

STATE PUBLIC SERVICES TRIBUNAL, INDIRA BHAWAN, LUCKNOW.

Bench no.2

Presence : Hon'ble Mr. Ravindra Vikram Singh, Member (Judicial)
Hon'ble Mr. Sukhlal Bharti, Member (Administrative)

Claim Petition No.80 of 2017

Sudhir Kumar, aged about 44 years, son of Sri Mangey Ram,
resident of Village- Karoda Hathi, Post-Karoda, P.S. Babri,
Tehsil-Kairana, District-Shamli, U.P.

.....Petitioner

Versus

1. State of U.P. through the Principal Secretary Home
Department, U.P. Secretariat, Lucknow.
2. Director General of Police, U.P. Lucknow..
4. Superintendent of Police, Fatehpur.

.....Opp. Parties.

JUDGMENT

(Authored by Hon'ble Mr. Ravindra Vikram Singh, M. (J.)

This claim petition has been preferred by petitioner U/S-
4 of U.P. Public Services (Tribunal) Act 1976 to quash the
order dated 09.01.1998 passed by opp. party no.1 whereby
service of the petitioner was terminated and later on
representation of petitioner was rejected on 14.12.2016
thereafter this petition was filed for quashing of these orders
and to allow him all consequential service benefits.

2. Before going into the facts of the petition it is pertinent to
mention that this petition has already been heard by Tribunal
earlier and Tribunal has passed a judgment dt.11.04.2019
whereby petition was rejected. Petitioner moved to the
Hon'ble High Court against this order, Hon'ble High Court has

passed and order dt.31.10.2019 and in that order it is mentioned that *for the foregoing reasons, the writ petition is allowed. The impugned order dated 11.04.2019 passed by U.P. State Public Services Tribunal in Claim Petition No.80 of 2017 (Sudhir Kumar Vs. State of U.P. and others) is set aside and the matter is remanded back to the Tribunal to decide the same on merit.* Thereafter this petition is fixed for rehearing.

3. Brief facts relating to the case as per petition are that petitioner was appointed as Constable on 01.01.1992 his work and conduct were always satisfactory he was falsely implicated in criminal cases and the FIR was lodged against the petitioner in P.S. Kashipur and P.S. Talital. Petitioner was totally innocent. Merely on the basis of registration of FIR petitioner's services has been suspended by opp. party no.3/SP. Fatehpur without conducting any inquiry in the matter of petitioner passed the impugned punishment order dt. 09.01.1998 whereby services of petitioner has been terminated in illegal and arbitrary manner without giving opportunity to the petitioner for hearing. This order was passed under Rule 8(2)(B) of the Uttar Pradesh Police Officers Of The Subordinate Ranks (Punishment And Appeal) Rules, 1991. The relevant rule 8 starts with the heading of *Dismissal and removal-(1) No Police Officer shall be dismissed or removed from service by an authority subordinate to the appointing authority. (2) No police officer shall be dismissed, removed or reduced in rank except after proper inquiry and disciplinary proceedings as contemplated by these rules: Provided that this rule shall not apply- (a) Where a person is dismissed or removed or reduced in rank on the ground of*

conduct which has led to his conviction on a criminal charge; or (b) Where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason to be recorded by that authority in writing, it is not reasonably practicable to hold such enquiry: or (c) Where the State Government is satisfied that it is in the interest of the security of the State it is not expedient to hold such enquiry.

4. These are the main provisions relating to the rule 8. This rule is an exception to the general principle that no removal or dismissal or any adverse order relating to service matter be passed without any proper inquiry. This permits that punishment order can be passed without conducting any inquiry when delinquent employee has been convicted on a criminal charge or not *practicable* to hold such inquiry or in the interest of the security of the State. Reasons must be recorded in writing that *it is not practicable to hold enquiry*. Petitioner's involvement in criminal case no.232 of 1996 under section 392, 397, 120B, 412 IPC at P.S. Kashipur District Nanital, second case is Case Crime no.367 of 1997 under section 379/411 IPC, P.S. Talital, District Nanital and 3rd case crime no.594 of 1997, under section 452, 323, 504 and 506 IPC P.S. Talital, District Nanital. This is a matter relating to the crime when Uttar Pradesh was no bifurcated. After prolonged trial Addl. District Judge Nanital has passed an order dt.14.07.2005, an order dt.18.03.2008 passed by Chief Judicial Magistrate, Nanital and judgment & order dated 14.03.2008 passed by Chief Judicial Magistrate, Nanital, when the petitioner was acquitted from all the three charges framed against him. Petitioner has also mentioned para 492

& 493 (C). It is stated that after acquittal from the criminal cases petitioner approached to opp. party no.3/S.P. by moving an application/representations dt.28.11.2008, 20.08.2009 & 24.07.2012 requesting to reinstate him, when no order was made he moved a representation under section 25 of Rules, 1991. The opp. party no.1 dismissed the petitioner's appeal vide order dt.14.12.2016 find the appeal to be illegal.

5. Hon'ble High Court in writ petition no.302020(S/S) 2016 the impugned orders was pleased to pass the order dt.23.12.2016 directing the petitioner to avail alternative remedy by filing claim petition before State Public Services Tribunal. Claim petition no.80/2017 was filed and it was dismissed by the Tribunal vide order dt.11.4.2019 against which petitioner moved to the Hon'ble High Court, Hon'ble High Court has set aside the order of Tribunal and remanded the matter to Tribunal vide its order dt. dt.31.10.2019 for deciding the matter on merit therefore this petition is before this Court.

6. Opp. parties in their written statement regarding paragraph 1,2,3 & 4.1 has stated that no comment is required. As far as paragraph 4.2 is concerned the acquittal orders passed by various courts of District Nanital have been admitted.

7. It has also been mentioned that in just four years of short service petitioner has received one censure entry and regarding implication in three criminal cases his service had always been in doubt. His representation dt. 11.03.2013 26.05.2015 and 18.10.2016 have also been rejected. the

punishment order which was passed on 09.01.1998, an appeal has been preferred neither any revision have been preferred but the petitioner has moved a representation and by disposing of the representation an office memorandum was issued which mentions that in the highly discipline police force an employee is supposed to work with due diligence, utmost discipline and devotion to the duty. All these things are missing in petitioner's case. Petitioner is not entitled to get any relief under Rule 25 of the Rules 1991. Therefore, his representation was rejected.

8. Now they have discussed Rule 8(2)(kha) of Rules 1991 and it has been mentioned that any inquiry regarding Rules 8 is not necessary the power provided under that Rules entitles the officer passing order to terminate the services after paying one months' salary. Petitioner being a police personal involved in a criminal cases is a very serious allegation though he was acquitted but still his involvement was in cases like 395, 397, 411 which are relating to Dacoity and receiving the goods looted during dacoity, one another offence was relating to section 379/411 which is theft and receiving the stolen property, another offence was regarding 452, 323, 504 and 506 IPC these provisions relates to act of violence within the territory of residential complex. All these three offences are serious in nature and specially offence relating to Dacoity which carries the sentence upto life imprisonment and if accompanied with murder then even death punishment can be imposed. It is just aimed to show that how serious the offence was which was committed by petitioner.

9. Petitioner's main contention is that no such offence has proved against him and he is secured his acquittal in all three cases. Now, when the courts have decided these cases and he is acquitted then criminal history of accused comes back to the normal. Although one thing is very pertinent is that how far society accept these acquittal this is a question which has to be answered?

10. Although petitioner was acquitted but he was involved in criminal offences a very strange kind of phenomenon thus application under Rule 8 is not out of place and the order passed by authority do not suffers from infirmity and petitioner's petition is liable to be rejected.

11. Earlier this Tribunal in the same petition has passed the order dt. 11.4.2019 whereby this petition was rejected but grounds of rejection were different that petition was rejected on the basis of time barred. Tribunal has discussed various provisions of Section 5 of U.P. Public Services (Tribunal) Act 1976 and found that petitioner has to use all the remedies available to him whether it is by way of appeal or revision or any other remedy, in the absence of such remedy he cannot file the petition. But he has not filed any appeal or revision, therefore, Tribunal found petition to be time barred, thereby rejected it.

12. Hon'ble High Court has in their judgment dt. 31.10.2019 allowed the writ petition and impugned order dt. 11.04.2019 passed by this Tribunal in C.P. no.80 of 2017 has been set aside and the matter is remanded back to the Tribunal for deciding the same on merit, therefore, this petition is before this Court.

13. Rejoinder affidavit has been filed by petitioner reiterating the facts of the petition.

14. Heard both the ld. counsel for the petitioner, ld. P.O. and gone through the record.

15. Question involving in this petition is very sort in nature that whether section 8(2)(B) is applicable in the present circumstances? The petitioner's counsel has taken the plea that since petitioner has been acquitted in all the criminal trials now there is nothing against him and he is willing again to join his services then he should be permitted. There are two final points; one being involvement in criminal case, one being punished in criminal cases. After the trial of a criminal case when all the evidences have been led by the parties and Court comes to the conclusion whether the person concerned is guilty or not? After analyzing all the evidence, prosecution and defence, order of acquittal or conviction is passed. Rule 8(2)(B) says where authority empower to dismiss or remove the person or to reduce him in rank is satisfy that for some reasons be recorded. That authority in writing is it is not reasonably practicable to hold such inquiry. These things have to be taken independently whether any criminal case is pending against the employee or not? Here the question is whether the enquiry is reasonably practicable or not? It means that whether there is necessity of any inquiry? An inquiry is launched to ascertain certain-2 facts when the facts are not clear and when the facts are clear and it is very much apparent that who has committed what wrong then necessity of inquiry goes off.

16. In the present case the filing in registration of FIR against accused was well known so is the allegation of prosecution that image of police has been tarnished. One of the offences is of Dacoity, another offence are not that serious.

17. Defence has taken the plea that Police Regulation does provide in para 492 & 493 of Police Regulation. Regulation 492 says *"whenever a police officer has been judicially tried, the Superintendent must await the decision of the judicial appeal, if any before deciding whether further departmental action is necessary."* In case of acquittal appeal against it cannot be recorded as continuance of trial. And para-493 is important which says *"it will not be permissible for the Superintendent of Police in the course of a departmental proceeding against a police officer who has been tried judicially to re-examine the truth of any facts in issue at his judicial trial, and the finding of the court on these facts must be taken as final."* The logic behind is that the court concerned has churned out the evidences and came with the result of conviction. It means that all the evidences produced by the prosecution has shown accused guilty. So there can be no question to re-evaluate evidences which have been evaluated by judicial forum.

18. Applying the principles to the present petition this thing comes to light that acquittal has been passed in all the three criminal cases by the concerned courts of Nanital. This court is not supposed to look into the merit or analyze the evidences which have already been analyzed. The verdict of the judicial trial has to be accepted. In this regard there has

been a recent pronouncement of the year 2025 **CIVIL APPEAL NO.5497 OF 2025, Maharana Pratap Singh vs. The State Of Bihar decided on 23 April, 2025** in which Hon'ble Supreme Court has held that once acquittal is passed by the judicial authority it cannot be looked into with another angle by administrative authority, fact has to be accepted. If an appeal is filed then period has to be awaited upon. But in present case appeal has not been filed this fact has come on the file. Now what is left is that only three cases of criminal nature filed against the petitioner in which the courts at Nanital district Uttranchal have acquitted the petitioner. Copies of the judgment have been filed. So all the impact of having been involved in a criminal case has been obliterated by the judgment of trial Courts at Nanital. This is a clear cut provision of Rule 493 of Police Regulations as well as established law of Hon'ble High Court and Hon'ble Supreme Court. Thus, the exigency of action which was taken as per the provisions of Rule 8(2)(B) of Rules of 1991 does not seems to exist now. Even section 8(2)(B) cannot be equated with heinousness of the charge. The simple principle is whether in the given circumstance letting a full-fledged inquiry is necessary or not or is practical or not supposing a liquor tragedy or some other calamity has happened which is not natural then to maintain the public image some action must be shown, in that condition inquiry cannot be awaited upon. Action has to be taken within 5-7 days in that situation provisions of 8(2)(B) is applied.

19. From the perusal, in their W.S. opp. parties have mentioned that besides this punishment order of January 9,

1998 whereby Sudhir Kumar was removed from service there is one censure entry also. Although it has not been mentioned for what act that ensure entry was given nor any paper in this regard has been filed.

20. From the above discussion since all the criminal trials for which removal of Sudhir Kumar was made by order of 1998 representation was rejected in the year 2016, those grounds have now been obliterated from the records. Thus, there is no ground for maintaining the punishment based on being involved in criminal cases as per Police Regulation Para 492 & 493 as well as on the basis of Ruling of Hon'ble High court and Supreme Court. Petition succeeds.

ORDER

This claim petition is hereby allowed. Impugned orders dated 09.01.1998 as well as 14.12.2016 is quashed. Petitioner is entitled to get all consequential service benefits as per rules. No order as to cost.

Sd/-
(Sukhlal Bharti)
Member(Admn.)

Sd/-
(Ravindra Vikram Singh)
Member (Judicial)

Judgment signed dated and pronounced in open court today.

Sd/-
(Sukhlal Bharti)
Member(Admn.)

Sd/-
(Ravindra Vikram Singh)
Member (Judicial)

Date 21.08.2026

Poonam