

**U.P. STATE PUBLIC SERVICES TRIBUNAL INDIRA
BHAWAN, LUCKNOW**

Court No.-07

PRESENT: HON'BLE SRI ANAND KUMAR SINGH MEMBER (ADMN.)

Claim Petition No. 182 of 2023

Kushalveer Singh, aged about 56 years, s/o Shri Hamveer Singh, Resident of Defence colony, Kharakhpur, Devipura, Udham Singh Nagar, Uttarakhand-244713 at present posted as Inspector Anti Corruption, Agra.

...Petitioner.

Versus

1. State of U.P. through Principal Secretary/Additional Chief Secretary, Home, U.P. Civil Secretariat, Lucknow.
2. The Inspector General of Police, Bareilly Parikshetra Bareilly.
3. The Senior Superintendent of Police, District-Badaun.

...Opposite Parties

Sri R.K. Yadav, Adv. Ld. Counsel for petitioner.
Sri S.P. Singh, Ld. Presenting Officer, for O.Ps.

JUDGMENT

(DELIVERED BY HON'BLE SRI ANAND KUMAR SINGH MEMBER (ADMN.))

1. The present Claim Petition has been instituted under Section 4 of the U.P. State Public Services (Tribunals) Act, 1976, challenging the punishment order dated 11.03.2021, whereby the punishment of censure was imposed upon the petitioner by opposite party No. 3, as well as the appellate order dated 07.10.2022 passed by opposite party No. 2. Through the instant claim petition, the petitioner has sought the following reliefs:

"(i) Hon'ble Court may kindly be pleased to set aside the minor punishment order no. da.-143/2020 dated 11.03.2021, imposing punishment of censure, passed by opposite part no. 3 as well as appellate order dated 07.10.2022 passed by opposite party no. 2 and allow the petitioner all consequential service benefits arising out of it.

(ii) Any other direction or order may also be passed which this Hon'ble Tribunal may kindly be pleased to issue in the facts and circumstances of the case.

(iii) Award the cost of the Claim petition in favour of the applicant."

2. The aforesaid reliefs have been sought mainly on the grounds that the preliminary inquiry report dated 14.08.2020 wrongly recorded a finding of guilt against the petitioner; the preliminary inquiry was conducted in violation of the prescribed procedure and the principles of natural justice; the allegations made against the petitioner were vague and unsupported by evidence; the petitioner's reply to the show-cause notice was not considered by the disciplinary authority; no violation of any statutory rule or administrative order was attributed to the petitioner; the punishment order dated 11.03.2021 is non-speaking and unreasoned; the appellate order dated 07.10.2022 was passed without properly considering the petitioner's service record and the grounds raised in the appeal; and both the impugned orders are arbitrary and liable to be set aside.

3. The case of the petitioner, in substance, is that at the relevant time, he was posted as In-charge Inspector at Police Station Sahasvan, District Badaun. The controversy arose out of his investigation of a case registered under Section 156 Cr.P.C. concerning the

death of a married woman, whose son had initially reported that she had committed suicide by hanging. The Panchayatnama had already been prepared, photographs had been taken, and the material collected during the investigation supported the conclusion of suicide. Although the post-mortem report did not specifically mention any mark of hanging, the petitioner attempted to record the statement of the concerned doctor but could not obtain any definite opinion. Since more than twenty-two years had elapsed since the marriage of the deceased and no evidence indicating murder was found, the petitioner submitted a final report on the basis of the evidence collected during the investigation. Thereafter, a preliminary inquiry was conducted by the Superintendent of Police (City), Badaun, who submitted an inquiry report dated 14.08.2020 holding the petitioner guilty of violating the directions issued by the Circle Officer by returning the case diary without removing the objections pointed out therein. Relying upon the said inquiry report, a show-cause notice dated 13.11.2020 was issued, to which the petitioner submitted a detailed reply in February 2021 denying all allegations and explaining the circumstances under which the final report had been submitted. However, the disciplinary authority imposed the punishment of censure by order dated 11.03.2021, and the statutory appeal preferred by the petitioner was subsequently rejected on 07.10.2022, giving rise to the present claim petition.

4. On the other hand, the opposite parties have stated through W.S./C.A. that the petitioner has challenged the punishment order dated 11.03.2021 and the appellate order dated 07.10.2022 on incorrect and unsupported facts. According to them, after a preliminary inquiry dated 14.08.2020 found the petitioner guilty, a show-cause notice dated 13.11.2020 was issued. The petitioner submitted his reply on 16.02.2021, which was duly considered before passing the punishment order.

5. The case of the opposite parties, in substance, is that while investigating Case Crime No. 199 of 2019, the petitioner submitted a Final Report without properly examining the contradiction between the post-mortem report and the evidence collected during the investigation. Despite specific directions issued by the Circle Officer to remove the objections, the petitioner failed to do so. It has further been pleaded that the inquiry proceedings were conducted in accordance with the rules; adequate opportunity was provided to the petitioner; the punishment order and the appellate order are reasoned and lawful.

6. The petitioner has filed a Rejoinder Affidavit reiterating the averments made in the claim petition and denying the assertions contained in the Written Statement.

7. Heard the learned counsel for the petitioner and the learned Presenting Officer for the opposite parties, considered their rival submissions and perused the record.

8. The factual matrix of the present claim petition runs like this, the petitioner was served with a show-cause notice dated 13.11.2020 (Annexure No. 5), and the following charge has been levelled against him,

"वर्ष-2020 में जब आप प्रभारी निरीक्षक, थाना सहवान के पद पर नियुक्त थे, तब दिनांक 16.05.2019 को वादिनी नन्हीदेवी पत्नी छोटेलाल नि०मौ० मश्राना थाना कोतवाली जनपद मैनपुरी की पुत्री सोनी देवी को उसके ससुरालीजनों द्वारा हत्या कर देने के संबंध में माननीय न्यायालय के आदेश से धारा 156 (3) सीआरपीसी के अन्तर्गत मु०अ०सं०-199/2019 धारा 302 भा०द०व० बनाम महीलाल आदि 04 नफर थाना सहसवान पर पंजीकृत हुआ था, इस अभयोग की ववेचना आपके द्वारा सरसरी

तौर पर करते हुये अभियोग मे अन्तिम रिपोर्ट सं0-46/2019 दिनांक-07.06.2019 को प्रेषित कर ववेचना ववेचना समाप्त कर दी गयी, जिसे क्षेत्राधिकारी अन्तिम रिपोर्ट रोकते हुये दिनांक 20.06.2019 को द्वारा पोस्टमार्टम रिपोर्ट में मृत्यु का कारण एन्टीमोर्टम हेड इन्जरी अंकित होने एवं आपके संकलित साक्ष्य में मृतका द्वारा फॉसी लगाना व पंचायतनामें में पंचों की राय से भी मृतका की मृत्यु फॉसी लगने से होने के कारण संकलित साक्ष्य एवं पीएम रिपोर्ट में अंकित तथ्यों की समीक्षा कर दोनों में वरोधाभाष पाये जाने पर, कारण स्पष्ट करने हेतु दि० 22.06.2019 को सम्पूर्ण सीडी आपको वापस की गयी, परन्तु आपके द्वारा क्षेत्राधिकारी सहसवान के निर्देशों की अवहेलना करते हुए आपत्त की पूर्ति कये बिना ही मात्र एक एससीडी कता कर कर वापस कर दी गयी। इनका यह कृत्य अपने कर्तव्यपालन के प्रति घोर लापरवाही, उदासीनता एवं स्वेच्छाचारिता का परिचायक है। जिसकी घोर निन्दा की जाती है।"

The petitioner submitted his reply dated 08/16.02.2021 (Annexure No. 6) denying the allegations levelled against him. Thereafter, the disciplinary authority passed the punishment order dated 11.03.2021 (Annexure No. 1) imposing the punishment of censure. The appeal preferred by the petitioner was also rejected by order dated 07.10.2022 (Annexure No. 2). Hence, this claim petition.

9. The principal argument of the learned counsel for the petitioner is that the preliminary inquiry culminating in the inquiry report dated 14.08.2020 and the consequent show-cause notice dated 13.11.2020 stand vitiated on account of a violation of the principles of natural justice. It has been contended that material witnesses were not examined during the preliminary inquiry and that the

documents and materials relied upon against the petitioner were not made available to him.

The learned, Presenting Officer appearing on behalf of the state, on the other hand, has submitted that the proceedings in question were initiated under Rule 14(2) read with Rule 4(1)(b)(4) of the U.P. Subordinate Police Officers (Punishment and Appeal) Rules, 1991, for the imposition of a minor penalty. It has further been argued that the petitioner was supplied with the preliminary inquiry report along with the show-cause notice and was afforded an opportunity to submit his explanation, which he, in fact, availed.

This Tribunal has considered the rival submissions and examined the material available on record. The record demonstrates that the preliminary inquiry was conducted after recording the statements of the petitioner himself, the succeeding investigating officer, and other police personnel connected with the relevant records. The petitioner was also supplied with a copy of the preliminary inquiry report along with the show-cause notice and was granted fifteen days to submit his explanation. Significantly, no specific document, the alleged non-supply of which caused prejudice to the petitioner, has been identified. Mere non-examination of the complainant or other witnesses connected with the criminal case could not, by itself, invalidate a preliminary inquiry intended only to examine the petitioner's official conduct. The proceedings, therefore, cannot be regarded as suffering from any procedural infirmity resulting in a denial of reasonable opportunity to the petitioner.

10. The next argument of the learned counsel for the petitioner is that the finding recorded in the preliminary inquiry, holding that the petitioner had conducted the investigation in a cursory manner, was wholly unsustainable. It has been argued that the petitioner had examined the available evidence, recorded the

statements of the concerned witnesses, considered the version of the minor children of the deceased, and, upon finding no material supporting the allegation of murder, submitted the final report in the exercise of his lawful discretion as the Investigating Officer. It has further been contended that a mere difference of opinion regarding the manner of investigation could not, by itself, constitute misconduct.

The learned Presenting Officer, on the other hand, has submitted that the materials available on record disclosed an apparent inconsistency between the inquest report, the photographs of the deceased, and the post-mortem report. Despite noticing that the inquest witnesses had referred to a prominent ligature mark on the neck and that the photographs also depicted such a mark, the petitioner neither obtained any definite clarification from the post-mortem doctor nor pursued the matter through the competent medical authorities. It has further been argued that, after the Circle Officer withheld the final report and specifically directed the petitioner to undertake a deeper investigation and explain the contradiction, petitioner merely recorded one supplementary case diary and reiterated his earlier conclusion without complying with the directions issued by the supervisory authority.

This Tribunal finds substance in the submission advanced on behalf of the opposite parties. Once the supervisory authority had directed further investigation for resolving the inconsistency, it became incumbent upon the petitioner to undertake meaningful investigative steps. The preliminary inquiry further reveals that the petitioner returned the case diary after recording only one supplementary case diary entry and without securing any authoritative medical opinion. In these circumstances, the conclusion that the investigation was conducted in a casual and inadequate manner cannot be said to be arbitrary or unsupported by the record. Accordingly, the findings recorded in the

preliminary inquiry do not warrant interference and the challenge raised by the petitioner cannot be accepted.

11. The next argument of the learned counsel for the petitioner is that the punishment of censure imposed under Rule 14(2) read with Rule 4(1)(b)(4) of the U.P. Subordinate Police Officers (Punishment and Appeal) Rules, 1991, was wholly unjustified. It has been contended that the disciplinary authority proceeded mechanically without properly considering the explanation submitted by the petitioner.

The learned Presenting Officer has submitted that the petitioner was served with a detailed show-cause notice along with a copy of the preliminary inquiry report and was afforded an opportunity to submit his explanation. It has been argued that the explanation submitted by the petitioner did not satisfactorily explain his failure to resolve the contradiction between the inquest report and the post-mortem report or his failure to comply with the specific directions issued by the Circle Officer. It has, therefore, been contended that the disciplinary authority was fully justified in imposing the minor punishment of censure.

This Tribunal has considered the rival submissions and finds that the disciplinary authority acted on the basis of the material collected during the preliminary inquiry, the documentary evidence available on record, and the petitioner's own explanation. The record further demonstrates that the petitioner was afforded an opportunity to explain his conduct before the punishment order was passed. In these circumstances, the disciplinary authority cannot be said to have acted arbitrarily or in violation of the applicable rules. The imposition of the punishment of censure was justified on the material available on record, and the challenge raised by the petitioner is, therefore, liable to be rejected.

12. Learned counsel for the petitioner has argued that the appellate order dated 07.10.2022 was passed mechanically and without due compliance with Rule 21 of the U.P. Police Officers of Subordinate Rank (Punishment and Appeal) Rules, 1991. It has further been argued that the appellate authority failed to consider the petitioner's submissions, including his previous service record, while affirming the punishment.

The learned Presenting Officer has submitted that the appellate authority examined the entire record and independently considered the grounds raised in the appeal before dismissing the same.

This Tribunal has carefully examined the appellate order in the context of Rule 21 of the Rules, 1991. The record demonstrates that the appellate authority considered the findings recorded during the disciplinary proceedings as well as the grounds advanced by the petitioner in his memorandum of appeal and thereafter concurred with the conclusion reached by the disciplinary authority. The petitioner has not been able to establish that any relevant material, including his service record, was ignored in a manner causing prejudice to him. Accordingly, this Tribunal holds that the appellate order dated 07.10.2022 was passed in conformity with Rule 21 of the Rules, 1991, after due consideration of the relevant record.

13. In view of the findings recorded hereinabove, this Tribunal is of the considered opinion that the petitioner has failed to establish any illegality, procedural irregularity, violation of the principles of natural justice, or non-compliance with the provisions of the U.P. Police Officers of Subordinate Rank (Punishment and Appeal) Rules, 1991, in the disciplinary proceedings culminating in the punishment order dated 11.03.2021 and the appellate order dated 07.10.2022. The findings establish that the preliminary inquiry dated 14.08.2020 was conducted in accordance with law; that the materials

available on record were sufficient to establish the allegations against the petitioner; that the disciplinary authority duly considered the petitioner's explanation before imposing the penalty of censure; and that the appellate authority decided the statutory appeal after due consideration of the relevant record in conformity with Rule 21 of the Rules, 1991. Consequently, both the impugned orders are found to be legally sustainable and based upon the material available on record. Therefore, no case for interference with the impugned orders is made out.

ORDER

14. Accordingly, Claim Petition No. 182 of 2023 is dismissed. Consequently, the punishment order dated 11.03.2021 (Annexure No. 1) and the appellate order dated 07.10.2022 (Annexure No. 2) are hereby affirmed.

15. There shall be no order as to costs.

Sd/-

(ANANDKUMAR SINGH)

MEMBER (ADMN.)

U.P. State Public Services Tribunal
Indira Bhawan Lucknow

The judgment is signed, dated, and pronounced in open court today.

Sd/-

(ANAND KUMAR SINGH)

MEMBER (ADMN.)

U.P. State Public Services Tribunal
Indira Bhawan Lucknow

Dated- 18.08.2026

Virendra/Steno(o).