

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

Court No.-07

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

Claim Petition No. 243 of 2023

Prabhakar Shukla, aged about 47 years, son Of Sri Ram Dutt Shukla, Resident of village Purey Pherai Shukla, Police Station Khandasa, District Ayodhya, presently posted as Sub Inspector, (Chowki Incharge Civil Line, Police station Kotwali, District- Balia), PNO No. 920500202

...Petitioner.

Versus

1. The State of U.P. through Principal Secretary, Home, U.P. Civil Secretariat, Lok Bhawan, Lucknow.
2. The Additional Director General of Police, Varanasi Zone Varanasi.
3. The Deputy Inspector General of Police, Azamgarh Range Azamgarh.
4. The Superintendent of Police, Balia.

...Opposite Parties

Sri Ramesh Singh, 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. Public Services (Tribunals) Act, 1976, challenging the minor punishment order No. Da-60/2022 dated 26.05.2022 (Censure Entry), the appellate order dated 21.07.2022 and the revisional order dated 06.12.2022.

The petitioner has sought the following reliefs:

“(i). To quash/set aside the minor punishment order No.Da-60/2022 dated 26.5.2022 (Censor Entry) passed by the opposite party No.4, the appellate order dated 21.7.2022 passed by the opposite party No.3 and revisional order dated 6.12.2022 passed by the opposite party No.2, contained Annexure No.1, 2 & 3 respectively to this claim petition.

(ii). To direct the opposite parties not to read the impugned minor punishment order No.Da-60/2022 dated 26.5.2022 (Censor Entry) passed by the opposite party No.4, the appellate order dated 21.7.2022 passed by the opposite party No.3 and revisional order dated 6.12.2022 passed by the opposite party No.2 against the petitioner to deny him any service benefit.”

2. The aforesaid reliefs have been sought mainly on the grounds that the petitioner had promptly acted upon the incident by seizing the tractor-trolley under Section 207 of the Motor Vehicles Act and informing the Mining Officer; that the allegation of firing was not supported by the complaint; witness statements or reports of the concerned Circle Officers; that the enquiry officer ignored relevant records and the petitioner's detailed reply dated 12.05.2022; the punishment, appellate and revisional orders were passed without adequate reasons or proper application of mind; the then Station House Officer, Manoj Kumar Singh, who was held guilty in the same enquiry, was subsequently exonerated in revision.

3. The case of the petitioner, in substance, is that while posted as Chowki Incharge, Lalganj, Police Station Dokati, District Ballia, a tractor-trolley carrying sand

touched and damaged a wall on 13.09.2021. On receiving information, the petitioner reached the spot, seized the vehicle under Section 207 of the Motor Vehicles Act and informed the Mining Officer. A separate altercation took place on 14.09.2021, regarding which Case Crime No. 83/2021 under Sections 323, 504 and 506 IPC was registered; according to the petitioner, neither the complaint nor the subsequent enquiry supported the allegation of firing. Despite his detailed reply dated 12.05.2022 to the show-cause notice dated 28.04.2022, he was awarded a Censure Entry on 26.05.2022. His departmental appeal and revision were thereafter rejected on 21.07.2022 and 06.12.2022 respectively, giving rise to the present claim petition.

4. The opposite parties have denied the material averments of the claim petition and pleaded that the petitioner was proceeded against in accordance with the U.P. Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991. They state that the preliminary enquiry dated 05.04.2022 found the charge proved, after which a show-cause notice dated 28.04.2022 was issued and the petitioner's reply dated 12.05.2022 was duly considered before passing the punishment order dated 26.05.2022.

5. The opposite parties further state that the petitioner's appeal and revision were considered on merits and rejected by reasoned orders dated 21.07.2022 and 06.12.2022. They deny that the impugned orders are non-speaking, arbitrary or discriminatory and contend that the petitioner's negligence amounted to misconduct. They also plead that his case cannot be compared with that of the then Station House Officer, Manoj Kumar Singh.

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 28.04.2022 (Annexure No. 4), and the following charge was levelled against him:

“जब यह उप निरीक्षक वर्ष-2021 में चौकी प्रभारी लालगंज थाना-दोकटी, जनपद-बलिया के पद पर नियुक्त थे तो दिनांक 13.09.2021 को एक ट्राली पर लाल बालू को ट्रैक्टर से ले जाया जा रहा था कि रास्ते में श्रीकृष्ण वर्मा पुत्र जयगो वन्द वर्मा निवासी शिवपुर कपुर दीयर थाना-दोकटी जनपद-बलिया के मकान के कार्नर से ट्रैक्टर की टाली सट गयी जिससे दीवाल क्षतिग्रस्त हो गयी, जिसके कारण वहाँ मौके पर भीड़ एकत्रित हो गयी व दोनों पक्षों में कहा सुनी होने लगी। सूचना प्राप्त होने पर इनके द्वारा मौके पर पहुँचकर ट्रैक्टर महेन्द्र 265 डी०आई० नं० बी०आर०-01 जीजे-4144 को अन्तर्गत धारा 207 एमवी एक्ट में सीज किया गया। यह चौकी प्रभारी जैसे जिम्मेदार पद पर नियुक्त थे, इनका पदीय दायित्व था कि सतर्क होकर पूर्व से ही प्रभावी चेकअप कर अवैध लाल बालू के परिवहन पर प्रभावी अंकुश लगाते तो उक्त ववाद की स्थिति उत्पन्न नहीं होती, परन्तु इनके द्वारा अपने पदीय कर्तव्य निर्वहन के प्रति घोर लापरवाही एवं उदासीनता का परिचय देते हुए ऐसा नहीं किया गया जिसके कारण अवैध लाल बालू के परिवहन के दौरान उक्त घटना घटित हुई व समाचार पत्रों में उक्त घटना के प्रकाशन से पुलिस की छबि धूमल हुई। इनका उक्त कृत्य

पदीय कर्तव्य निर्वहन के प्रति घोर लापरवाही,
अकर्मण्यता एवं उदासीनता का परिचायक है।”

The petitioner submitted his reply to the said notice on 12.05.2022 (Annexure No. 5). Thereafter, the disciplinary authority passed the impugned punishment order dated 26.05.2022 (Annexure No. 1), awarding a Censure Entry to the petitioner. His departmental appeal was rejected by the impugned appellate order dated 21.07.2022 (Annexure No. 2), and his revision was also rejected by the impugned revisional order dated 06.12.2022 (Annexure No. 3). Hence, the present claim petition.

9. The principal argument of the learned counsel for the petitioner is that the disciplinary authority rejected his detailed explanation dated 12.05.2022 without considering the material defence that action had earlier been taken against transportation of red sand, vehicles had been seized and reports were sent to the Mining Department.

The learned Presenting Officer submits that the preliminary enquiry established negligence because effective preventive checking was not ensured and the tractor involved was formally seized only on 15.09.2021.

The Tribunal finds that, although the punishment order dated 26.05.2022 reproduces the petitioner's explanation at considerable length, its material particulars have not been independently evaluated. The authority principally reiterated the allegation and described the defence as “मनगढ़न्त” and “आधारहीन”, without explaining why the earlier seizures, alleged reports to the Mining Department and immediate intervention in the incident were insufficient. More importantly, earlier seizure of vehicles carrying red sand was itself treated as proof that no preventive action had been taken, whereas such action could reasonably

indicate enforcement activity and required proper evaluation. A disciplinary finding must rest upon relevant material having a rational connection with the misconduct alleged, and consideration of a defence requires reasons for its rejection. Mere reproduction of the explanation followed by its general rejection does not satisfy that requirement. The order dated 26.05.2022, therefore, does not disclose adequate consideration of the material defence and cannot be sustained on the reasoning recorded therein.

10. The next argument of the learned counsel for the petitioner is that there was no material to establish neglect of official duty, as he had taken action whenever transportation of red sand came to notice, including seizure of vehicles and reporting the matter to the Mining Department.

The learned Presenting Officer submits that, being Chowki In-charge, the petitioner was required to undertake effective preventive checking and the occurrence demonstrated failure to control illegal transportation.

The Tribunal finds that the preliminary enquiry itself records earlier enforcement measures and also that the petitioner reached the spot and brought the tractor to the police station. The charge substantially proceeds upon an inference that, had effective checking been undertaken, the incident would not have occurred. No specific duty, direction or preventive measure deliberately omitted by the petitioner has been identified. In **Union of India v. J. Ahmed, (1979) 2 SCC 286**, the Supreme Court observed that :

“A single act of omission or error of judgment would ordinarily not constitute misconduct.”

Though grave consequences may alter its character. The Court further explained that negligence or

lapse in performance of duty would not constitute misconduct unless the resulting consequences and degree of culpability are sufficiently serious. Applying that principle, neither wilful neglect nor culpable omission of such gravity stands established. The occurrence of an incident cannot, by itself, retrospectively establish failure of preventive policing. The material on record, therefore, does not establish misconduct of a degree warranting the disciplinary punishment imposed upon the petitioner.

11. The next argument of the learned counsel for the petitioner is that the appellate order dated 21.07.2022 and revisional order dated 06.12.2022 merely affirmed the disciplinary conclusion without independently examining his material grounds and supporting records.

The learned Presenting Officer submits that both authorities examined the record, noticed the petitioner's submissions and recorded reasons for rejecting them.

The Tribunal finds that the appellate authority separately noticed the principal grounds and gave comments thereon; therefore, the appellate order cannot strictly be termed a non-speaking order. However, the central defence—that preventive action against transportation of red sand had earlier been taken, vehicles had been seized, reports were allegedly sent to the Mining Department and action was taken upon receiving information—was rejected substantially by reiterating that effective checking would have prevented the incident. The revisional authority adopted substantially the same premise without examining whether the evidence disclosed any specific culpable omission attributable to the petitioner. In ***Kranti Associates (P) Ltd. v. Masood Ahmed Khan, (2010) 9 SCC 496***, the Supreme Court emphasized that:

“Reasons facilitate the process of judicial review by superior Courts.”

An appellate or revisional authority must demonstrate meaningful consideration of material grounds challenging the factual foundation of the punishment. Mere repetition of the original premise does not answer such a defence. Consequently, despite formal discussion of the record, the appellate and revisional orders do not disclose adequate independent consideration and cannot be sustained in their present form.

12. The final argument of the learned counsel for the petitioner is that the preliminary enquiry found both the then Station House Officer, Manoj Kumar Singh, and the petitioner prima facie responsible for failure to prevent illegal transportation of red sand, yet the former was exonerated while the petitioner alone was punished.

The learned Presenting Officer submits that their responsibilities were distinguishable because the petitioner was Chowki In-charge and was holding charge during the occurrence.

The Tribunal finds that the preliminary enquiry expressly attributed failure of effective preventive checking to both officers. Although Manoj Kumar Singh was away on High Court duty during the occurrence, the allegation concerned failure to undertake preventive checking, and no sufficient distinction explaining the different treatment has been demonstrated. In **Rajendra Yadav v. State of M.P., (2013) 3 SCC 73**, the Hon’ble Supreme Court held that:

“(12). The Doctrine of Equality applies to all who are equally placed; even among persons who are found guilty. The persons who have been found guilty can also claim

equality of treatment, if they can establish discrimination while imposing punishment when all of them are involved in the same incident. Parity among co-delinquents has also to be maintained when punishment is being imposed. Punishment should not be disproportionate while comparing the involvement of co-delinquents who are parties to the same transaction or incident. The Disciplinary Authority cannot impose punishment which is disproportionate, i.e., lesser punishment for serious offences and stringent punishment for lesser offences.”

In *Vinod Kumar Srivastava v. Secretary, PWD, 2012 (3) ESC 1487 (All) (DB)*, the Hon’ble Allahabad High Court held that:

“(17). At this stage we can refer certain decisions of the Apex Court which deals with the issue of imposing different punishment for different delinquent if the charges are the same and opinion has been expressed that the charge being same and identical in relation to one and the same incident giving of different punishment would be discriminatory.”

In *State of U.P. v. Raj Pal Singh, (2010) 5 SCC 783*, the Hon’ble SC held that:

“(6). It is undoubtedly open for the disciplinary authority to deal with the delinquency and once charges are established to award appropriate punishment. But when the charges are same and identical in relation to one and the same incident, then to deal with the delinquents differently in the award of punishment, would be discriminatory.”

The principals laid down in the aforesaid judicial authorities squarely apply to the facts and circumstances of the present case and support the petitioner's case.

13. In view of the foregoing discussion and findings, the Tribunal finds that the disciplinary action against the petitioner suffers from material infirmities. The relevant defence and supporting circumstances were not adequately considered, the alleged lapse does not stand established as misconduct of the degree warranting punishment, and the appellate and revisional authorities failed to cure these deficiencies. The unexplained differential treatment between the petitioner and the then Station House Officer further affects the sustainability of the action. The impugned orders, therefore, cannot be allowed to stand and call for interference by this Tribunal.

O R D E R

14. In view of the findings recorded hereinabove, the claim petition No. 243/2023 is disposed of in the following terms:

(i) The claim petition is allowed.

(ii) The punishment order dated 26.05.2022 (Annexure No. 1) awarding a Censure Entry to the petitioner, the appellate order dated 21.07.2022 (Annexure No. 2), and the revisional order dated 06.12.2022 (Annexure No. 3) are hereby quashed and set aside.

(iii) The opposite parties are directed to expunge the Censure Entry arising out of the punishment order dated 26.05.2022

(Annexure No. 1) from the service record of the petitioner.

(iv) The petitioner shall be extended all consequential service benefits, if any, flowing from the quashing of the aforesaid orders, in accordance with law.

(v) Compliance shall be ensured within three months from the date a certified copy of this order is produced before the competent authority.

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- 20.08.2026
Virendra/Steno(o).