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. 09/NB/DB/2024

Munish Kumar Gupta, aged about 57 years, S/o Rampal Gupta, R/o Sampoornand Central Jail, Sitarganj, District Udham Singh Nagar.

…….Petitioner

vs.

1. State of Uttarakhand through Secretary, Department of Home, Govt. of Uttarakhand.

2. Inspector General of Police, (Prison) Uttarakhand Police Headquarter Dehradun.

3. Superintendent of Police, Sampooranand Central Jail, Sitarganj, District Udham Singh Nagar.

……..Respondents

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

JUDGMENT

DATED: OCTOBER 13, 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 call the record and quash the Punishment Order dated 29th September 2018 passed by the Inspector General of Police (Prison) holding the Petitioner guilty of the charges leveled against him. (Annexure No.1 to this Claim Petition).*

b) To call the record and quash the Office Memorandum dated 31st July 2014, passed by the Addl. Secretary, whereby the Departmental Appeal preferred by the Petitioner which was partly allowed and the Petitioner was awarded major penalty with stoppage of five annual increment with cumulative effect. (Annexure No. 2 to this Claim Petition).

c) To call the record and quash the communication dated 05th February 2024, passed by the Deputy Secretary, Department of Home, Govt. of Uttarakhand, whereby the Revision/Review Application preferred by the Petitioner was rejected by the Deputy Secretary, Department of Home, Govt. of Uttarakhand. (Annexure No. to this Claim Petition).

d) The costs of the petition may be awarded in favour of the Petitioner and against the respondent."

2. Brief facts of the case are as under:

2.1 The petitioner was initially appointed as a Teacher in the Department of Home (Prison) in the erstwhile State of Uttar Pradesh on 05.10.1994. After creation of the State of Uttarakhand, his services were transferred to the State of Uttarakhand vide order dated 08.09.2004, and he was posted at Sampoornand Central Prison, Sitarganj, District Udham Singh Nagar.

2.2 While the petitioner was attached to Sub Jail Roorkee, District Haridwar, an undated complaint in the name of Smt. Vidya Devi, a retired female Jail Warden, was received by the Inspector General of Police (Prison), alleging that the petitioner was indulging in corruption, bribery, and extortion of 3% commission for releasing GPF dues and retiral benefits of prison staff. In the complaint name of various persons are given from whom the Petitioner is alleged to have extorted the money and one of the names mentioned was that of Sri Sunny Kumar. On the basis of this complaint, the appointing authority issued a suspension order dated 22.12.2017, simultaneously nominating the Superintendent of District Jail, Dehradun, as an Inquiry Officer.

2.3 On 13.03.2018, the Inspector General of Jail (Prison), Uttarakhand, Dehradun issued a copy of the Charge-sheet which was also forwarded on 13.03.2018. The Charge-sheet dated 13.03.2018 contained only one charge against the petitioner. The petitioner was required to submit his reply to the charge leveled against him within 15 days of the receipt of the copy of the charge-sheet.

2.4 The petitioner submitted his written reply on 01.04.2018, denying all allegations. along with his reply, he produced affidavits of Smt. Vidya Devi, Smt. Shashibala, Smt. Premawati, and Sri Rohit Kumar, wherein all these individuals clearly stated that they had never submitted any complaint, nor had the petitioner ever demanded or accepted any bribe from them.

2.5 The Inquiry Officer recorded the statement of the petitioner on 18.04.2018. Subsequently, on 21.04.2018, the Inquiry Officer recorded the statements of Smt. Vidya Devi, Smt. Shashibala, Smt. Premawati, Sri Rohit Kumar, as well as Sri Yashpal Singh Negi, Sri Gamal Singh, and Sri Sunny Kumar. In her deposition, Smt. Vidya Devi categorically stated on oath that the signature on the complaint was not hers, that she had never made any complaint against the petitioner, and that he had never demanded money.

2.6 The Inquiry Officer, in his report dated 30.04.2018, rejected the witnesses and affidavits of Smt. Vidya Devi, Smt. Premawati, Smt. Shashibala, and Sri Rohit Kumar on the ground that the petitioner had obtained these affidavits to cover up his wrongs. Instead, relying on the oral statements of Sri Yashpal Singh, Sri Gamal Singh, and Sri Sunny Kumar (whose names, except Sunny Kumar, were never listed as witnesses in the charge-sheet), the Inquiry Officer held the charge proved.

2.7 After receipt of the Inquiry Report dated 30.04.2018, the Disciplinary Authority/ Inspector General of Police (Prison) issued a show cause notice dated 11.05.2018 along with inquiry report to the

petitioner asking him as to why major penalty be not imposed on the petitioner.

2.8 The petitioner submitted his reply to the Disciplinary Authority on 28.05.2018 and through the Superintendent, Sub Jail. Roorkee. He pointed out that the entire disciplinary proceedings initiated against the complainant is in violation of the Govt. Order dated 01.08.1997, which specifically mentions that the complaint should be verified by the complainant and only after obtaining the evidence from the complainant, action should be taken on the complaint.

2.9 In his reply dated 28.05.2018, the petitioner pointed out that Smt. Vidya Devi, Smt. Shashibala, Smt. Premawati have denied the allegations made in the alleged complaint. The Inquiry Officer has wrongly relied on the statements of Sri Gamala Singh and Sri Yashpal Singh, who have made the allegations against the petitioner without there being any evidence. Petitioner pointed out that Sri Gamal Singh had grudge against him.

2.10 In his reply dated 28.05.2018, the petitioner also pointed out that during the course of inquiry, the Inquiry Officer also recorded statements of Sri Mahendra Kumar Singh, Sri Mahendra Pal and Sri Ram Gopal Singh who have deposed in favour of the petitioner, but without any reason the statements of the said witnesses have not been made part of the Inquiry Report. It was further stated that the statements of said witnesses were also not provided with the Inquiry Report.

2.11 By the impugned order dated 29.09.2018, the Disciplinary Authority/Appointing Authority passed the Punishment Order, whereby the petitioner was dismissed from services as per the provision under Rule 3(b)(four) of the Uttarakhand Govt. Servant (Discipline and Appeal) Rules, 2003 as amended from time to time. The impugned order dated 29.09.2018 mentioned that the defence

taken by the petitioner is not acceptable and therefore, the same is rejected.

2.12 The petitioner preferred the Departmental Appeal before the Principal Secretary (Home/ Prison), Uttarakhand, Dehradun against the Punishment Order dated 29.09.2018.

2.13 The Departmental Appeal was partly allowed vide Office Memorandum dated 31.07.2019. The Appellate Authority modified major punishment of dismissal from service and converted the same into major penalty of stoppage of 5 annual increments with cumulative effect and the petitioner was directed to be reinstated in the service. The Appellate Authority concluded that as per Rule 8 of the Discipline and Appeal Rules, the Inquiry Officer cannot recommend for imposition of penalty and therefore, the same is not justifiable.

2.14 The petitioner was reinstated in service on the post of Teacher vide communication dated 03.08.2019 and was subsequently transferred to Sampurnanand Central Jail, Sitarganj. The petitioner gave his joining in the Sampurnanand Central Jail on 05.08.2019.

2.15 The petitioner also preferred Revision dated 09.10.2019 against the appellate order dated 31.07.2019. He again submitted a representation to the Principal Secretary (Home/Prison), Uttarakhand, Dehradun, wherein the petitioner once again reiterated the same facts which he had mentioned in the appeal. The petitioner submitted the representation to the Appellate Authority on 27.06.2022, 05.07.2022 and 03.01.2024, which were forwarded by the Superintendent of Prison, Sampurnanand Central Jail, Sitarganj to the Inspector General of Prison.

2.16 On 05.02.2024, the Deputy Secretary, Department of Home, Govt. of Uttarakhand issued a communication in respect of the representation of the petitioner mentioning that there is no reason to

review the order dated 31.07.2019 and rejected the request of the petitioner.

2.17. On 25.09.2019, the Inspector General of Police, Personnel issued a show cause notice to the petitioner requiring him to show cause within a period of 7 days in writing as to why the petitioner should not be denied the salary for the period when he remained in suspension. On 09.10.2020, the Additional Secretary, Department of Home, Uttarakhand issued a communication to the Inspector General of Prison, wherein it was stated that the petitioner shall be entitled for the salary and other allowances as per law for the period of his dismissal from service w.e.f. 29.09.2018 to the date of his reinstatement i.e. 31.07.2019. Against the show cause notice dated 05.09.2019, the Inspector General of Prison passed an order dated 17.07.2021, whereby the petitioner was sanctioned the remaining salary of the period of suspension i.e. from 22.12.2017 to 28.09.2018. By the order dated 17.07.2021, the period for which the petitioner was outside the service has been regularized by sanctioning the earned leave of 305 days on full salary.

2.18 The services of the petitioner have been outstanding since 2014-15 and his integrity has also been certified by the authorities. The service record of the petitioner shows that since the date of his induction in service, his ACR entries has been excellent or outstanding. The departmental proceedings annexed with the present Claim Petition shows that the departmental proceedings have been initiated against the petitioner by the Appointing Authority under the provisions of Uttarakhand Govt. Servant (Discipline and Appeal) Rules, 2003 as amended from time to time but the documents annexed show that the procedure under Rule 7 for imposition of major penalty has not been followed by the respondents.

2.19 The documents annexed with the claim petition clearly show that the charge-sheet was issued to the petitioner on 13.03.2018 by the Inquiry Officer and the Inquiry Officer has required the petitioner

to submit the reply to the charge-sheet to him, which is itself in violation of the provisions of Rule 7 of the Discipline and Appeal Rules, 2003 as amended in 2010. As per the procedure prescribed in Rule 7 of the Discipline and Appeal Rules, 2003, the Appointing Authority could not have appointed the Inquiry Officer before issuing the charge-sheet to the petitioner and inviting his reply to the allegations made in the charge-sheet and thus, the entire disciplinary proceedings initiated against the petitioner resulting in imposition of major penalty is not sustainable and liable to be quashed.

2.20 The charge-sheet only mentions about the alleged complaint made against the petitioner by Smt. Vidya Devi and the statements of Sri Sunny Kumar to be relied, but during the course of inquiry proceedings it has transpired that the statements of other witnesses whose names were not mentioned in the charge-sheet have also been called by the Inquiry Officer on 21.04.2018 and their statements have been recorded. The Inquiry Report prepared by the Inquiry Officer is also not sustainable for the reason that the Inquiry Officer has recorded the statements of the petitioner on 18.04.2018, whereas the statements of other witnesses have been recorded on 21.04.2018, which violates the procedure prescribed under Rule 7 of the imposition of major penalty.

2.21 There is no finding of the Inquiry Officer that the statements of the witnesses were recorded in presence of the petitioner and he had been given the opportunity to cross examine the witnesses and thus, it is apparent that the statements of the witnesses have been recorded behind the back of the petitioner.

2.22 Once the alleged complainant Smt. Vidya Devi has specifically denied of making any complaint and also specifically stating that the alleged complaint did not bear her signature, therefore, the Inquiry Officer had no material before him to believe contents of the complaint and to proceed with the inquiry proceedings, more so when the complainant Smt. Vidya Devi denied the suggestion of the

Inquiry Officer that she is making statement in favour of petitioner under any pressure or inducement.

2.23 The finding of the Inquiry Officer based on the statement of Sunny Kumar and Rohit Kumar is without any basis when in the Appeal and Revision it is the specific case of the petitioner that these persons had personal grudge against the petitioner.

2.24 From the pleadings raised by the petitioner in his reply to the show cause notice, in Memo of Appeal and Revision it is apparently evident that the petitioner has not been given proper opportunity to defend himself before the Inquiry Officer and thus, the principle of natural justice has been violated.

3. The respondents in their written statement have opposed the petition on the ground that the inquiry has been conducted as per rules and sufficient opportunity was provided to the petitioner to defend himself. There was sufficient evidence against the petitioner and has rightly been found guilty. The charge sheet, which was issued to the petitioner was approved by the disciplinary authority. Therefore, the petition is liable to be dismissed.

4. No R.A. has been filed on behalf of the petitioner.

5. We have heard both the parties and perused the record.

6. Though the petitioner has challenged the impugned orders on many grounds but at the time of hearing, learned counsel for the petitioner has confined his arguments only on the ground that the inquiry officer was appointed simultaneously while issuing the charge sheet to the petitioner and the charge sheet was signed by the inquiry officer and, therefore, whole proceedings of the inquiry are ab-*initio void*. The inquiry officer recommended the punishment in the inquiry report at the time of issuance of the of the charge sheet, which is contrary to the Rule 7 of the Uttarakhand Government Servant

(Discipline and Appeal) Rules, 2003 as well as various judgments of the Courts, which are being cited below. Rule- 7 of the said Rules of 2003 as amended Rules, 2010 is extracted hereunder: -

> "7. Procedure for imposing major punishment. Before imposing any major punishment on any government servant, an inquiry shall be conducted in the following manner:-
>
> (1) Whenever the Disciplinary Authority is of the opinion that there are grounds to inquire into the charge of misconduct or misbehaviour against the government servant, he may conduct an inquiry.
>
> (2) The facts constituting the misconduct on which it is proposed to take action shall be reduced in the form of definite charge or charges to be called charge sheet. The charge sheet shall be signed by the Disciplinary Authority:
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> …. .....
>
> (6) Where on receipt of the written defence statement and the government servant has admitted all the charges mentioned in the charge sheet in his written statement, the Disciplinary Authority in view of such acceptance shall record his findings relating to each charge after taking such evidence he deems fit if he considers such evidence necessary and if the Disciplinary Authority having regard to its findings is of the opinion that any penalty specified in Rule 3 should be imposed on the charged government servant, he shall give a copy of the recorded findings to the charged government servant and require him to submit his representation, if he so desires within a reasonable specified time. The Disciplinary Authority shall, having regard to all the relevant records relating to the findings recorded related to every charge and representation of charged government servant, if any, and subject to the provisions of Rule 16 of these rules, pass a reasoned order imposing one or more penalties mentioned in Rule 3 of these rules and communicate the same to the charged government servant.
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> …….....
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> (8) The Disciplinary Authority may himself inquire into those charges not admitted by the government servant or he may appoint any authority subordinate to him at least two stages above the rank of the charged government servant who shall be Inquiry Officer for the purpose.
>
> (9) Where the Disciplinary Authority has appointed Inquiry Officer under sub rule (8) he will forward the following to the Inquiry Officer, namely:
>
> (a) A copy of charge sheet and details of misconduct or misbehaviour,
>
> (b) A copy of written defence statement, if any submitted by the government servant;……."

7. The Single Judge of the **Uttarakhand High Court in Writ Petition Nos. 999 (S/S), 1364 (S/S) and 1365 (S/S) of 2011 in Uday Pratap Singh Vs. State of Uttarakhand and Others** while disposing of the mater, has held as under:-

> "*12. Rule 7(2) indicates that the charge sheet shall be signed by the disciplinary authority. Prior to the amended Rules, it was open to the disciplinary authority to sign the charge sheet himself or direct any subordinate officer or the Enquiry Officer to sign the charge sheet. This Rule has been specifically amended by the Amendment Rules, 2010 pursuant to the interim order of the High Court and the reason is not far to see.* ***An Enquiry Officer should not be allowed to sign the charge sheet. An Enquiry Officer is required to be an independent person, who is required to proceed and analyze the evidence that comes before him and should not be a signatory to the charges that are being levelled against the charged officer. It is on account of this salutary principle that the Rules have been amended specifically for a solitary purpose, namely, that the disciplinary authority alone is required to sign the charge sheet. Consequently, the direction of the disciplinary authority to the Enquiry Officer to sign the charge sheet was patently erroneous and was in gross violation of the amended Rules 7(2) of the Rules****.*
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> *13. Rule 7(6) and (8) of the Rules contemplate that after submission of the reply to the charge sheet, it would be open to the disciplinary authority to inquire into the charges himself or may appoint an Enquiry Officer for the purpose of sub-rule (8). Sub-rule (8) provides that the disciplinary authority or the Enquiry Officer would inquire into the charges. The reason for the appointment of an Enquiry Officer after the service of the charge sheet and the reply of the charged officer has a purpose, namely, that in the event the charged officer pleads guilty to the charges, in that event, it would not be necessary for the disciplinary authority to appoint an Enquiry Officer and it would be open to the disciplinary authority to proceed and impose a penalty contemplated under the Rules. Consequently, the earlier Rules, which contemplated that an Enquiry Officer could be appointed even before the submission of the charge sheet, was done away under the amended Rules.* ***The amended Rules clearly indicate that an Enquiry Officer can only be appointed after the charge sheet is served upon the charged officer and after a reply is given by the charged officer****…….."*

8. **The Division Bench of the Hon'ble High Court at Nainital in the case of Ram Lal Vs. State of Uttarakhand and others Special Appeal No. 300 of 2015 decided on 03.07.2015 [2015(2) U.D., 25**] has also held as under:-

> "As far as the appointment of an Inquiry Officer is concerned, it is settled law, by virtue of the Rules prevailing in the State and decisions of the court interpreting them, that in Inquiry Officer can be appointed only after the disciplinary authority issues a charge sheet calling upon the delinquent officer to submit his explanation and, if, after considering the explanation of the delinquent officer, it is found necessary to hold an inquiry, only at that stage, an Inquiry Officer can be appointed. As far as the charge sheet is concerned, after the amendment to the Rules in 2010, it is not disputed that the charge sheet is to be signed by the disciplinary authority. The power of issuing the charge sheet cannot be delegated to the Inquiry Officer. Therefore, in the light of these settled principles, if we examine the impugned order; it is clear that it is afflicted by two vices. Firstly, even without issuing a charge sheet and calling for an explanation, an Inquiry Officer has been appointed. This part of the order cannot be sustained. Equally without legal foundation and contrary to law is the direction to the Inquiry Officer to serve the charge sheet upon the appellant. These portions are clearly unsustainable and, therefore, they deserve to be quashed."

9. In the light of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 as amended Rules, 2010 and the aforesaid judgments of Hon'ble High Court of Uttarakhand, it is clear that the inquiry officer should be appointed only after the charge sheet is served upon the delinquent official and he pleads not guilty to the charges. It is also further clear that the charge sheet should not be signed by the inquiry officer. In the instant case, the charge sheet has been approved by the Appointing Authority but the charge sheet has been signed and issued by the inquiry officer who was appointed as inquiry officer prior to even service of the charge sheet. The inquiry officer has also recommended the penalty in the inquiry report itself. Such action of the enquiry officer is illegal, arbitrary and against the provisions of law as well as against the judgments of Hon'ble Apex Court passed in State of Uttarakhand and other vs. Kharag Singh, reported in (2008) 2 SCC(L&S) 698, in which the Hon'ble Apex Court

has held that enquiry officer can offer his views but cannot make strong recommendation for imposition of a particular punishment. The action of the enquiry officer is also against the judgment passed by Hon'ble Supreme Court of India in case of State of Uttar Pradesh vs Saroj Kumar Sinha, reported in (2010) 2 SCC 772, in which it has been held that enquiry officer should be wholly unbiased. The enquiry officer should not act as prosecutor as well as judge.

10. Hence, in view of the Rules and settled legal position, we find that the process of inquiry, adopted by the respondents is not in accordance with law and the impugned orders are liable to be quashed and the claim petition is liable to be allowed.

ORDER

The claim petition is hereby allowed. The impugned punishment Order dated 29th September 2018 passed by the Inspector General of Police (Prison), Office Memorandum dated 31st July 2014, passed by the Addl. Secretary and the communication dated 05th February 2024, passed by the Deputy Secretary, Department of Home, Govt. of Uttarakhand are hereby quashed with its effect and operation. However, liberty is reserved to the respondent authority to initiate fresh departmental proceedings against the petitioner, in accordance with law. No order as to costs.

(RAJENDRA SINGH)
ACTING CHAIRMAN

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

DATED: OCTOBER 13, 2026
DEHRADUN
KNP