

**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.44/DB/2026

Sri Fateh Singh Bhandari, s/o late Sri Bagh Singh Bhandari aged about 61 years, r/o Gali No.-09, near Vashno Mandir, Navoday Nagar, Roshanabad, Haridwar, Uttarakhand.

.....**Petitioner**

vs.

1. State of Uttarakhand through Secretary, Home, Civil Secretariat, Subhash Road, Dehradun.
2. Director General of Police Uttarakhand, Police Headquarter 12, Subhash Road, Dehradun.
3. Inspector General of Police, Garhwal Range, Nardev Shastri Marg, Dehradun..
4. Superintendent of Police, Uttarkashi, Near District Collectorate, District-Uttarkashi.

.....**Respondents**

Present: Sri Piyush Tiwari, Advocate, for the petitioner.(online)
Sri V.P.Devrani, A.P.O., for the Respondents.

JUDGMENT

DATED: OCTOBER 08, 2026

Sri Arun Singh Rawat, Vice Chairman (A)

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

“a) Issue a writ or order in the nature of Certiorari quashing the following orders: -

- i) 03 Show Cause Notices dated 03.08.2019 issued by respondent no 4 being Annexure-4.colly;
 - ii) 03 dismissal Orders dated 27.08.2019 passed by respondent no3 being Annexure-6.Colly;A
 - iii) Appellate order dated 25.09.2019 passed by respondent no 3 being Annexure-9;
 - iv) Respondent no 4 order dated 26.09.2019 passed by S.P.Uttarkashi communicating decision on appeal being Annexure No.10.
 - v) Revision order dated 17.12.2020 passed by Respondent no 2 being Annexure-16.
- b) Issue a writ order or direction in the nature of Mandamus directing the respondents to pay all consequential benefits and revised pay, pension and pensionary benefits accordingly.
- c) Issue any other or further writ, order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.
- d) To award the cost of the petition in favour of the petitioner and against the respondents.”

2. Facts, in brief, of the present claim petition are as follows:

2.1 The petitioner was a retired Constable of Uttarakhand Police. He was lastly posted in District Uttarkashi and retired from service on 30.09.2019. During his service under the erstwhile Uttar Pradesh Police, while posted at Uttarkashi, three criminal cases were registered against him in connection with consuming liquor. The first incident took place on 12.03.1998, when he was allegedly found in a drunken condition on the road while wearing his police uniform. He was prosecuted under Section 60(III) of the U.P. Excise Act and was punished with a fine of Rs.500/-. The second incident occurred on 08.08.1998, when he was again allegedly found in a drunken condition while in uniform, with trembling legs. He was punished with a fine of Rs.500/- under Section 60(III) of the U.P. Excise Act and Rs.30/- under Section 34 of the Police Act. The third incident occurred on 20.09.2001, while posted on guard duty at Lanka, Police Station Maneri, he was alleged to have consumed liquor. In that case, he was convicted under

Section 29 of the Police Act and initially sentenced to 15 days' rigorous imprisonment and a fine of Rs.4,000/-.

2.2 All three criminal cases were tried by the Judicial Magistrate, Uttarkashi. The petitioner challenged the convictions by filing appeals before the Sessions Judge and, thereafter, criminal revisions before the Hon'ble High Court. His criminal revision in the first case was dismissed on 29.05.2013. In the third case, the High Court, on the same date, reduced the sentence from 15 days' rigorous imprisonment to seven days, which the petitioner had already undergone, along with the fine of Rs.4,000/-. The criminal revision relating to the second case was dismissed by the High Court on 08.07.2013. Thus, according to the petitioner, all three criminal matters had attained finality in 2013 and the fines had also been deposited.

2.3 Despite the criminal cases having been finally decided years earlier, shortly before the petitioner's retirement, three show-cause notices dated 03.08.2019 and 07.08.2019 were issued proposing major disciplinary action against him. The petitioner contended that the disciplinary action was initiated after an unexplained delay of about 18 to 21 years from the respective incidents. He, therefore, requested the disciplinary authority to consider his objection regarding the delay before proceeding further.

2.4 Thereafter, three separate dismissal orders were passed against the petitioner on 27.08.2019. The petitioner challenged these orders before the appellate authority. Since he was due to retire on 30.09.2019 and his appeal was not being decided, he approached the Hon'ble High Court by filing Writ Petition (S/S) No. 2128 of 2019 seeking a direction for disposal of his appeal before his date of retirement. Pursuant to the High Court's direction dated 12.09.2019, the appellate authority considered the appeal and, by order dated 25.09.2019, substituted the punishment of dismissal with the lesser punishment of reduction of pay to the lower scale of Constable. While reducing the punishment, the appellate authority took into consideration several factors. It noted that the criminal judgments had

been received by the police authorities only in April 2019, but the show-cause notices were issued several months later. It also observed that the offences were personal in nature, no damage had been caused to any member of the public, and there was no public witness. No similar incident had been reported against the petitioner after 2001. The authority further observed that disciplinary action had not been initiated when the criminal charges were originally proved, although it ought to have been considered at that stage. The offences were considered petty in nature and had occurred before 2001. The appellate authority also noted that the petitioner had joined the police force in 1978 and had completed more than 40 years of service, which had not been properly considered while imposing the original punishment. For these reasons, the punishment of dismissal was considered harsh and excessive.

2.5 Pursuant to the appellate order, the Superintendent of Police, Uttarkashi, passed an order dated 26.09.2019 reducing the petitioner's pay from the level in which he was drawing salary to the minimum pay scale of a Constable, i.e. Rs.21,700/- in Level 3 with Grade Pay of Rs.2,000/-. The petitioner contended that immediately before the order he was drawing Rs.53,600/- in Level 8, Grade Pay of Rs.4,800/-, and that the authority had straightaway reduced his pay to the minimum Constable scale without properly specifying the manner and stage of reduction. According to him, the punishment was therefore extremely harsh.

2.6 The petitioner thereafter filed a review/revision petition dated 25.12.2019 under the Uttar Pradesh/Uttarakhand Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991. The departmental authorities, however, informed him that under the Uttarakhand Police Act, 2007 and the Government clarification dated 25.04.2015, only an appeal was available and no further departmental action could be taken on his revision/review petition. The petitioner disputed this position and contended that the 1991 Rules continued to apply because they had not been superseded and were not

inconsistent with the Uttarakhand Police Act, particularly in view of Section 86(2) of that Act. He also relied upon Section 74(1) of the Uttar Pradesh Reorganization Act, 2000 and contended that his service conditions could not be varied to his disadvantage without the required approval of the Central Government.

2.7 As no action was taken on his revision/representation, the petitioner filed Writ Petition (S/S) No. 662 of 2020 before the Hon'ble High Court. By order dated 07.10.2020, the Hon'ble High Court directed the Director General of Police to decide the petitioner's revision/representation by passing a speaking and reasoned order in accordance with law, preferably within two months. Pursuant to that order, the respondent authority rejected the petitioner's review petition on 17.12.2020. The petitioner has challenged this decision on the ground that the authority merely reproduced the grounds raised by him but did not give reasons for rejecting those grounds. According to the petitioner, the impugned order was therefore neither a proper speaking order nor a reasoned order charge memo in initiating the disciplinary proceedings is a ground for quashing charge memo unless the respondent satisfactorily with regard to the delay.

2.8 On the other hand SLP (Criminal) 32615/2019 challenging the order dated 29.05.2013, 29.05.2013 & 08.07.2013 passed in Criminal Revision No. 111/2007, 80/2007 and 109/2007 respectively against these three cases of consumption of liquor also came up for hearing on 04.10.2019. Considering the fact that respondent no. 4 has issued the Show cause notice dated 03.08.2019 proposing major Punishment after six years of judgment delay in filing SLP has been condoned. The counsel for the petitioner informed the Hon'ble Apex Court that subsequent to the filing of the special leave petitions, the appeal preferred before the Inspector General of Police has been allowed and the petitioner was reinstated. Since then, he has also retired on 30th September, 2019. As the purpose for which the criminal revision was challenge became no longer exist therefore Hon'ble Supreme Court disposed the SLP. It was also held that if the petitioner

has any further grievance, it is for him to pursue it in such remedies as may be available in law. It may not be construed as expression of any opinion by the court.

2.9 In para 10 (10) respondent no 2 safeguard the wrong committed by respondent no 4 on the ground that since the copy of criminal revision was received on April 2019 thereafter necessary action was taken. If department has initiated action at a belated stage it does not means that petitioner can be exonerated from charge. In this regard it is most humbly submitted that Hon'ble Supreme Court repeatedly held that the inordinate delay in initiating of the disciplinary proceedings is a ground for quashing the charge memo unless the respondent satisfactorily explains the delay. When no explanation is forthcoming with regard to the delay, necessarily the unexplained delay would cause serious prejudice to the employee. Thereafter, the charge memo will have to be quashed as held by the Supreme Court in State of Andhra Pradesh Vs N. Radhakishan, 1998 (4) SCC 154; P.V. Mahadevan Vs Managing Director, Tamil Nadu Housing Board, 2005 (4) CTC 403 and Ranjeet Singh Vs State of Haryana & others, 2008 (3) CTC 781. In the instant case there are no special circumstances to explain the inordinate delay and delay arose only on the part of disciplinary authority and therefore, the charge memo is vitiated.

2.10 In para 10(11) respondent no 2 (Reviewing authority) had also tried to justified the wrong committed by respondent no 4(disciplinary authority) by stating that since petitioner was reinstated in service by the respondent no 3 (appellate authority) therefore 03 dismissal order passed by respondent no 4 makes no sense. Respondent no 2 fails to appreciate that even if there is defect in the order of disciplinary authority that cannot be cured by the appellate authority. In T.P. Senkumar, versus Union of India and others reported in 2017(6) SCC 801 in para 85 reads as under:-

"85. The law has been well settled for many years now that when an order is passed in exercise of a statutory power on certain grounds, its validity must be judged by the reasons

mentioned in the order. Those reasons cannot be supplemented by other reasons through an affidavit or otherwise. Were this is not so, an order otherwise bad in law at the very outset may get validated through additional grounds later brought out in the form of an affidavit"

2.11 Justice MEGARRY ruled in *Leary versus National Union of Vehicle Builders*, reported in (1970) 2 All ER 713 held as under: - "If one accepts the contention that a defect of natural justice in the trial body can be cured by the presence of natural justice in the appellate body this has the result of depriving the member of his right of appeal from the expelling body. If the rules and the law combine to give the member the right to a fair trial and the right of appeal, why should he be told that he ought to be satisfied with an unjust trial and a fair appeal? Even if the appeal is treated as a hearing de novo, the member is being stripped of his right to appeal to another body from the effective decision to expel him.

2.12 Similar view was expressed by the Supreme Court in the case titled as *Babu Lal versus State of Haryana and others* reported in (1991) 2 SCC 335. If the original order was a nullity, an order passed by the higher authority in revision could be of no greater value or effectiveness. Even though the latter order complied with natural justice, in such a case, the original order did not get merged with the order passed in revision.

2.13 Hon'ble Supreme Court in the case of *Mohd. Yunus Khan versus State of Uttar Pradesh and others* reported in (2010) 10 SCC 539 in para 27 held as under:-

"27. The existence of an element of bias renders the entire disciplinary proceedings void. Such a defect cannot be cured at the appellate stage even if the fairness of the appellate authority is beyond dispute. (Vide *S. Parthasarathi v. State of A.P.* and *Tilak Chand Magatram Obhan v. Kamala Prasad Shukla.*)"

2.14 If the foundation of a structure is removed the superstructure cannot stand and must collapse. Therefore, if the order of the lower authority could not be saved and sustained, the order of the higher authority made in appeal must also fall along with it. Supreme Court in the case of Mysore State Road Transport Corporation versus Mirja Khasim Ali Beg and another reported in AIR1977 SCC 747 disposing the second contention held the principle that an order passed on appeal could not cure the initial defect. Respondent No. 2 while concluding in para 11 and rejecting the revision petition held that if a trial court had held an accused guilty and he had preferred an appeal and if there is a stay in the trial court order than also, he remain guilty, despite the fact that he is released in bail, he can be removed from service. In this regard it is submitted that had the disciplinary action taken against the petitioner in the year 1998 and 2001 the problem will not arise. The charges which are levelled against the petitioner are petty in nature and warrant only minor or petty punishment. No body is stopping disciplinary authority to initiate disciplinary proceeding at that time. Even if disciplinary action was taken, on being found guilty by the trial court, petitioner has sufficient time and evidence to defend the case. Respondents had not taken action after disposal of appeal. Respondent had taken action after 06 years of disposal of review petition by High Court. The order in 03 review petitions was passed on 29.05.2013 and 08.07.2013 and disciplinary action was initiated on 03.08.2019 when 03 show cause notices were issued. Thus, the action is barred by the rule of laches and delay, in that not only action in the present case was taken after 06 years but it is taken after 18 and 21 years respectively from the date of occurrence of incident and was taken only when only 02 months of petitioner's superannuation was left.

2.15 Respondent no 2 in para 11(4) & (5) had also held that that on being found guilty by the court, it is the disciplinary authority, who had to decide that which punishment is required to be imposed upon petitioner and for this disciplinary authority has to consider the past record of the petitioner, gravity of offence, effect of department on such

act, but respondent fails to appreciate the fact that in the instant case disciplinary authority has not considered the fact that after 2001 no case of drunken has been reported against the petitioner. Petitioner had shown immense improvement in last 19 years. As far as gravity of offence is concerned, the cases relates to consumption of liquor and not affected public in general. Moreover, considering the nature of offence only minor or petty punishment will serve the purpose and that will commensurate with the gravity of offence. Moreover this act will have no effect on department as petitioner has proceeded on superannuation in 2019. Respondent no 2 also fails to appreciate the fact that petitioner has a long length of 41 years of service. Further as stated in para 11(5) this cannot be led to dissatisfaction among employees but if petitioner was punished for an act after 18 & 21 years, this will put a question mark on the credibility of disciplinary, appellate and reviewing authority.

2.16 Effect of this punishment is that petitioner received less amount of gratuity and Cash equivalent to leave Salary for unused Earned Leave, since the same is calculated on last salary. Petitioner is in receipt of gratuity amount of Rs. 4,01,016/-(Rupees four lakh one thousand sixteen only) whereas it should be more than Rs. 10,00,000/- (Rupees ten Lakh). Respondent had also paid Cash equivalent to leave salary amount to Rs. 2,53,890/- by reckoning it on the last basic pay of Rs.21700/- whereas had it been paid on the basic pay of Rs.53600/-petitioner then received a sum of Rs. 6,27,120/-. Thus altogether petitioner is in loss of around nine to ten lakh rupees at the fag end of his service.

2.17 Hon'ble Supreme Court of India has also pronounced various judgments, on action of disciplinary authority and appellate authority on imposition of penalty when there is conviction to a Government servant and on the ground when there is an inordinate delay in imposition of penalty. These precedents were categorically mentioned during the appeal as well as revision petition. In Pawan Kumar Vs State of Haryana, 1995 AIR SCW 2529 Hon'ble Supreme

Court held that provisions should be made that punishment or fine upto Rs.2,000/- or so on a summary/ordinary conviction shall not be treated as conviction at all for any purpose and all the more for entry and retention in Government service.

2.18 Disciplinary authority in last para of all the three final orders had mentioned that after meticulously going through the case he is of the opinion that due to the above reasons it is not reasonably practical to conduct the Departmental Enquiry/Disciplinary proceeding. No reasons for the same were given in the preceding paragraph which amount to non-application of mind. All the three orders were issued with the same language and done in the most mechanical manner. In *Satyavir Singh Vs UOI* (1985) 4 SCC 252 it was held that it is not possible to enumerate the cases in which it would not be reasonably practicable to hold the inquiry. Illustrative cases would be:

- a. Where a civil servant, particularly through or together with his associates so terrorizes, threatens or intimidates witness who are going to give evidence against him with fear of reprisal as to prevent them from doing so, or
- b. Where the civil servant by himself or together or through others threatens, intimidates and terrorizes the officer who is the disciplinary authority or members of his family so that he is afraid to hold the inquiry or direct it to be held, or
- c. Where an atmosphere of violence or general indiscipline or insubordination prevails, it being immaterial whether the concerned civil servant is or is not a party to bringing about such situation. In all these cases, it must be remembered that numbers, coerce and terrify while an individual may not.
- d. The disciplinary authority is not expected to dispense with a disciplinary inquiry lightly or out of ulterior motives or merely in order to avoid the holding of an inquiry because the Department's case against the civil servant is weak and must fail.

2.19 In the State of M.P. vs. Bani Singh, 1990 Supp (1) SCC 738, where the irregularities, subject matter of the enquiry, had taken place in the years 1975-1977. They were within the knowledge of the Government even in April, 1977. The charge-sheet was issued on 22.04.1987. The Supreme Court held that the delay of twelve years was fatal to the proceeding. The Court observed that "There is no satisfactory explanation for the inordinate delay in issuing the charge memo and we are also of the view that it will be unfair to permit the department enquiry to be proceeded with at this stage. In any case there are no ground to interfere with the Tribunal's orders and accordingly we dismiss the appeal".

2.20 In *State of A.P. v. N. Radhakrishan (1998) 4 SC 154* it was held that delay causes prejudice to the charged officer unless it can be shown that he is to blame for the delay or when there is proper explanation for the delay in conducting disciplinary proceedings.

2.21 In *Civil Appeal No 958 of 2010 filed by Prem Nath Bali Vs Registrar, High Court of Delhi & Another*, Hon'ble Apex court has viewed the delay in handling of disciplinary cases adversely. The Hon'ble Supreme Court while allowing the said appeal in favour of the appellant employee has observed that "Keeping these factors in mind, we are of the considered opinion that every employer (whether state or private) must make sincere endeavor to conclude the departmental enquiry proceedings once initiated against the delinquent employee within a reasonable time by giving priority to such proceedings and as far as possible it should be concluded within six months as an outer limit. Where it is not possible for the employer to conclude due to certain unavoidable cause arising in the proceedings within the time frame then efforts should be made to conclude within reasonably extended period depending upon the cause and nature of inquiry but not more than a year".

2.22 In *P.V. Mahadevan vs. M.D. Tamil Nadu Housing Board of Civil Appeal No. 4901 of 2005* which was decided by Hon'ble Apex Court on 08.08.2005, the appellant, a Superintending Engineer, was

issued a charge memo on 08.06.2000 relating to an irregularity in issuing a sale deed in 1990. The appellant had retired from service. The respondent did not come up with an acceptable explanation regarding the inordinate delay in initiating the disciplinary proceedings. The Court quashed the charge memo because of the delay in initiating proceeding, holding it to be very prejudicial to the appellant.

2.23 In *Civil Appeal No 3550 of 2012 arising out of SLP (C) No 27600 of 2011 Vijay Singh Vs State of U.P and others*, it was held that It is a settled proposition of law that punishment not prescribed under the rules, as a result of disciplinary proceedings cannot be awarded.

2.24 In *Bachhittar Singh v. State of Punjab & Anr.*, AIR 1963 SC 395; *Union of India v. H.C. Goel*, AIR 1964 SC 364; *Mohd. Yunus Khan v. State of U.P. & Ors.*, (2010) 10 SCC 539; and *Chairman-cum-Managing Director, Coal India Ltd. & Ors. v. Ananta Saha & Ors.*, (2011) 5 SCC 142). Imposing the punishment for a proved delinquency is regulated and controlled by the statutory rules. Therefore, while performing the quasi-judicial functions, the authority is not permitted to ignore the statutory rules under which punishment is to be imposed. The disciplinary authority is bound to give strict adherence to the said rules. Thus, the order of punishment being outside the purview of the statutory rules is a nullity and cannot be enforced against the appellant.

3. Claim petition has been contested on behalf of respondents. C.A. has been filed by Sri Mankant Mishra, Superintendent of Police, Uttarkashi, on behalf of Respondents No. 2 to 4. Relevant documents have been filed in support of the C.A.

3.1 The respondents state that Case No. 54/01 under Section 29 of the Police Act was registered against the petitioner on 20.09.2001 for creating disturbance during duty hours after being drunk. He was convicted by the Judicial Magistrate, Uttarkashi on 09.05.2005 and sentenced to a fine of ₹4,000/- and 15 days' rigorous imprisonment. His appeal was dismissed on 23.04.2007 and he was sent to jail. Consequently, he was suspended on 24.04.2007 and an

inquiry was initiated. The inquiry also revealed that he had earlier been convicted and fined ₹500/- each in Criminal Case Nos. 17/98, 57/98 and 31/98 for misconduct under the Excise Act.

3.2 The respondents further state that the petitioner challenged the convictions before the High Court, but the revisions were dismissed on 29.05.2013 and the convictions were upheld. According to the respondents, despite having knowledge of the judgment, the petitioner did not inform the police authorities, and the orders were received by them only on 02.04.2019. Thereafter, the Superintendent of Police issued notices to the petitioner on 03.08.2019 under Rule 8(2)(A) of the Uttar Pradesh Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991. The petitioner submitted his explanation on 24.08.2019, but after considering his explanation and the record, the Superintendent of Police terminated his services on the ground of misconduct and dereliction of duty.

3.3 The petitioner challenged the termination before the Hon'ble High Court. On 12.09.2019, the Hon'ble High Court directed the Inspector General of Police, Garhwal Region, to decide his statutory appeal. The appeal was decided on 25.09.2019, whereby the punishment of termination was reduced to placement in the lowest pay scale, and accordingly the petitioner was placed in the pay scale of ₹21,700/- on 26.09.2019.

3.4 The petitioner superannuated on 30.09.2019. Thereafter, he challenged the punishment order dated 27.08.2019 and the appellate order dated 25.09.2019 by filing a revision before the Inspector General of Police, Garhwal Region. However, the revision was not entertained because, according to the respondents, there was no provision for filing such a revision under the Uttarakhand Police Act, 2007, and the petitioner was informed of this position on 10.02.2020. The petitioner then filed a revision before the Director General of Police, Uttarakhand, Dehradun. The D.G.P. rejected the revision by order dated 17.12.2020. The counter affidavit states that this revision

was decided in compliance with the High Court's judgment dated 07.10.2020 in Writ Petition No. 662 (S/S) of 2020, Fateh Singh Bhandari v. State of Uttarakhand.

4. Rejoinder Affidavit has been filed on behalf of the petitioner, reiterating the averments mentioned in the 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 of the petitioner argued that three cases were filed against the petitioner under Excise Act on 12.03.1998, 08.08.1998, and under Police Act on 20.9.2001. A fine of Rs 500/- was imposed in the case dated 12.03.1998, Rs 30/- in the case dated 08.08.1998 and fine of Rs 4000/- and imprisonment of 15 days was imposed in the case dated 20.9.2001 by the Judicial Magistrate Uttarkashi. His appeal against the order of the Judicial Magistrate was rejected by the Session Judge Uttarkashi. He filed a criminal appeal against the judgment of the Session Judge, Uttarkashi in the Hon'ble High Court of Uttarakhand in the above cases. The Hon'ble High Court upheld the judgement of the lower court and rejected the appeal in these cases but modified the sentence of the imprisonment to 07 days in place of 15 days and the amount of the fine was kept intact in the offence dated 20.9.2001, vide the orders dated 29.5.2013, 29.5.2013 and 08.07.2013.

6.1 Learned counsel further submitted that petitioner was given show cause notices by the Disciplinary Authority based on the conviction in above offences dated 12.03.1998, 08.08.1998 and 20.9.2001. The petitioner objected against the delay in serving the show cause notices at the fag end of his service career. The disciplinary authority issued three dismissal orders against him without conducting an inquiry. Petitioner appealed against these orders of the disciplinary authority and the Appellate Authority modified the punishment order of dismissal by reduction to the lowest scale of the

Constable, level- 3 (as per of 7th CPC). The order was communicated by the S.P. Uttarkashi vide order dated 26.9.2019 along with the appellate order dated 25.9.2019. His review application against the order of the Appellate Authority was also rejected.

6.2 Learned counsel further argued that the reasons cited by the petitioner in the claim petition for quashing the order of the Disciplinary Authority, Appellate Authority and the Reviewing Authority are that the disciplinary action against him has been initiated after a lapse of 18 to 21 years, the penalty has been awarded without conducting Inquiry. The respondents have violated the Article 311(3) of Constitution of India. The decision of the respondents is not in accordance with the decisions rendered by Hon'ble Supreme Court and Hon'ble High Courts.

Petitioner has relied upon the observations of Hon'ble Apex Court in the following cases:

- i. Hon'ble Apex Court in the matter of *Deputy Director of Collegiate Education vs. Nagoor Meera*, (1995) 3 SCC 377, has observed that, if a conviction is recorded by a court of law against a public servant, the disciplinary authority can proceed departmentally against the said employee immediately. It is not necessary to wait for the result of any appeal filed by the employee.
- ii. Hon'ble Court in the matter of *State of M.P vs Bani Singh* 1990 Supp (1) SCC 738 where the irregularities, subject matter of the enquiry, had taken place in the years 1975-1977, observed that they were within the knowledge of the Government even in April, 1977. The charge-sheet was issued on 22.04.1987. Hon'ble Court held that the delay of twelve years was fatal to the proceeding and held that "There is no satisfactory explanation for the inordinate delay in issuing the charge memo and we are also of the view that it will be unfair to permit the departmental enquiry to be proceeded with at this stage.

- iii. In *State of A.P. v. N. Radhakrishan* (1998) 4 SC 154, Hon'ble Apex Court held that delay causes prejudice to the charged officer unless the delay is attributable to the delinquent employee or there is a proper explanation for the delay.
- iv. That in *Pawan Kumar vs State of Haryana*, 1995 AIR SCW 2529 Hon'ble Supreme Court held that provisions should be made that punishment or fine upto Rs.2,000/- or so on a summary/ordinary conviction shall not be treated as conviction at all for any purpose and all the more for entry and retention in Government service.
- v. In Civil Appeal No 3550 of 2012 arising out of SLP (C) No 27600 of 2011 Vijay Singh Vs State of U.P and others it was held that "It is a settled proposition of law that punishment not prescribed under the rules, as a result of disciplinary proceedings cannot be awarded.

7. Learned APO argued that the petitioner was convicted for three offences by the Judicial Magistrate Uttarkashi. The appeals of the petitioner against the judgements of the Judicial Magistrate were dismissed by the Session judge. The criminal appeals of the petitioner in the Hon'ble High Court of Uttarakhand at Nainital were also dismissed except in one offence dated 20.9.2001 that the sentence of imprisonment was reduced from 15 days to 07 days. The Disciplinary Authority, S.P. Uttarkashi dismissed the petitioner from service vide orders dated 27.8.2019 based on the conviction orders of the judicial Magistrate Uttarkashi as per Rule 8(2) (ka) of the Uttar Pradesh Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules 1991, after issuing three show cause notices and receiving reply of the petitioner there on.

7.1 The Learned APO further argued that the dismissal order of the petitioner was modified by the Appellate Authority with reduction to lowest of scale of the Constable. The order was conveyed by the S.P. Uttarkashi and placed the petitioner in the lowest of the scale of the Constable Pay Rs 21700/- pm (grade pay -

2000 and level 3-). The order of the Appellate Authority was upheld by the Director General of Police in the revision order. There is no delay from the side of the respondents in passing the punishment order against the petitioner as the appeals against judgement of the Session Judge, Uttarkashi were decided by the Hon'ble High Court of Uttarakhand, on 29.05.2013, 29.05.2013 and 08.07.2013 but these orders were concealed by the petitioner and finally the order was received from the Advocate General of Uttarakhand and the petitioner was dismissed from the service after receiving reply of the show cause notices based on the conviction orders passed against the petitioner. Moreover, the petitioner filed a Special Leave Petition in the Hon'ble Apex Court against the judgement of the Hon'ble High Court of Uttarakhand. This has been mentioned by the petitioner in his claim petition, and which has been decided by the Hon'ble Apex Court on 4.10.2019 by turning down the SLP No 32615/2019. The conviction order of the Judicial Magistrate has got finality after the order of the Hon'ble Apex Court. The penalty has been awarded to the petitioner based on the conviction order against the petitioner, which has achieved finality. Hence, the 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 there are three conviction orders passed against the petitioner by the Judicial Magistrate of Uttarkashi in three offences, which were upheld by the Session Judge Uttarkashi and the Hon'ble High Court of Uttarakhand at Nainital. The orders of the Hon'ble High Court were passed on 29.05.2013, 29.5.2013 & 08.07.2013. These judgements were received on 02.04.2019 in the office of S.P. Uttarkashi from Advocate General Office. On receiving the copy of the judgement of the Hon'ble High Court, the petitioner was given a show cause notice. The petitioner has been dismissed from the service based on Rule 8(2) (ka) of the Uttar Pradesh Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991. The Appellate Authority modified the punishment order and awarded the penalty of reduction to the lowest scale of pay of the Constable. The penalty awarded by the appellate

authority to reduce the petitioner to the lowest of the pay scale is in the category of the major punishment mentioned in the Uttar Pradesh Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991. Petitioner has relied on some of the judgements of the Hon'ble Courts to support his arguments that there was delay in conducting the proceedings against him and on this basis the punishment orders are liable to be quashed. The explanation given by the respondent regarding the delay in initiating the disciplinary proceedings is not based on sound footings as the delay in receiving the order of the Hon'ble High Court on the appeals filed by the petitioner is an issue between the Police department and the Government pleader in the Hon'ble High Court at Nainital. The respondent department would have taken action against petitioner immediately after he was convicted by the Judicial Magistrate Uttarkashi, but they waited for long time and even after the judgements of the Hon'ble High Court in 2013, they waited for long time to take action in the matter. So, there is considerable delay in initiating disciplinary proceedings against the petitioner based on the conviction of the petitioner. In view of the facts of the case, arguments of the parties and the decisions of the Hon'ble Courts as cited above [i) **Hon'ble Apex Court in the matter of *Deputy Director of Collegiate Education vs. Nagoor Meera, (1995) 3 SCC 377*, ii) *State of A.P. v. N. Radhakrishnan (1998) 4 SC 154*, Hon'ble Apex Court], the impugned three show cause notices dated 03.08.2019, issued by respondent no. 4 (Annexure No. 4, colly), three dismissal orders dated 27.08.2019, passed by respondent no. 4 (Annexure No. 6, colly), appellate order dated 25.09.2019, passed by respondent no. 3, order dated 26.09.2019, passed by S.P., Uttarkashi communicating the decision on appeal (Annexure No. 10) and revision order dated 17.12.2020, passed by respondent no. 2 (Annexure No. 16) are liable to be quashed and the claim petition is liable to be allowed.**

ORDER

The claim petition is allowed. The impugned dismissal orders dated 27.08.2019, passed by respondent no. 3 (Annexure No. 6, colly); impugned appellate order dated 25.09.2019, passed by respondent no. 3 (Annexure No. 9); revision order dated 17.12.2020, passed by respondent no. 2 (Annexure No. 16) are quashed. The respondents are directed to pay all consequential benefits to the petitioner accordingly within three months of presentation of certified copy of the judgement. No order as to cost.

(RAJENDRA SINGH)
ACTING CHAIRMAN

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

DATE: OCTOBER 08, 2026.
DEHRADUN

VM