

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

Court No.07

Claim Petition No. 435 of 2023

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

BRIJESH KUMAR SINGH, aged about-46 years, son of Sri Jagdev Singh, resident of 332/342, Ram Krishna Puram, Kalyanpur-2, Little Garden Play School, Vikas Nagar, Lucknow. presently posted as Inspector in Reserve Police Line, Commissionerate, Lucknow.

...Petitioner.

Versus

1. State of U.P. through its Principal Secretary, Home department, Government of U.P. Civil Secretariat, Lucknow.
2. Additional Director General of Police, PAC, Uttar Pradesh, Lucknow.
3. Inspector General of PAC, Middle Zone, Uttar Pradesh, Lucknow.

...Opposite parties.

Sri Bhanu Pratap Singh, Adv. Ld. Counsel for petitioner
Sri S.P. Singh, Ld. Presenting Officer, for Opposite Parties

JUDGMENT

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

1. The present Claim Petition has been instituted under Section 4 of the U.P. Public Services (Tribunals) Act, 1976 by the petitioner, praying for the following reliefs:

“(i) The Hon'ble Tribunal may graciously be pleased to quash the impugned orders dated 17.09.2022 and 11.02.2022 (Contained as Annexure No. 1 & 2 to the Claim Petition), passed by the opposite parties No. 2 and 3 being illegal and arbitrary manner and the opposite parties may kindly be directed to provide the petitioner with all consequential service benefits.

(ii) Any other suitable order or direction which is necessary for the ends of justice may also be passed by this Hon'ble Tribunal in favour of the petitioner. ”

2. The above reliefs have been sought on the grounds that the punishment proceedings were conducted in violation of the principles of natural justice; the statements, enquiry report and other relevant documents relied upon were not supplied to the petitioner; adequate opportunity of personal hearing was not afforded; the petitioner's reply/explanation was not duly considered; there was no evidence to establish negligence or misconduct on his part; and the impugned orders are arbitrary, illegal, non-speaking and otherwise unsustainable in law, etc.

3. The factual matrix of the case, that a show cause notice dated 21.12.2021 (Annexure No. 3) was issued to petitioner alleging that, while functioning as Supervising Authority of the Master Canteen, he failed to properly supervise the stock and payment process relating to delisted, expired, damaged and allegedly missing goods valued at Rs. 8,67,098.11, resulting in loss of goods worth Rs. 2,45,578.43. The petitioner submitted a detailed explanation dated 08.01.2022 (Annexure No. 4) denying the allegations and asserting that the alleged irregularities were attributable to factors beyond his control. Thereafter, the disciplinary authority passed the punishment order dated 11.02.2022 awarding a censure entry, which was subsequently affirmed in appeal by order dated 17.09.2022. Aggrieved thereby, the petitioner has instituted the present Claim Petition challenging the aforesaid orders.

4. The opposite parties, while filing the Written Statement, have refuted the claims made by the petitioner and have raised a preliminary objection regarding maintainability of the claim petition on the ground that the petitioner has not availed the statutory remedy of revision available under the relevant service rules and, therefore, the claim petition is barred under Sections 4(5) and 4(6) of the U.P. Public

Services (Tribunals) Act, 1976. It has further been pleaded that the disciplinary proceedings were conducted in accordance with law; a preliminary enquiry was held; the petitioner was afforded opportunity to submit his explanation along with a copy of the enquiry report; and, after considering his reply, the disciplinary authority passed a reasoned and speaking punishment order dated 11.02.2022.

5. The opposite parties have further stated that the allegations against the petitioner stood established in the preliminary enquiry and that the disciplinary authority, upon consideration of the material on record, found the petitioner negligent in discharging his duties as the supervisory authority of the Master Canteen. It has been averred that the appellate authority also considered and adjudicated all grounds raised in the departmental appeal and dismissed the same by a reasoned order dated 17.09.2022. The respondents have further contended that the petitioner has not demonstrated any violation of the prescribed procedure or principles of natural justice and that, in exercise of judicial review, the Tribunal cannot re-appreciate the evidence or sit in appeal over the findings recorded by the departmental authorities. Reliance has been placed upon the decision of the Hon'ble Supreme Court in **State of Andhra Pradesh v. S. Sree Rama Rao (AIR 1963 SC 1723)** in support of the proposition that interference is warranted only where the disciplinary proceedings suffer from procedural illegality, violation of natural justice, or findings based on no evidence.

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 learned counsel for the parties and perused the pleadings and material brought on record.

8. Before examining the merits of the case, the preliminary objection raised by the opposite parties regarding the maintainability of the claim petition deserves consideration. It has been contended that the petitioner ought to have

preferred a revision against the appellate order and, having failed to do so, the present claim petition is not maintainable. This contention cannot be accepted.

It is not in dispute that the petitioner had already availed the statutory remedy of appeal before filing the present claim petition. **Rule 23(1) of the U.P. Subordinate Police Officers (Punishment and Appeal) Rules, 1991**, provides as under:

"An officer whose appeal has been rejected by any authority subordinate to the Government is entitled to submit an application for revision to the superior authority next to the authority which has rejected his appeal within three months from the date of rejection of appeal."

The Rule further provides:

"On such an application the powers of revision may be exercised only when, in consequence of flagrant irregularity, there appears to have been material injustice or miscarriage of justice."

The first proviso to the Rule also states:

"Provided that the revising authority may on its own motion call for and examine the records of any order passed in appeal against which no revision has been preferred."

A plain reading of the aforesaid provisions shows that Rule 23 only enables an aggrieved officer to seek revision against an appellate order. The Rule does not make the filing of a revision mandatory in every case. Rather, it expressly recognizes a situation in which no revision has been preferred. Therefore, once the petitioner had already exhausted the statutory remedy of appeal, the present claim petition cannot be held to be non-maintainable merely because the petitioner did not file a revision against the appellate order. Accordingly, the preliminary objection raised by the opposite parties is rejected.

9. The principal contention of the petitioner is that the punishment order dated 11.02.2022 (Annexure No. 1) and the appellate order dated 17.09.2022 (Annexure No. 2) were passed without proper consideration of his defence.

According to the petitioner, the allegation against him is of negligence and indifference in supervision of the Master Canteen while functioning as Shivirpal/Camp Officer. It is argued that the alleged irregularities relate to the functioning of the canteen over a long period and involve several officers and employees, yet responsibility has been fixed upon him without clearly showing his role in the matter.

10. The reply submitted by the petitioner to the show cause notice dated 08.01.2022 (Annexure No. 4) shows that he furnished explanations regarding the saleable stock, delisting of firms, disposal of goods, write-off procedure, audit of the canteen and the system under which payments were being made. These were not general denials but specific explanations to the allegations levelled against him.

11. The punishment order dated 11.02.2022 (Annexure No. 1) rejects the petitioner's explanation. However, the order does not clearly indicate the material on the basis of which the defence put forward by the petitioner was found unacceptable.

12. The preliminary enquiry report dated 08.10.2021 (Annexure No. 6) records statements of several Camp Officers, Canteen In-charges and other officials associated with the Master Canteen during different periods. The report ultimately reflects negligence and indifference not only on the part of the petitioner but also on the part of Shri Manoj Kumar Singh and Shri Ashutosh Kumar Singh, who functioned as supervisory officers during different tenures.

13. The alleged irregularities relate to the period from 20.02.2017 to 14.12.2020, whereas the petitioner remained posted as Shivirpal from 18.08.018 to 23.01.2021. Neither the enquiry report dated 08.10.2021 (Annexure No. 6) nor the punishment order dated 11.02.2022 (Annexure No. 1) clearly indicates what omission, lapse or failure attributable to the petitioner led to the alleged irregularities.

14. The record further shows that the alleged irregularities came to light only after inspection of the Master Canteen by the Inspector General, PAC Headquarters on 05.06.2021 and 07.06.2021, whereafter the preliminary enquiry was ordered. The material collected during the enquiry indicates deficiencies which had accumulated over a considerable period of time and were not confined to the tenure of any single officer.

15. The appellate authority, while dismissing the appeal by order dated 17.09.2022 (Annexure No. 2), affirmed the punishment order. However, the issues raised by the petitioner regarding management of stock, disposal of goods and functioning of the canteen were not examined in any substantial manner.

16. Upon consideration of the entire record, this Tribunal finds that the impugned orders do not satisfactorily deal with the specific explanations furnished by the petitioner. The material brought on record also does not show how the petitioner's responsibility was distinguished from that of the other supervisory officers against whom negligence and indifference were likewise reflected in the enquiry report.

17. For the reasons discussed above, this Tribunal finds that the material on record does not justify the conclusions recorded against the petitioner in the manner reflected in the impugned orders. The punishment order dated 11.02.2022 (Annexure No. 1) and the appellate order dated 17.09.2022 (Annexure No. 2) are, therefore, liable to be set aside.

ORDER

18. Accordingly, the Claim Petition No 435/2023 is hereby allowed with the following relief:-

- (i) The punishment order dated 11.02.2022 (Annexure No. 1) and the appellate order dated

17.09.2022(Annexure No. 2) are hereby quashed and set aside.

(ii) The censure entry recorded against the petitioner shall stand expunged.

(iii) The petitioner shall be entitled to all consequential service benefits admissible to him under law.

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

19. There shall be no order as to cost.

Sd/-

(ANAND KUMAR 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

Vinod/P.A.