BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
BENCH AT NAINITAL

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

------ Member (A)

Claim Petition No. 36/NB/SB/2026

Chander Shekhar Malhotra, Constable 902 (Male) aged about 39 years, S/o Sant Kumar Malhotra, presently posted in Kotwali Lalkua, District Nainital.

.....Petitioner

VERSUS

1. State of Uttarakhand through Secretary, Home, Civil Secretariat, Dehradun.
2. Inspector General of Police, Kumaun Range, Nainital.
4. Senior Superintendent of Police, Nainital.

.....Respondents.

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

JUDGMENT

DATED : 31st **OCTOBER , 2026**

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

"I To issue a direction/order quashing the impugned order dated 10.06.2024 passed by the respondent no. 3 (contained as and the subsequent order dated 14.07.2026, passed by the respondent no. 2 (contained as **Annexure No. 1 and 2 to the claim petition**).

II. To award the cost of the petition or to pass such other order or direction which this Hon'ble Tribunal may deem fit and

proper in the facts and circumstances of the case."

2. Brief facts of the matter are that the petitioner was punished by respondent No. 3 by an adverse entry on 10.06.2024. The departmental appeal was filed with much delay by the petitioner on 23.04.2026, which was summarily rejected by the Appellate Authority on 14.07.2026 simply on the basis of being time-barred, as follows:-

"अपीलकर्ता द्वारा प्रस्तुत अपील का पत्रावली पर उपलब्ध अभिलेखों सहित परीक्षण किया गया, तो पाया गया कि अपीलकर्ता द्वारा दण्डादेश की प्रति दिनांक 11–06–2024 को प्राप्त की गयी है तथा दण्डादेश के विरूद्ध अपनी अपील दिनांक 23–04–2026 को लगभग 01 वर्ष 11 माह बाद प्रस्तुत की गयी है। जबकि उत्तराखण्ड/उत्तर प्रदेश अधीनस्थ श्रेणी के पुलिस अधिकारियों की (दण्ड एवं अपील–1991 अनुकूलन एवं उपान्तरण आदेश–2002 के नियम–20 (6) में स्पष्ट रूप से अंकित किया गया है कि "कोई अपील तब तक ग्रहण न की जाएगी जब तक कि वह उस दिनांक से जब सम्बन्धित पुलिस अधिकारी को दण्डादेश की सूचना दी गई थी, तीन मास के भीतर प्रस्तुत न की जाये।" इस प्रकार अभिलेखों के परीक्षण से स्पष्ट है कि अपील नियमानुसार निर्धारित समय सीमा के उपरान्त प्रस्तुत की गई है। अपीलकर्ता द्वारा विलम्ब से अपील प्रस्तुत किए जाने के संबंध में कोई संतोषजनक एवं पर्याप्त कारण प्रस्तुत नहीं किया गया है। अपीलकर्ता द्वारा ऐसा कोई अभिलेख

अथवा साक्ष्य भी प्रस्तुत नहीं किया गया है, जिससे यह प्रमाणित हो सके कि अपील नियत अवधि में प्रस्तुत न कर पाने के पीछे ऐसी अपरिहार्य परिस्थितियॉ थी, जो उसके नियंत्रण से बाहर थी। ऐसी स्थिति में विलम्ब को क्षमा किये जाने का कोई औचित्य परिलक्षित नहीं होता।"

3. The petitioner has appeared before this Hon'ble Tribunal and has pleaded that at this stage, only the delay in filing the departmental appeal before the Appellate Authority may be condoned by the Tribunal directing the Appellate Authority to decide the appeal on its merit. The learned Counsel for the petitioner has relied upon this Tribunal's earlier judgment passed in Claim Petition No. 26/NB/SB/2026 Sunil Goswami Vs. State of Uttarakhand and others decided on 31.07.2026 in which delay had been condoned and a direction had been given to the Appellate Authority to decide appeal on its merit by a reasoned and speaking order. A similar order could be given in this matter also.

4. Learned A.P.O. opposed the delay condonation application, but subsequently admitted that off late the expressed opinion of the Hon'ble Apex Court and Hon'ble High Court of Uttarakhand at Nainital has been that in the interest of justice it would be better if a matter is decided on its merit.

5. Keeping in view the circumstances of the case and lenient opinion of the superior courts of the records the delay in the instant matter in filing the departmental appeal is condoned

and the Appellate Authority/Respondent No. 2 is directed to decide the appeal presented earlier by the petitioner on its merit, with a reasoned and speaking order, within a period of 60 days beginning from the date of service of a certified copy of this judgment upon the respondents. No orders as to costs.

(Capt. Alok Shekhar Tiwari)
Member (A)

DATE: 31st **OCTOBER, 2026**
NAINITAL
BK