquiry Officer recommended reduction to a lower stage of pay for one year. A show-cause notice was issued on 04.08.2021, to which the petitioner submitted his reply on 10.08.2021. The disciplinary authority, vide order dated 20.04.2022, imposed the punishment of reduction to the lower stage of the minimum pay scale of Constable for one year. The petitioner filed an appeal, which was

rejected by the appellate authority vide order dated 25.07.2023 and communicated to him on 01.08.2023.

2.7 The petitioner thereafter filed Claim Petition No. 7/SB/2024 before the Tribunal. On 25.01.2024, the Tribunal directed that the matter be considered first by the revisional authority. The petitioner filed a revision on 10.02.2024. Since it was not decided, he filed Execution Petition No. 21/SB/2024, whereupon the Tribunal, vide order dated 11.07.2024, directed the revisional authority to decide the revision. The revision was disposed of on 30.09.2024.

2.8 The petitioner challenges the disciplinary, appellate and revisional orders, mainly contending that there was no sufficient evidence of consumption of alcohol or creation of nuisance under its influence; the medical report and material evidence were not properly considered; independent witnesses were not examined; and the Enquiry Officer did not act fairly. He also contends that the punishment imposed is a major punishment and is disproportionate to the alleged misconduct. Further, although his suspension was revoked, he states that full salary for the intervening period has not been paid.

3. Claim petition has been contested on behalf of respondents. C.A. has been filed by Sri Rakesh Rawat, Deputy Superintendent of Police, District Haridwar, on behalf of Respondents.

3.1 It has been stated in the C.A. filed on behalf of respondents that in 2019, when the petitioner, Constable No. 144, S.P. Sunil Kumar, was posted on security guard duty at the Labour Court, Haridwar, he was permitted to leave the duty after 9:15 p.m. on 21.10.2019 for having dinner at Reserve Police Lines, Roshanabad. However, after having dinner, he did not return to his assigned duty and was found absent without authorization in an intoxicated condition at Mohalla Jamalpur Khurd. Information about the incident was received by the police personnel on Chetak duty, who brought the petitioner to Gas Plant Police Outpost. The petitioner was allegedly found under the influence of alcohol and was accused of creating

nuisance. He was thereafter sent to District Hospital, Haridwar for medical examination. The medical examination recorded that alcohol had been consumed, as the smell of alcohol was coming from his mouth. The medical report dated 22.10.2019 and the report of the Inspector, Police Station Ranipur, were annexed with the Counter Affidavit.

3.2 The respondents further state that, considering the petitioner's conduct while serving in a disciplined police force, particularly his alleged negligence of duty and indiscipline, he was suspended by Respondent No. 5 on 22.10.2019. A preliminary inquiry was thereafter entrusted to the Circle Officer, City, Haridwar. The Inquiry Officer found a prima facie case against the petitioner and submitted the preliminary inquiry report on 11.12.2019.

3.3 After receiving the preliminary inquiry report, the competent authority initiated departmental proceedings under Rule 14(1) of the relevant Police (Punishment and Appeal) Rules, as adapted and amended by the 2002 Order. The Superintendent of Police, City, Haridwar was appointed as the Departmental Inquiry Officer. A charge-sheet dated 05.02.2020 was issued to the petitioner, to which he submitted his reply on 16.03.2020. According to the respondents, the petitioner's reply was contrary to the facts, unsatisfactory and without substance. During the departmental inquiry, the statements of the prosecution witnesses were recorded and the petitioner was provided adequate opportunity to defend himself and to participate in the hearing. However, according to the respondents, he failed to establish his innocence. The Departmental Inquiry Officer found him guilty of remaining unauthorizedly absent from his security duty at the Labour Court, going to Mohalla Jamalpur Khurd in an intoxicated condition and creating nuisance. The medical examination was also relied upon as consumption of alcohol was confirmed. The departmental inquiry report was submitted on 20.04.2021.

3.4 The respondents further stated that, after considering and agreeing with the departmental inquiry report, Respondent No. 5

issued a show-cause notice dated 04.08.2021 along with the inquiry report and asked the petitioner to submit his response. The petitioner submitted his reply on 10.08.2021, but the same was rejected as being contrary to the facts and without substance. After completion of the departmental proceedings, the petitioner was found guilty and, by punishment order dated 20.04.2022, his pay was reduced for one year to a stage below the minimum of his pay scale under the applicable rules. The petitioner challenged the punishment order by filing an appeal, but the appellate authority rejected the appeal vide order dated 25.07.2023.

3.5           Thereafter, the petitioner filed Claim Petition No. 07/SB/2024, Sunil Kumar v. State and Others, before the Hon'ble Public Services Tribunal, Dehradun. The Tribunal vide order dated 25.01.2024, permitted him to submit a revision appeal before the competent authority. Pursuant to that order, the petitioner submitted a representation/revision before the Additional Director General of Police, Administration, Uttarakhand, Dehradun. The same was disposed of by order dated 30.09.2024, holding that the punishment order dated 20.04.2022 passed by the Senior Superintendent of Police, Haridwar and the appellate order dated 25.07.2023 passed by the Inspector General of Police, Garhwal Range, Uttarakhand, were in accordance with the applicable rules and procedure. After rejection of the said representation, the petitioner filed the present claim petition before the Hon'ble Public Services Tribunal, Uttarakhand, Dehradun.

3.6           It is further contended by the respondents that there is no legal or procedural irregularity in the departmental inquiry. According to them, the inquiry was conducted fairly, the petitioner was given sufficient opportunity of hearing and defence, and the charges were proved on the basis of departmental records, evidence and statements of witnesses, therefore, the punishment imposed upon the petitioner was lawful and proper, and thus, the present petition is without merit and deserves to be dismissed.

4. R.A. has been filed on behalf of the petitioner reiterating the averments mentioned in the claim petition.

5. We have heard the arguments of the Learned Counsel for the petitioner as well as Learned APO and perused the documents brought on record.

6. Learned counsel for the petitioner argued that the petitioner has been served with the charge sheet dated 05.02.2020 with vague charges that he was not present in his duties, but he was present from 03.00 hours on 22.10.2019. He was alleged to have been in the intoxicated state of alcohol, as against the report of the medical officer dated 22.10.2010 which did not mention that the petitioner was in intoxicated state. No blood test and urine test were conducted by the medical officer to ascertain the consumption of alcohol.

6.1 While conducting the inquiry, the Inquiry officer did not inform about the date, time and place of inquiry. The petitioner was, therefore, deprived of a reasonable opportunity to participate in the inquiry and to defend himself, so the inquiry is vitiated as held by the Hon'ble Apex Court in *Bieco Lawrie Limited and another vs. State of West Bengal and another* (2009) 2 SCC ( L7S) 729, which is also in violation of the principle laid down by the Hon'ble Apex Court in *Union of India/CRPF vs. T. Luphengi*, C.A. No. 6745 of 2013, and *Union of India/CRPF vs. Muthun Shanti Kumar Singh*, C.A. Nos. 9373-9374 of 2013, decided on 02.07.2018, wherein the Hon'ble Apex Court emphasized the requirement of affording a reasonable and effective opportunity to the delinquent employee to participate in the disciplinary inquiry.

6.2 The inquiry officer did not permit the petitioner to produce defence witnesses. The inquiry officer issued the charge sheet dated 05.02.2020, which is against the judgement of the Hon'ble High Court of Uttarakhand at Nainital dated 23.11.2015 rendered in WP(SS) No. 49/2010 in the matter of MS Dausani Vs State of Uttarakhand, a reference of which has also been given by this Tribunal in Clam

Petition No. 67/DB/2019 decided on 04.01.2019, in the matter of Sunil Kumar Vs state of Uttarakhand and others. The enquiry officer recommended the punishment in the enquiry report, which is beyond the jurisdiction of the enquiry officer as held by this Tribunal on 02.05.2023 in Claim petition No.66/DB/2023 in the matter of Yogesh Kumar vs State of Uttarakhand. Such awarding of punishment is illegal and against the settled law. The relevant paras of the judgement of the Tribunal are as under:

“12. The Tribunal finds that the language used in Appendix-I, which is related to Rule 14(1) of U.P. Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991, has used the words ‘the enquiry officer may also separately from these proceedings make his own recommendation regarding the punishment to be imposed on the charged Police Officer.’ In the instant case, the enquiry officer has made the recommendation, not separately, but in the enquiry report itself. Disciplinary proceedings are vitiated on these two grounds alone.

13. The impugned punishment order, therefore, cannot sustain. The same is liable to be set aside and is, accordingly, set aside leaving it open to the respondent authority to initiate fresh departmental proceedings against the delinquent, in accordance with law.”

6.3 Ld. Counsel for the petitioner has also relied upon the decision rendered by this Tribunal on 23.01.2026 in Claim Petition No. 22/NB/DB/2024, Ganesh Prasad vs. State of Uttarakhand and others, in support of the contention that the action of the enquiry officer by signing the charge sheet is in contravention of the settled principles of law.

In view of the above, the impugned punishment orders are liable to be set aside and the claim petition is liable to be dismissed.

7. Learned APO argued that the petitioner has been found absent from duties, intoxicated under alcohol and creating nuisance in the public place for which he was charge sheeted on 05.02.2020. He was subjected to the medical examination and found having consumed alcohol and foul smell was coming from his mouth. The inquiry officer has conducted the inquiry in impartial manner and the petitioner has

been given opportunity to defend him but he failed to prove his innocence. He has been given punishment by the disciplinary authority, which is correct and as per law and that has been upheld by the appellate and the revisional authorities. His claim petition is liable to be dismissed.

8. Based on the arguments of the parties and the documents placed before the Tribunal, we find that the Charge sheet dated 05.02.2020 (Annexure- 1) has been signed by the Inquiry officer. The inquiry officer submitted the report on 20.04.2021 and recommended the punishment in the inquiry report itself (Ann.2) and the Disciplinary Authority imposed penalty vide order dated 20.04.2022 of reduction to the lowest scale of Constable for one year. The appeal of the petitioner has been rejected by the appellate authority vide order dated 25.7.2023 (Annexure-3). The revision application of the petitioner was also rejected by the revisional authority vide order dated 30.09.2024. There is procedural lacuna in conducting the inquiry against petitioner by not giving opportunity of hearing to the petitioner and defend himself as well as cross-examining the witnesses. The inquiry officer acted beyond jurisdiction and issued charge sheet and recommended punishment against the petitioner. These acts of the inquiry officer are against the settled law as decided by the Tribunal in Claim Petition No. 22/NB/DB/2024, Ganesh Prasad vs. State of Uttarakhand and others, relevant portion of which is as under:

“13. In view of the above, it is clear in the instant case that the charge sheet has been issued by the enquiry officer and not the disciplinary authority and the recommendation has also been made by the enquiry officer for the punishment, not separately, but in the enquiry report itself, which is not permissible in the law. Hence, the impugned punishment orders cannot be sustained in the eyes of law and the same are liable to be set aside and the claim petition is liable to be allowed.”

In view of the aforesaid facts and legal position, we conclude that the inquiry has been vitiated due to aforesaid lacuna in conducting it. Hence, the impugned order dated 20.04.2022 (Annexure- A 2) passed by the Disciplinary Authority, order dated

25.07.2023 ( Annexure- A 3) passed by the Appellate Authority and the order dated 30.09.2024 (Annexure- A 4) passed by the Revisional Authority are liable to be quashed and the claim petition is liable to be allowed.

### **ORDER**

The claim petition is allowed and the impugned order dated 20.04.2022( Annexure-A2) passed by Disciplinary Authority, order dated 25.07.2023 ( Annexure- A 3) passed by the Appellate Authority and the order dated 30.09.2024 (Annexure- A 4) passed by the Revisional Authority are quashed. The respondents are directed to give all the consequential benefits to the petitioner within three months of presentation of the certified copy of the judgement. However, the respondents are given liberty to reinstitute disciplinary proceedings against the petitioner as per law. No order as to cost.

**(RAJENDRA SINGH)**  
ACTING CHAIRMAN

**(ARUN SINGH RAWAT)**  
VICE CHAIRMAN (A)

*DATE:OCTOBER 09, 2026.*  
*DEHRADUN*

*VM*