

STATE PUBLIC SERVICES TRIBUNAL, INDIRA BHAWAN, LUCKNOW**Bench N0. 2****Presence:** Hon'ble Mr. Ravindra Vikram Singh, Member (Judicial)**Claim Petition No.:383 Of 2020**

B. P. Yadav, aged about 34 years, Son of Sri BalkrishnaYadav, presently posted in office of Circle Officer, Fatehgargh, District-Farrukhabad, permanent resident of - Arazi Sankhya-174, Purana Shivili Road, DCF Bhata, Post- Kalyanpur, District-Kanpur Nagar.

....Petitioner**Versus**

1. State of U.P. through Principal Secretary, Home Police, (Home)Department, Civil Secretariat U.P., Lucknow-01.
2. Inspector of Police, Kanpur Range, Kanpur, U.P.
3. Superintendent of Police, District-Auraiya, U.P.

....Opposite Parties**JUDGMENT****(Authored by Hon'ble Mr. RavindraVikram Singh, Member (Judicial))**

This reference petition has been filed U/s 4 of U.P. State Public Services Tribunal, Act 1976 by the petitioner for the purpose of setting-aside punishment order dated 06.05.2019, and appellate order dated 28.01.2020, copies of which are Annexure-A-1 & A-2 of this reference petition, and to grant him all consequential service benefits.

2- Brief facts relating to the case are:

That petitioner was initially joined the police force as Constable in the Home Department, he went to the training and was posted as Constable. Work was always excellent. He was posted as Constable, C.P./Munshi in the office of Circle Officer, Auriaya, District-Auriaya.

One Advocate Awadhesh Kumar Pandey has filed a complaint on the basis of which a letter dated 23.03.2017 was issued and Additional S. P. was appointed as enquiry office to conducted preliminary enquiry Ex-parte against petitioner.

Petitioner was suspended vide order dated 10.08.2017 under the provisions of Rule-17 of U.P. Police Officer of Subordinate Rank (Punishment and Appeal) Rules, 1991. The allegation was that when he was posted as Constable (C.P.) in the office of Circle Officer, City Auriaya, his work for the recovery of fine under Motor Vehicle Act. A complaint was made against petitioner by Advocate to take excess amount of fine under provision of Motor Vehicle Act, No charge sheet was imposed nor was any enquiry officer called in to conduct such enquiry.

Petitioner has filed a Writ before the Hon'ble Allahabad High Court which was allowed and by order dated 22.08.2017 the suspension order was quashed with all consequential service benefits. It is also submitted that all same set of charges opposite party no. 3 has also issued a letter of suspension dated 10.08.2017 and ordered for second preliminary enquiry against petitioner. BhaskarVerma Circle Officer was appointed as enquiry officer and ex-parte enquiry was conducted, even complainant was not examined, copies were not supplied. A show cause notice dated 29.12.2019 was served upon him without enclosing the copy of preliminary enquiry dated 07.08.2017 and 24.11.2018 without any relevant document. It was mentioned that he can perused file but actually he was not allowed to do so, which cause prejudice to the petitioner. Petitioner filed a comprehensive explanation dated 11.02.2019 against show cause notice, which was also rejected by a non-speaking order and punishment order was passed with censure entry in his character roll. Copy of which is Annexure No. A-1. Again copies were requested but they were not supplied only preliminary enquiry report was submitted.

An appeal was filed but the same was quashed by a non-speaking and unjustified order dated 28.01.2020. Relevant documents have not been supplied to him. The orders passed against several important pronouncement of Hon'ble Supreme Court as well as Hon'ble High

Court. Petitioner has given certain grounds which are more than 20 in number.

3- Opposite parties have filed their written statement in which punishment order dated 06.05.2019 appellate order dated 28.01.2020 have been accepted.

Fact about Advocate filing complaint and petitioner getting suspended and preliminary enquiry was conducted, C.O. City, Auriaya certain challan was kept in office of C.O. for about 07 days and thereafter sending them back. Out of 107 summon only one was sent to the Court, an explanation was called from petitioner on 06.05.2019, punishment order was passed and censure entry was awarded.

Appeal against the same was rejected by D.G., Police, Kanpur Territory. Petitioner was found guilty in the preliminary enquiry report by C.O. Bidhuna and petitioner was punished after affording right of hearing. Issuance of notice is accepted, petitioner has received the copy of preliminary enquiry personally. He is not making a true statement by saying that copy of preliminary enquiry was not provided to him. Appeal against the punishment order was also rejected. Petitioner was given due opportunity of hearing. The punishment order was passed according to various provisions of various police documents. Petition is liable to be set-aside.

4- Petitioner has filed a rejoinder affidavit, reiterated the fact of petition also stated that right of hearing has not been afforded to him. He has not been provide with relevant information regarding enquiry, thus violation of principles of natural justice took place. He has assailed all the enquiries by the senior officers of his department and prayed from them to be set-aside.

Parties have filed the certain documents in support of their contention. Heard petitioner's counsel as well as Learned Presenting Officer and perused the documents.

The petitioner has been served show cause notice which Annexure A-1 and it related to not sending the challan to the Court concerned after keeping them for 07 days in C.O. Office and petitioner was required to present his explanation within 15 days. Why he should not be punished under U.P. Police Officer of Subordinate Ranks (Punishment and Appeal) Rules, 1991. Petitioner has submitted his explanation which Annexure No.7. He is said to have worked under the supervisory officer, nothing was done by him on his own. He has sent several challan to the Court which are 94 in number. Besides some other challan and only 08 challans are pending with him. The proposed charges are false and they are not liable to be accepted.

Supervising authority was C.O. City and he has worked under his direction and show cause notice is likely to be taken back and petitioner is entitled to be exempted from the proposed punishment as shown as in that show cause notice.

Annexure A-1 is the punishment order, which is mentioned that written explanation is not sufficient and petitioner was punished with censure entry. He has filed appeal against the same, copy of which is Annexure No.A-2. In the appeal the contentions of the petitioner was not accepted and appellate authority came to the conclusion that only one challan has been sent to the Court. C.O. was deposited summon fees for 94 challan vehicles. 08 challans were handed over to some other officials in the office of C.O. Auriaya, two challans were sent to the Court, in 06 challan proper fees was collected and in the light of these figures given by appellant are not trust worthy and they cannot be accepted.

The order of appellate court facts have been discussed, but what was the ground for accepting the facts submitted otherwise rank than that of petitioner is not clear. Whether these figures have been cross verified with the concern registers or from the registers court concerned where they have been sent or from any employee of the

court concerned while received the challan to verify that which person has sent the challan from C.O. Office. Although in appeal it has been found that petitioner is not guilty as per the charges leveled by Advocate, but he has not send the challan within time. It has also been mentioned in memo of appeal there is no problem to exonerate the petitioner, hence appeal was rejected. This vague allegation does not appear to have been supported by document, since no cross checking was reported to have mentioned in appellate order, no witnesses nothing in as evidence shown in the order of appeal and again this amounts to denial of hearing to the petitioner which essential part of principles of natural justice, which is the rock base of the departmental enquiry, hence the punishment order which very cursory just saying that explanation not sufficient and appellate order with the short of evidences and cross checkings cannot be made a ground for punished the petitioner, hence these two order could not stands and they are liable to be set-aside.

That it is observed that administrative authorities while sitting as punishment officer or appellate officer or even revisional officer, they tend to forget that they are performing as quasi-judicial body and in doing so, they are supposed to Act judicially, they should not be interested in the result of the judgment, whether it is conviction or it is acquittal, because quasi-judicial authority is expected to act judicially and impartially. Their whole attention should not be towards seeing the petitioner punished, they have to scrutinize the evidences and come to the conclusion. They should forget about their original post, when dealing with a quasi-judicial function. The main consultation vis a officials is in securing the punishment to justify their enquiry or show cause notices and charges. Almost same approach is visible in the present case also.

As it has already been seeing that principles of natural justice has not been followed by both punishment officer as well as appellate

authority, hence the order passed by them is not likely to stand and is liable to be set-aside. Petition is succeed.

ORDER

This claim petition is allowed. Punishment order dated 06.05.2019 and appellate order dated 28.01.2020 are set-aside. The petitioner shall be entitled to get all consequential service benefits of which he was deprived of by these two orders of the opposite party. Opposite Party to do the needful regarding consequential benefits to the petitioner within three months from the date of receiving a certified copy of this judgment and order.

Parties shall bear their own cost.

Sd/-
(RavindraVikram Singh)
Member (Judicial)

Judgment signed, dated and pronounced in open court today by me.

Sd/-
(RavindraVikram Singh)
Member (Judicial)

Date:21.08.2026
Poonam