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.164/DB/2024

Sri Ankit Rawat, s/o Late Sri Satish Singh Rawat, constable/ Armed Police, r/o Village- Ratanpur Sukrow Kotdwar, Pauri Garhwal, presently posted at Civil Police Line, Haridwar.

……Petitioner

vs.

1. The Government of Uttarakhand through Secretary Home Department, Subhash Road, Dehradun.
2. The Director General of Police, Police Headquarter, Dehradun.
3. The Additional Director General of Police, Police Headquarter, Dehradun.
4. The Deputy Inspector General of Police, Garhwal Range, Uttarakhand
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 30, 2026

Sri Arun Singh Rawat, Vice Chairman (A)

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

" I. To quash *the finding of the Enquiry Officer dated 31-8-2020 (Annexure No A-1)*

II. To quash the show cause notice dated 9-11-2020 issued by the disciplinary authority(Annexure No A-2).

III. To quash the non-reasoned and non-speaking order of punishment dated 17-2-2021 (Annexure No A-3).

IV. To quash the rejection of appeal order dated 24-12-2021 (Annexure No A-4).

V. To quash the rejection of revision on dated 23-09-2024(Annexure No A-5).

VI. To quash the order dated 28-05-2019 reg review its own order.

VII. To quash the Charge sheet issued by the incompetent authority/ Enquiry Officer in dated June, 2019.

VIII. To pass any other suitable order, which the Hon'ble Tribunal may deem fit and proper on the basis of facts and circumstances of the case.

IX. 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, while serving as a Constable in the Police Department, was deputed along with two other Constables under the command of Head Constable Subhash Kumar to escort an undertrial prisoner for appearance before the Judicial Magistrate, Sikrai, District Dausa, on 29.10.2018. While returning from Dausa on 30/31.10.2018 and reaching Delhi, the prisoner complained of a health problem and requested medicine from his home at Najafgarh. On the direction of the Commander, the prisoner was taken to his home to collect the medicine, from where he absconded. In this connection, FIR No. 326/2018 was registered at Police Station Haridas Nagar, Dwarka, Delhi, under Sections 223, 224, 225 and 34 of the Indian Penal Code. The petitioner and the other police personnel were placed under suspension on 31.10.2018 (Annexure: A 7), and their suspension was revoked on 29.12.2019(Annexure: A 8).

2.2 On 31.10.2018 preliminary enquiry was ordered and the enquiry officer submitted report on 21.01.2019 (Annexure: 9). Show cause notice was issued on 15.02.2019 (Annexure: A 10) that 's why an award of censure should not be inflicted, and after three months

on 28.05.2019, show cause notice was cancelled. Sri Kamlesh Kumar Dy. S.P. was appointed as enquiry officer. He furnished charge sheet to the petitioner on 12.06.2019.

2.3 Ld. Counsel for the petitioner contended that the charge sheet was illegally issued by the Enquiry Officer, who had no authority to frame charges independently. According to the petition, the charge sheet should clearly specify the allegations, supporting documents and witnesses so that the charged employee can properly defend himself. Ld. Counsel for the petitioner submitted that the disciplinary authority should first issue the charge sheet and allow the employee 15 days to submit his response before deciding whether a departmental enquiry is required. In support of this contention, petitioner relies upon the judgment of the Uttarakhand High Court in M.S. Dausani v. State of Uttarakhand, decided on 23.11.2015, and the decisions of the Public Services Tribunal in Sunil Kumar v. State of Uttarakhand and Yogesh Kumar v. State of Uttarakhand, decided on 04.01.2019 and 02.05.2023, respectively. He also argues that the Enquiry Officer cannot act as both prosecutor and judge, relying on the Supreme Court judgments cited in the petition.

2.4 The petitioner further submits that he was not provided proper defence assistance, despite being inexperienced in departmental proceedings and unfamiliar with the applicable rules. He alleges that the Enquiry Officer did not inform him of the date, time and place of the enquiry sufficiently in advance, thereby preventing him from preparing his defence properly. He also alleges that the Enquiry Officer asked leading questions, did not provide adequate opportunities to cross-examine prosecution witnesses, and compelled him to cross-examine them immediately without sufficient preparation. According to the petitioner, these procedural irregularities violated the principles of natural justice and deprived him of a fair opportunity to defend himself. In support, he relies on the Hon’ble Supreme Court judgments in Biecco Lawrie Limited v. State of West Bengal and Mani Shankar v. Union of India.

2.5 The petitioner also challenges the evidence and findings recorded during the departmental enquiry. He states that the Enquiry Officer did not examine independent witnesses or personnel of the Delhi Police who could have provided information about the incident, and instead relied on the statements of police personnel serving in Haridwar who were not eyewitnesses. He argues that the Enquiry Officer failed to establish any deliberate negligence or misconduct on his part and arrived at the conclusion that he was guilty of serious carelessness and indiscipline on the basis of assumptions rather than reliable evidence. He relies on the Supreme Court judgments in Anil Kumar v. Presiding Officer and Mauji C. Lakum v. Central Bank of India to contend that an enquiry report must contain reasons supporting its findings and that a procedurally fair enquiry does not necessarily mean that its conclusions are correct. He further submits that the punishment adversely affected his prospects of promotion, financial upgradation under the career progression scheme and deputation, and relies on Mathura Prasad v. Union of India to argue that the prescribed procedure must be strictly followed where an employee's livelihood and service benefits are at stake.

2.6 On 31.08.2019, the Enquiry Officer submitted his report finding the petitioner guilty and recommending reduction of his pay to a lower stage for one year. The petitioner contends that the Enquiry Officer acted beyond his authority by recommending punishment within the enquiry report itself, instead of making a separate recommendation. In support, he relies on the Tribunal's decision in Yogesh Kumar v. State of Uttarakhand, dated 02.05.2023, in which the Tribunal held that the disciplinary proceedings were vitiated because the disciplinary authority's approval had not been obtained before issuance of the charge sheet and the punishment recommendation had not been made separately from the enquiry proceedings. The Tribunal accordingly set aside the punishment and appellate orders in that case, while leaving it open to the department to initiate fresh proceedings in accordance with law.

2.7 Thereafter, on 09.11.2020, the respondents issued a show-cause notice proposing the punishment recommended by the Enquiry Officer. On 17.02.2021, the disciplinary authority imposed the punishment of reduction of pay to a lower stage for one year, which the petitioner describes as a major punishment imposed without recording reasons. He maintains that there was insufficient evidence to establish dereliction of duty and that the punishment was excessive in view of the circumstances and his efforts to trace and apprehend the absconding prisoner. On 28.05.2021, he filed an appeal before the appellate authority challenging the procedure followed and seeking sympathetic consideration. However, the appeal was rejected on 24.12.2021, which he alleges was done arbitrarily, without proper application of mind and without adequately considering his grounds.

2.8 The petitioner further states that he made sincere efforts to trace and apprehend the absconding prisoner and that the prisoner was eventually arrested through his efforts. Taking note of the petitioner's sincerity, the competent authority, by letter No. 207/2018 dated 18.01.2022, declined to grant permission to prosecute the government servant in FIR No. 326/2018 registered at Police Station Haridas Nagar, New Delhi. Since the punishment had already reduced his pay and adversely affected his promotion and other financial benefits, the petitioner filed Claim Petition No. 178/DB/2022 before the Tribunal. By order dated 05.10.2023, the Tribunal disposed of the claim petition with a direction to the petitioner to file a revision petition. Accordingly, he filed a revision petition on 03.11.2023.

2.9 The revisional authority, namely the Additional Director General of Police, rejected the revision petition by order No. DG-7-83(3)2022 dated 23.09.2024. The petitioner contends that the revisional authority failed to consider his individual role in the incident, his efforts in re-arresting the prisoner and the revision was rejected without proper consideration of the issues raised. In support of his contention, petitioner relies upon the decision rendered by the

Hon'ble Apex Court in R.K. Mehrotra v. State of Bihar, reported in 2006 SCC (L&S) 769, to argue that an order imposing punishment cannot be sustained when the employee's representations and objections are not properly considered and reasons are not recorded for holding the charges proved. The petitioner ultimately submits that, since the absconding prisoner was subsequently re-arrested through his efforts, he deserved a lenient punishment rather than the same punishment imposed on the other personnel involved in the incident.

3. The claim petition has been contested on behalf of Respondents. Sri Rakesh Rawat, Deputy Superintendent of Police, District Haridwar, has filed Counter Affidavit on behalf of Respondents.

3.1 It is stated in the counter-affidavit filed on behalf of the respondents that the petitioner, Ankit Rawat, was posted at Police Lines, Roshnabad, Haridwar, in 2018. On 29.10.2018, he was deputed, along with Head Constable Pro. Subhash Kumar and Constables Rajdeep and Harjinder, to escort undertrial prisoner Praveen Dagar from the Sub-Jail, Roorkee, for production before the Court of the Civil Judge and Judicial Magistrate, Sikrai, District Dausa, Rajasthan, in connection with Case Crime No. 171/17, registered under Section 379 IPC and Sections 66C and 66D of the Information Technology Act at Police Station Sikandra, District Dausa, Rajasthan. After the court proceedings, the prisoner escaped from police custody. The respondents allege that the escape occurred due to the petitioner's gross negligence, carelessness and indifference towards his official duties. Consequently, departmental proceedings were initiated against him under Rule 14(1) of the Uttar Pradesh (Uttarakhand) Subordinate Police Officers' (Punishment and Appeal) Rules.

3.2 It is further stated in the counter-affidavit that, upon the petitioner and the other police personnel being *prima facie* found responsible for the incident, Respondent No. 4, by order dated 31.10.2018, placed them under suspension and appointed the Circle

Officer, Lines, as the preliminary inquiry officer. During the preliminary inquiry, the statements of the prosecution witnesses and the petitioner were recorded, and the petitioner was given an opportunity to present his defence. The inquiry officer found the petitioner and the other personnel guilty of gross negligence and dereliction of duty resulting in the escape of the prisoner. Thereafter, the Superintendent of Police, City, Haridwar, was appointed as the main inquiry officer, who issued a charge-sheet to the petitioner on 18.06.2019 and called for his reply.

3.3 It is further stated that the petitioner participated in the departmental inquiry and submitted his reply to the charge-sheet. After considering his reply and recording the statements of the prosecution witnesses, the main inquiry officer submitted her report dated 31.08.2020, holding the petitioner and the other personnel guilty of gross negligence, indiscipline and indifference towards their official duties. The inquiry officer recommended that the petitioner be placed at the next lower stage in his pay scale for one year under Rule 4(1)(a)(3) of the Uttar Pradesh (Uttarakhand) Subordinate Police Officers and Employees (Punishment and Appeal) Rules, 1991, as amended and adapted by the Adaptation and Modification Order, 2002. The competent disciplinary authority, Respondent No. 5, agreed with the inquiry findings and issued a show-cause notice dated 09.11.2020, providing the petitioner with a further opportunity to submit his defence.

3.4 The petitioner submitted his reply to the show-cause notice on 18.11.2020. However, the disciplinary authority found the reply unsatisfactory and contrary to the facts. Accordingly, by order dated 17.02.2021, the petitioner was reduced to the minimum stage of his pay scale for a period of one year. The appeal preferred by the petitioner on 28.05.2021 was also dismissed by the competent appellate authority, Respondent No. 4, on the ground that it lacked merit. The respondents maintained that the punishment order and the appellate order were passed in accordance with the applicable rules and law and that no illegality or irregularity was committed. They

further contended that the petitioner was given adequate opportunities of hearing and defence during the departmental inquiry but failed to produce any evidence establishing his innocence. Therefore, no legal or procedural irregularity occurred in the inquiry, and no interference with the punishment is warranted. Petitioner, being aggrieved by the punishment and appellate orders, filed Claim Petition No. 178 (D/B)/2022, titled Ankit Rawat v. State of Uttarakhand and Others, before the Hon'ble Public Services Tribunal, Uttarakhand, Dehradun. By order dated 05.10.2023, the Tribunal granted liberty to the petitioner to file a statutory revision against the punishment and appellate orders before the competent revisional authority. The Tribunal directed that, if such revision was filed, it should be decided in accordance with law without unreasonable delay and condoned any delay in filing it, in the interest of justice.

Regarding the petitioner's second prayer, the Tribunal referred to Para 54-B of the Financial Handbook (Volumes 2 to 4), which provides that, upon reinstatement of a suspended government servant, or where reinstatement would have occurred but for retirement on superannuation, the competent authority must pass a specific order regarding the pay and allowances payable for the suspension period and whether that period should be treated as time spent on duty. The Tribunal also permitted the petitioner to apply to the competent authority under the relevant provisions of the Financial Handbook and directed that the application be decided expeditiously, preferably within twelve weeks of submission of a certified copy of the order.

3.5 The counter-affidavit further stated that, pursuant to the Tribunal's directions, the Inspector General of Police (Personnel), Uttarakhand, Dehradun, considered the petitioner's revision/ representation dated 03.11.2023 and rejected it on merits, finding it unsatisfactory and devoid of merit. The respondents, therefore, contended that the impugned punishment, appellate and revisional orders are legally valid and that the present claim petition is without merit and liable to be dismissed with costs.

4. R.A. has been filed on behalf of the petitioner, wherein certain additional submissions have been made which were not raised in the claim petition.

4.1 It has been stated in the R.A. that the State has admitted that the Enquiry Officer recorded evidence of police personnel posted in Haridwar but did not visit Delhi to record the statements of police personnel posted at Police Station Harinagar, who were eyewitnesses to the incident. Further, the State has not specifically replied to the objection that the disciplinary authority could not change its earlier decision regarding censure while exercising quasi-judicial powers, and that the higher authority could only order a fresh inquiry.

4.2 The State has not specifically replied to the objection regarding the non-provision of a Defence Assistant to the petitioner. The State has not produced any documents showing that notices or summons specifying the date, time and place of the oral inquiry were issued to the petitioner. Its evasive reply on this issue is alleged to amount to an admission of the procedural lapse.

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

6. It is argued by Ld. counsel for the petitioner that the charge sheet framed by the respondents does not clearly specify the allegations, supporting documents and witnesses because of which the petitioner found himself in a position that he could not defend his case properly. The charge sheet has been signed by the inquiry officer. The petitioner was not informed about the date, time and place of inquiry in advance due to which he could not prepare his defense properly. He was not given an adequate opportunity to examine the prosecution witnesses. The inquiry officer has also recommended the punishment of reduction of pay to the lower scale for one year in the Inquiry report. The inquiry officer has acted beyond his authority by recommending punishment within the inquiry report itself.

6.1 Ld. Counsel for the petitioner in support of his case, has relied upon the observations of Hon'ble Supreme Court, Hon'ble High Court and Hon'ble Tribunal, in the following cases:

a) The Hon'ble Apex Court in **State of Uttarakhand and others Vs Kharak Singh reported in (2008) 2 SCC (L&S) 698** has held that enquiry officer can offer his views but cannot make strong recommendation for imposition of a particular punishment.

b) In Case of **State of Uttar Pradesh and others V/s Saroj Kumar Sinha reported in (2010) 2 SCC 772**, the Hon'ble Apex Court has held that the enquiry officer should be wholly unbiased. The enquiry officer should not act as prosecutor as well as judge.

c) Hon'ble High Court of Uttarakhand in the matter of **M.S. Dasauni Vs. State of Uttarakhand & Ors., reported in 2016 (1) U.D. 321,** which has also been relied upon on behalf of the petitioner, in support of his contention**. In M.S. *Dasauni vs. State of Uttarakhand & others (supra)*,** a decision which pertains to a Police official, the Hon'ble High Court of Uttarakhand has held as under:-

> *"18. .....**From the perusal of annexure No. 2 which is impugned order dated 04.01.2010, it seems to be passed by the enquiry officer. This is the charge sheet and an enquiry officer is not supposed to prepare a charge-sheet, as this is the job of the appointing authority. Enquiry officer has to conduct an enquiry in an impartial manner and therefore, framing of the charge-sheet is not one of the duties of the enquiry officer. Therefore, as far as the order dated 04.01.2010 is concerned that seem to be without jurisdiction**.*
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> *19. The subsequent order which is the second order dated 04.01.2010 which is annexed as annexure No. 2 to the writ petition, given by the investigating officer is hereby quashed. Let the appointing authority give a charge sheet to the petitioner in accordance with law as the charge against the petitioner is of a very serious nature and a departmental proceeding is in order.*
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> *20. With the aforesaid observations, the writ petition stands disposed finally.*
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> *21. The Registrar General of this Court is hereby directed to apprise the Director General of Police, Uttarakhand of this order for onwards compliance, as expeditiously as possible, in accordance with law."*

d) The Judgment of this Tribunal dated 23.01.2026 passed in Claim Petition No. 22/NB/DB/2024, Constable 23 NP Ganesh Prasad v State of Uttarakhand/SSP Pithoragarh, the relevant portion of which reads 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."*

e) The Hon'ble Tribunal in the decision rendered on 02.05.2023 in Claim Petition No. 66/DB/2023, Yogesh Kumar Vs State of Uttarakhand and others, has held 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."

7. Learned A.P.O. argued that the petitioner was found guilty *prima facie* and the Respondent No. 4 vide order dated 31.10.2018 suspended the petitioner and appointed Circle Officer, Line, to conduct preliminary inquiry. The Circle Officer vide his report dated 31.01.2019 found the petitioner guilty of negligence, indiscipline and indifference to duty. The Disciplinary Authority appointed City S.P., Haridwar as Inquiry Officer. The petitioner participated in the inquiry after receiving the chargesheet and the inquiry officer submitted his report on 31.08.2020 and found the petitioner guilty of negligence, indiscipline and indifference in duty and recommended the punishment of reduction in lowest scale for one year as per Uttar Pradesh (Uttarakhand) Subordinate Police Officers and Employees (Punishment and Appeal) Rules, 1991. The petitioner was given show cause notice along with the copy of inquiry report to submit explanation in his defence , with which the disciplinary

authority was not satisfied and awarded the punishment. The petitioner could not submit any evidence in his defence to prove himself innocent. There is no shortcoming in the procedure of conducting disciplinary proceedings. The order of the disciplinary authority has been upheld by the Appellate authority vide order dated 24.12.2021 and the Revisional authority order dated 23.09.2024. In view of the above 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 the charges against the petitioner are vague. The charge sheet has been signed by the Inquiry officer himself. The enquiry has been conducted on different dates in which the petitioner was also asked to appear. Examination and the cross examination of the witnesses were carried out on different dates for which the petitioner has been duly intimated. The Inquiry Officer has signed the charge sheet which is against the law settled by the Hon'ble High Court in the case of MS Dasauni vs. State of Uttarakhand & others, 2016 (1) UD, 321, a decision which pertains to a Police official, Hon'ble High Court of Uttarakhand has held that the enquiry officer has to conduct an enquiry in an impartial manner and therefore, framing of the charge-sheet is not one of the duties of the enquiry officer. The inquiry officer has conducted the inquiry and submitted the report on 31.08.2020, but recommended the punishment in the report itself which is against the provisions of the police regulations 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.

8.1 On the basis of the above discussion, the Tribunal finds that the departmental proceedings in the instant case suffer from the following defects-

(i)The charge sheet was given by the enquiry officer and not the disciplinary authority; and

(ii) The recommendation was made by the enquiry officer for the punishment in the enquiry report.

8.2 It is also clear that the Disciplinary Authority while passing the impugned punishment order has relied on defective enquiry report. Hence, in view of the above legal position and the decisions of the Hon'ble Courts, the disciplinary inquiry has been vitiated because of the procedural lacuna and consequently, the order dated 17.02.2021 of the Disciplinary Authority (Annexure: A3), order dated 24.12.2021 of Appellate Authority (Annexure:A4), order dated 23.09.2024 of the Revisional Authority (Annexure: A5) and order dated 28.05.2019 regarding review of its own order are liable to be quashed and the claim petition is liable to be allowed.

ORDER

The claim petition is hereby allowed. The punishment order dated 17.02.2021 passed by the Disciplinary Authority (Annexure: A-3), order dated 24.12.2021 passed by the Appellate Authority (Annexure: A-4), order dated 23.09.2024 passed by the Revisional Authority (Annexure: A-5) and order dated 28.05.2019 regarding review of its own order are hereby quashed. However, it will be open to respondent authorities to proceed afresh against the petitioner from the stage of issuing the charge sheet. No order as to the cost.

(RAJENDRA SINGH)
ACTING CHAIRMAN

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

DATE:OCTOBER 30, 2026.
DEHRADUN

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