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.130/DB/2022

Smt. Deepti Bhatt, aged about 49 years, w/o Sri Harish Chandra Bhatt, presently serving as Principal, Extension Training Centre, Gurukal Kangri, Haridwar.

…….Petitioner

vs.

1. State of Uttarakhand through Secretary, Rural Development Department, Uttarakhand Govt. State Secretariat, Subhash Road, Dehradun.
2. Secretary, Rural Development Department, Uttarakhand Govt. State Secretariat, Subhash Road, Dehradun.
3. Additional Chief Secretary, Rural Development Department, Uttarakhand Govt. State Secretariat, Subhash Road, Dehradun.
4. Commissioner, Rural Development Department, Uttarakhand Pauri.
5. Sri Roshan Lal, Inquiry Officer/ Additional Commissioner (Administration), Rural Development Department, Uttarakhand Pauri.
6. Sri Rajesh Kumar, s/o Late Sri Karm Chand, r/o Street No. 3, Raja Garden, Jagjeetpur, Kankhal, Haridwar.

…….Respondents

Present: Sri K.P.Upadhyay, Senior Advocate, assisted by
Sri Hemant Pant, Advocate, for the petitioner. (virtually)
Sri V.P.Devrani, A.P.O., for Respondents.

JUDGMENT

DATED: NOVEMBER 05, 2026

Sri Arun Singh Rawat, Vice Chairman (A)

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

> " I-To issue an appropriate rule, order or direction holding and directing that the impugned order dated 01.10.2021 as well as the office memo dated 12 January, 2024 imposing major penalty on the petitioner is arbitrary and illegal.
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> II. To issue an appropriate rule, order or direction setting aside the impugned order dated 01.10.2021 issued by the 2nd respondent (Annexure-1 to Compilation-I) as well as the O.M. dated 12.01.2024 issued on behalf of the 2nd Respondent (Annexure 1-A).
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> III- To issue an appropriate rule, order or interfering with the inquiry report to the extent it holds the petitioner responsible for delay in sanctioning interim pension to the late father of respondent no.6.
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> IV- To issue an appropriate rule, order or direction requiring the official respondents to extend all service benefits to the petitioners otherwise due to her in absence of the impugned order.
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> V- To pass any other suitable order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.
>
> VI-To award costs of the claim petition in favour of the petitioner."

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

2.1 The petitioner was appointed as Extension Training Officer in the Rural Development Department of the erstwhile State of Uttar Pradesh on 22.02.1999 on the recommendation of the Uttar Pradesh Public Service Commission. After the creation of the State of Uttarakhand, she was allocated to the newly formed State on the basis of her option. She was promoted to the Class-I post of Principal, Extension Training Centre in the year 2007 and has been serving as Principal, Extension Training Centre, Gurukul Kangri, Haridwar, since 03.08.2012.

2.2 The present dispute arose out of a complaint dated 11.09.2019 made by respondent no.6, Rajesh Kumar, alleging that the petitioner, on account of belonging to an upper caste, had harassed his father, late Sri Karm Chand, who was a member of the Scheduled Caste community, and deliberately withheld his pension, due to which he died on 26.08.2019 without receiving pension. The petitioner has contended that these allegations were false. Respondent no.6 also made similar complaints before the District Magistrate, Chief Development Officer, Uttarakhand Scheduled Caste Commission, Human Rights Commission, Police Station Kankhal and Governor's Secretariat. He also got a newspaper report published on 28.08.2019 regarding the alleged non-payment of pension. The petitioner has stated that late Sri Karm Chand had never made any complaint against her during his lifetime and that she had no ill-will or prejudice against him.

2.3 Late Sri Karm Chand was appointed as a Class-IV employee (Blacksmith, subsequently designated as Training Assistant) in the Extension Training Centre, Gurukul Kangri, Haridwar, on 10.09.1984 and retired from service on 31.10.2016. The petitioner has stated that all the retiral dues payable to him at her level were processed and paid without unreasonable delay. An amount of Rs.4,84,650 towards 300 days' leave encashment was paid within a fortnight of his retirement, followed by payment of another Rs.4,71,748 under different heads by August 2018. Thus, a total amount of Rs.9,56,398 had been paid to him. Subsequently, while submitting her reply during the disciplinary proceedings, the petitioner also pointed out that the total amount paid to late Sri Karm Chand under different heads was Rs.15,60,333, apart from the interim pension.

2.4 The petitioner has explained that the delay in forwarding the pension papers occurred because of a dispute regarding the residential accommodation allotted to late Sri Karm Chand by the Chief Administrator of Gurukul Kangri in 1993. The accommodation had been allotted on the recommendation of the then Principal of the

Institute. On 09.06.2016, the petitioner informed Sri Karm Chand about his impending retirement and asked him to complete the necessary formalities. However, he did not correctly disclose the information regarding the accommodation allotted to him. After his retirement, the Chief Administrator, Gurukul Kangri, informed the petitioner vide letter dated 07.12.2016 that Sri Karm Chand had been allotted accommodation and had not vacated it. The Chief Administrator also requested that his final retiral dues be cleared only after obtaining a no-dues certificate. Thereafter, the petitioner, through letters dated 16.12.2016 and 18.01.2017, requested Sri Karm Chand to obtain the required no-dues certificate from Gurukul Kangri. However, Sri Karm Chand, through his reply dated 07.03.2017, disputed the allotment and stated that the accommodation had not been allotted to him by the department and, therefore, he could not be compelled to obtain a no-dues certificate from Gurukul Kangri. The Chief Administrator, Arya Vidya Sabha, through his letter dated 24.04.2017, reiterated that the accommodation had been allotted to Sri Karm Chand on his application forwarded by the then Principal and requested that his retiral dues should not be released without obtaining the no-dues certificate. The petitioner again informed Sri Karm Chand about the factual position through her letter dated 03.05.2017. When the dispute continued, the petitioner referred the matter to the Head of Department vide letter dated 13.06.2017, seeking guidance for further action. A legal notice dated 28.06.2017 was also issued by the Chief Administrator to Sri Karm Chand, requiring him to vacate the accommodation and cautioning against release of the remaining retiral dues without a no-objection certificate.

2.5 Subsequently, on 23.01.2018, Sri Karm Chand informed the petitioner that he would vacate the accommodation in the near future and requested that his pension papers be forwarded. Considering the humanitarian aspect of the matter, the petitioner directed her office to inform Gurukul Kangri University to take necessary action at its own level so that the pension of the retired employee was not withheld any longer. On 24.01.2018, Sri Karm

Chand also corrected Form-1, Part-I, and disclosed that he had been allotted accommodation by Gurukul Kangri University and would vacate it within six months. Thereafter, the petitioner forwarded his pension papers to the District Development Officer, Haridwar, on 27.04.2018, in accordance with the departmental circular dated 22.08.2017, which required pension papers of retired employees of Extension Training Centers to be scrutinized by the accounts personnel of the District Development Establishment, as no accounts personnel were posted at the Extension Training Centre, Haridwar.

The District Development Officer, Haridwar, after scrutinizing the pension papers, returned the service book on 25.09.2018 and directed the petitioner to forward the papers to the Commissioner, Rural Development, Pauri. Accordingly, on 26.09.2018, the petitioner forwarded all the necessary pension documents, including the pension papers, service book, no-dues certificate and other requisite certificates, to the Commissioner. The papers were, however, returned by the Commissioner on 24.01.2019 for further action in accordance with the rules. The petitioner again submitted the pension papers along with the service book on 04.02.2019, explaining the promotional pay scale and ACP benefits admissible to Sri Karm Chand and requesting that his pension be sanctioned. Thereafter, the petitioner sent repeated reminders dated 06.03.2019, 05.04.2019 and 24.04.2019 requesting early sanction of his pension.

2.6 In response, the Commissioner, Rural Development, vide letter dated 04.05.2019, informed the petitioner that clarification had been sought from the Government regarding the appropriate grade pay admissible to substantively appointed Class-IV employees. The petitioner was also directed to sanction interim pension to the employee until further instructions were received from the Government. In compliance with these directions, the petitioner sanctioned interim pension to Sri Karm Chand through orders dated 20.06.2019, 27.07.2019 and 21.08.2019, covering the period from 01.11.2016 onwards. Interim pension beyond 31.07.2019 was also

sanctioned until final pension was approved. While the pension matter was still pending before the Commissioner and the State Government, the petitioner received a letter dated 21.09.2019 from the Chief Development Officer, Haridwar, enclosing the complaint dated 11.09.2019 made by respondent no.6 and seeking her explanation. The petitioner submitted a detailed reply on 10.10.2019, explaining the circumstances responsible for the delay and denying the allegations. The Project Director, District Rural Development Agency, Haridwar, was also directed to inquire into the complaint and sought the relevant records from the petitioner. The petitioner supplied all the documents within the stipulated time. However, the Project Director submitted his report dated 18.10.2019 without obtaining the petitioner's version. According to the petitioner, the report itself recorded that her letter dated 13.06.2017 seeking guidance from the Commissioner indicated that she had no intention of withholding the pension papers. It also recorded that the other retiral dues, including leave encashment, GPF and GIS amounts, had been paid to Sri Karm Chand in accordance with the rules.

2.7 Thereafter, the petitioner received a show-cause notice dated 15.01.2020 from the Principal Secretary, seeking her explanation regarding the pension matter. The petitioner submitted a detailed reply on 28.01.2020 along with supporting documents, reiterating that the delay had occurred due to the accommodation-related dispute and incorrect information initially furnished by Sri Karm Chand in his pension papers. She also pointed out that interim pension had already been paid from 01.11.2016 and that the final pension matter was pending before the higher authorities. The petitioner further stated that the complaint of respondent no.6 had concealed the payments already made to his father. Meanwhile, the petitioner also responded to the notice issued by the Uttarakhand Scheduled Caste Commission on 31.01.2020 and explained the factual position regarding the pension of late Sri Karm Chand and family pension to his widow. Subsequently, the petitioner sanctioned interim family pension to the widow vide order dated 05.03.2020.

2.8 On 13.07.2020, the petitioner received a charge sheet dated 07.06.2020, which contained three charges: firstly, failure to forward the pension papers of late Sri Karm Chand within the prescribed time and failure to sanction interim pension immediately after his retirement; secondly, sanctioning interim pension after a delay of approximately three years; and thirdly, tarnishing the image of the Government and the Rural Development Department on account of the newspaper report published in Amar Ujala under the heading "*Pension ki aas liye chal base Karm Chandra*". The petitioner has also alleged that the charge sheet was backdated, as it appeared to have been printed on 30.06.2020, although it was dated 07.06.2020 and received by her on 13.07.2020. Further, on the same date on which the charge sheet was issued, an Inquiry Officer was appointed with directions to submit the inquiry report within one month, even though the petitioner had also been given one month to submit her reply. According to the petitioner, this showed non-application of mind by the disciplinary authority.

2.9 The petitioner has further stated that the Inquiry Officer, vide letter dated 14.07.2020, introduced two additional charges on his own, requiring her to submit a pointwise reply to the representation of respondent no.6 dated 11.09.2019 and to the newspaper report published in Amar Ujala, although these charges were not part of the original charge sheet. The petitioner submitted her detailed reply on 26.07.2020, explaining that the newspaper report was factually incorrect and had been published without proper verification. She pointed out that an amount of Rs.15,60,333 had already been paid to late Sri Karm Chand under different heads and that interim pension had also been sanctioned and paid to him. The Inquiry Officer submitted his report on 06.04.2021, holding the petitioner responsible for the delay in the pension matter. The petitioner has alleged that the Inquiry Officer failed to appreciate the actual circumstances, including the accommodation dispute, the repeated correspondence with higher authorities and the steps taken by her to secure pension sanction. She has also relied upon the Government file notings dated 03.09.2020 and

subsequent records, which allegedly show that the pension matter of late Sri Karm Chand remained pending at the Government level till 16.03.2021 and that a decision was taken only thereafter. According to the petitioner, the delay could not, therefore, have been attributed solely to her.

2.10 Thereafter, vide order dated 01.10.2021, the disciplinary authority imposed a major penalty of withholding increments with cumulative effect upon the petitioner. She received the said order on 27.11.2021 and submitted a representation dated 01.12.2021 under Rule 14 of the Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003. In her representation, she contended that a copy of the inquiry report had not been supplied to her and that no opportunity of hearing had been given before imposing the major penalty. She also reiterated that she could not be held responsible for the delay in the pension matter, particularly when the matter had remained pending before the higher authorities and the State Government. The petitioner has further stated that, pursuant to the directions of the Commissioner dated 13.10.2021, the modified e-pension papers and service book of late Sri Karm Chand were subsequently forwarded to the Chief Treasury Officer, Haridwar, for sanction and payment. However, objections had been raised by the Treasury Officer regarding the pay fixation and classification of late Sri Karm Chand, who had been appointed and retired as a Group-D employee but was being considered for benefits applicable to a Group-C employee. The petitioner has challenged the impugned punishment order primarily on the ground that the mandatory procedure prescribed under the Uttarakhand Government Servants (Discipline and Appeal) Rules, 2003 was not followed. She has contended that under Rules 2 and 6, the appointing authority is also the disciplinary authority competent to impose penalties, and in her case the Governor is the appointing authority in view of the applicable service rules. She has further contended that under Rule 7, the charge sheet must be issued by the competent disciplinary authority and the charged employee must be given an opportunity to submit a reply before the inquiry

proceeds. However, in the present case, the Inquiry Officer was appointed simultaneously with the issuance of the charge sheet, without awaiting the petitioner's reply. Further, in violation of Rule 9(4), a copy of the inquiry report and the findings recorded therein were not supplied to the petitioner before passing the punishment order. The petitioner has also contended that consultation with the Uttarakhand Public Service Commission was mandatory under Rule 16 of the 2003 Rules read with Regulation 8(a)(1) of the Uttarakhand Public Service Commission (Limitation of Functions) Regulations, 2003, before imposing the major penalty of withholding increments with cumulative effect. However, no such consultation was made. On these grounds, the petitioner has challenged the impugned order dated 01.10.2021 as being illegal and contrary to the applicable service rules.

2.11 Petitioner has also challenged O.M. dated 12.01.2024 submitting that Respondent No.2, who has issued O.M. dated 12.01.2024 has kept the impugned order dated 01.10.2021 intact and held the representation of the petitioner against order dated 01.10.2021, of no consequences.

3. The claim petition has been contested on behalf of Respondents. Sri Sushil Mohan Dobhal, District Development Officer, Dehradun, has filed Counter Affidavit on behalf of Respondents No. 1 to 5.

3.1 It has been stated in the C.A. that in the year 2016, when the petitioner, Smt. Deepti Bhatt, was posted as Principal at the Extension Training Centre, Gurukul Kangri, Haridwar, one Class-IV employee, Late Shri Karamchand (Training Assistant), retired from service on 31.10.2016 on attaining the age of superannuation while working under her supervision.

3.2 It has been alleged by the respondents that the petitioner failed to process and finalize the pension case of the retired employee within the prescribed time as required under the Uttarakhand Pension Case Submission, Disposal and Avoidance of Delay Rules, 2003.

Instead, the pension papers were forwarded to the Commissionerate, Pauri after a delay of approximately two years. It has further been alleged that the No-Dues Certificate was also issued to the retired employee after a delay of two years from the date of his retirement. On account of these allegations, departmental proceedings were initiated against the petitioner under the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003, as amended in 2010. Accordingly, a charge-sheet dated 07.06.2020, containing three charges, was issued to her by the competent disciplinary authority, directing her to submit her reply within one month. The petitioner submitted her reply on 26.07.2020, denying the charges levelled against her. Thereafter, the Additional Commissioner, Rural Development, was appointed as the Inquiry Officer, who conducted the regular departmental inquiry and submitted his inquiry report dated 06.04.2021. In the said report, the Inquiry Officer held the petitioner guilty of the charge relating to the delay in processing the pension case of Late Shri Karamchand. The respondents have further stated that the petitioner participated in the inquiry proceedings but failed to establish her innocence against the charges.

3.3 The respondents have further stated that the disciplinary authority, being satisfied with the fairness and impartiality of the inquiry proceedings and the findings of the Inquiry Officer, provided the petitioner with another opportunity to defend herself by issuing a show-cause notice along with the inquiry report. The petitioner submitted her reply to the show-cause notice on 28.01.2020, but the same was found unsatisfactory by the authorities. Consequently, vide Office Memorandum No. 191 dated 01.10.2021, the competent authority imposed the penalties of an adverse special entry in her service record and stoppage of increment with cumulative effect. (Annexure CA- R-1).

3.4 In para 22 of the C.A., it is stated that, for the timely disposal of the pension matter of Late Shri Karam Chand and for placing the departmental position in this regard, the Commissioner,

vide letters dated 24.01.2019, 04.05.2019, 04.06.2019 and 26.09.2020, directed the petitioner to take an appropriate decision in the pension matter of Late Shri Karam Chand.(Copies annexed as Annexure: CA-R-6, CA-R-7, CA-R-8 & CA-R-9).

3.5 It has also been stated that the petitioner subsequently submitted a representation against the punishment order dated 01.10.2021. In this regard, the Commissionerate, Rural Development, forwarded detailed reports to the State Government vide letters dated 05.04.2022 and 17.05.2022, bearing Letter Nos. 28 and 367 respectively.

3.6 It has been submitted by Ld. A.P.O. that vide OM dated 12.01.2024, the O.M. dated 01.10.2021 was kept intact and the representations submitted by the petitioner were rejected as being devoid of merit.

3.7 The respondents have further contended that the departmental inquiry was conducted in accordance with the prescribed procedure and that the petitioner was given reasonable opportunities to present her defence during the inquiry proceedings. They have denied any procedural irregularity or illegality in the departmental proceedings. they have submitted that the claim petition is devoid of legal merit and deserves to be dismissed.4.

4. R.A. has been filed on behalf of the petitioner, reiterating substantially the same averments which have been made in the claim petition. It has been submitted in the R.A. that the by the impugned order dated 01.10.2021, both minor and major penalties were imposed upon the petitioner in the disciplinary proceedings. It was argued that since the impugned order was passed in disciplinary proceedings, the procedure for submitting a representation under the Adverse Entry Rules, referred to in the reply, was not applicable. It was further pointed out that for the year 2021-22, the petitioner's integrity was certified as 'Very Good' by all three authorities, namely, the Reporting Authority, Reviewing Authority and Accepting Authority.

A copy of the relevant portion of her ACR, provided by the Chief Development Officer, Haridwar, vide letter dated 10.02.2023, was submitted as Annexure RA-3.

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. Learned counsel for the petitioner submitted that the petitioner has been serving as a Principal, Extension Training Centre since 03.08.2012. A complaint dated 11.09.2019 made by respondent no.6, Rajesh Kumar, alleging that the petitioner, on account of belonging to an upper caste, had harassed his father, late Sri Karm Chand, who was a member of the Scheduled Caste community, and deliberately withheld his pension, due to which he died on 26.08.2019 without receiving pension. Similar complaints was made before the District Magistrate, Chief Development Officer, Uttarakhand Scheduled Caste Commission, Human Rights Commission, Police Station Kankhal and The petitioner has stated that late Sri Karm Chand who was working as Training Asstt and retired on 31/10/2016, had never made any complaint against her during his lifetime and that she had no ill-will or prejudice against him.

6.1 The delay in forwarding the pension papers did not occur because of the petitioner but due to the late Karam Chand as he did not complete necessary formalities in submitting his pension papers. He did not correctly disclose the information regarding the accommodation allotted to him. He did not submit no-dues certificate from Gurukul Kangri despite repeated reminders. He subsequently on 23.01.2018 only informed the petitioner that he would vacate the accommodation in the near future and requested that his pension papers be forwarded.

6.2 Learned counsel for the petitioner further submitted that the petitioner forwarded pension papers of late Karam Chand to the District Development Officer, Haridwar, on 27.04.2018, who

scrutinized the pension papers, returned the service book on 25.09.2018 and directed the petitioner to forward the papers along with all the documents to the Commissioner, Rural Development, Pauri. The papers were remained under process between the office of the petitioner and the Commissioner . The petitioner sanctioned interim pension to Sri Karm Chand as per the direction of the Govt. until the final pension was approved.

6.3 Learned counsel for the petitioner argued that the petitioner received a charge sheet dated 07.06.2020, which contained three charges: 1. failure to forward the pension papers of late Sri Karm Chand within the prescribed time and failure to sanction interim pension immediately after his retirement; 2. sanctioning interim pension after a delay of approximately three years; and 3. tarnishing the image of the Government and the Rural Development Department on account of the newspaper report published in Amar Ujala. The charge sheet was backdated, as it appeared to have been printed on 30.06.2020, although it was dated 07.06.2020 and received by her on 13.07.2020. Further, on the same date on which the charge sheet was issued, an Inquiry Officer was appointed with directions to submit the inquiry report within one month, even though the petitioner had also been given one month to submit her reply.

6.4 Learned counsel of the petitioner has further stated that the Inquiry Officer, vide letter dated 14.07.2020, introduced two additional charges on his own, requiring the petitioner to submit a pointwise reply to the representation of respondent no.6 dated 11.09.2019 and to the newspaper report published in Amar Ujala, although these charges were not part of the original charge sheet.

6.5 He further contended that the delay cannot be attributed solely to the petitioner . She could not be held responsible for the delay in the pension matter, particularly when the matter had remained pending before the higher authorities and the State Government. A copy of the inquiry report and the findings recorded therein were not supplied to the petitioner before passing the punishment order. The

Uttarakhand Public Service Commission was not consulted before imposing the major penalty of withholding increments with cumulative effect. In view of the above the impugned punishment orders are liable to be quashed and the claim petition is liable to be allowed.

7. Learned APO argued that the petitioner failed to process and finalize the pension case of late Karam Chand within the prescribed time as required under the Uttarakhand Pension Case Submission, Disposal and Avoidance of Delay Rules, 2003. The pension papers were forwarded to the Commissionerate, Pauri after a delay of approximately two years. The Commissioner directed the petitioner to take an appropriate decision in the pension matter of Late Shri Karam Chand.

7.1 Learned APO further argued that departmental proceeding was initiated against the petitioner under the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003, as amended in 2010. The Additional Commissioner, Rural Development, was appointed as the Inquiry Officer, who conducted the regular departmental inquiry and submitted inquiry report in which the petitioner was held guilty of the charge relating to the delay in processing the pension case of Late Shri Karamchand. The Disciplinary authority issued a show-cause notice to petitioner along with the inquiry report which the petitioner replied on 28.01.2020.. The reply was found unsatisfactory by the disciplinary authority and imposed the penalties of an adverse special entry in her service record and stoppage of increment with cumulative effect. The Uttarakhand Public service commission was also consulted before imposing the punishment.

7.2 Learned APO submitted that the representation submitted by the petitioner against order of the disciplinary authority was rejected vide order dated 12.01.2024, and order of the disciplinary authority dated 01.10.2021 was upheld. The departmental inquiry was conducted in accordance with the prescribed procedure and the petitioner was given reasonable opportunities to present her defense

during the inquiry proceedings. The claim petition is devoid of legal merit and deserves to be dismissed.

8. Based on the arguments of the parties and the documents submitted, we find that the petitioner did not process the pension papers of late Karm Chand in time as he did not submit no dues certificate related to the accommodation provided to him on the recommendation of the petitioner despite notice and subsequent reminders from the petitioner. Finally he submitted papers after 2 years that he will vacate the accommodation provided to him by Gurukul Kangari University and then his pension papers were processed, which shows that there was delay on the part of Late Sri Karm Chand too, which has been overlooked by the respondents. In the meantime the petitioner was charged on three charges under Discipline and Appeal Rules 2003 whereas the Rules of 2003 as amended in 2010 were applicable at that time. The inquiry officer has been appointed on the same day , the petitioner has been issued charge sheet, which is contrary to the Rule 7 of the Uttarakhand Government Servant (Discipline and Appeal) Rules, 2003 as amended in 2010 as well as various judgments of the Hon'ble 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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> …….
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> (4) The charge sheet along with the documentary evidences mentioned therein and list of witnesses and their statements, if any, shall be served on the charged government servant personally or by registered post at the address mentioned in the official records. In case the charge sheet could not be served in aforesaid manner,

the charge sheet shall be served by publication in a daily newspaper having wide circulation: Provided that where the documentary evidence is voluminous, instead of furnishing its copy with charge sheet, the charged government servant shall be permitted to inspect the same.

…….

(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.

…….....

(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;…….”

The Single Judge of the Hon’ble 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:-

“*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****….……"*

The Division Bench of the Hon'ble High Court of Uttarakhand 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."

8.1 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 have been appointed only after the charge sheet was served upon the delinquent official and she pleaded not guilty to the charges.

8.2 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. The impugned punishment order dated

01.10.2021 issued by Respondent No.2 as well as the O.M. dated 12.01.2024 issued by Respondent No.2, 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 01.10.2021 issued by the Respondent No. 2 (Annexure-1 to Compilation-I) as well as the O.M. dated 12.01.2024 issued by Respondent No. 2 (Annexure 1-A) are hereby quashed. Respondents are directed to extend all the consequential benefits to the petitioner. However, liberty is reserved to the respondent authorities to initiate fresh departmental proceedings against the petitioner, in accordance with law. No order as to costs.

(RAJENDRA SINGH)
ACTING CHAIRMAN

(ARUN SINGH RAWAT)
VICE CHAIRMAN (A)

DATE:NOVEMBER 05, 2026.
DEHRADUN

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