

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

Court No.-07

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

Claim Petition No. 589 of 2023

Riyaz Ahamad, P.N.O. No. 060770921, aged about 37 years, son Of Shri Shahaa Hasan, Resident of village & Post- Dado, District- Alihgarh, U.P.

...Petitioner.

Versus

1. The State of U.P. through Additional Chief Secretary, Home Department, U.P. Civil Secretariat, Lucknow.
2. The Additional Director General of Police/Inspector General of Police, PAC, West Zone, Moradabad, U.P.
3. The Deputy Inspector General of Police, PAC, Kanpur/ Agra Anubhag, Agra U.P.
4. The Commandant, 43th Battalion, P.A.C., Etah.

...Opposite Parties

Sri Rajeev Pandey, 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 (Tribunal) Act, 1976 challenging the punishment order dated 27.07.2021 passed by the Commandant, 43 Battalion, P.A.C., Etah, whereby a censure entry was imposed upon the petitioner. The petitioner has also challenged the appellate order dated 30.04.2022 and the revisional

order dated 28.01.2023. The petitioner has sought the following reliefs:

"(i) The Hon'ble tribunal may kindly be pleased to quash the impugned order of punishment No.Da-09/2021 dated 27.07.2021, appellate order dated 30.04.2022 and revisional order dated 28.01.2023 (contained as Annexure Nos-1, 2 & 3 to this claim petition) with all consequential service benefits, which have been withheld due to the aforesaid impugned orders, in the interest of justice.

(ii) The Hon'ble Tribunal may kindly be pleased to pass any other order or direction which it deems, just and proper in the circumstances of the matter alongwith the cost of claim petition."

2. The aforesaid reliefs have been sought principally on the grounds that the impugned punishment order was passed solely on the basis of an illegal preliminary enquiry without following the prescribed procedure; statement of petitioner was not properly considered during the preliminary enquiry; the show-cause notice dated 03.07.2021 was issued on false and unsupported allegations; the reply submitted by the petitioner on 22.07.2021 was completely ignored and that no finding was recorded on any of the specific objections raised therein; the punishment order is a non-speaking and unreasoned order passed in violation of the principles of natural justice and without affording an effective opportunity of hearing; the petitioner was not supplied with the relevant documentary evidence and that neither the appellate authority nor the revisional authority independently examined the material available on record.

3. The case of the petitioner, in substance, is that a preliminary enquiry (25.04.2021) was conducted against him, wherein the allegations were held to be proved without properly considering his version of events. A show-cause notice dated 03.07.2021 was served upon him, to which he submitted a detailed reply on 22.07.2021 denying the allegations. However, the disciplinary authority passed the punishment order dated 27.07.2021 imposing a censure entry without discussing the defence and without indicating the evidence on the basis of which the allegations had been established. Aggrieved by the punishment order, the petitioner preferred a departmental appeal, which was rejected on 30.04.2022. Thereafter, he preferred a revision, which was also rejected on 28.01.2023. The petitioner asserts that the authorities failed to consider his defence, resulting in the passing of arbitrary, non-speaking, and legally unsustainable orders.

4. On the other hand, the opposite parties contend that the petitioner was proceeded against in accordance with Rule 14(2) read with Rule 4(1)(Kh)(4) of the U.P. Police Officers and Subordinate Police Officers (Punishment and Appeal) Rules, 1991. While posted as a Constable Driver in the Transport Branch in 2020, the petitioner misbehaved with Cook Ranveer Singh on 22.09.2020. A preliminary enquiry was conducted, and the enquiry report dated 25.04.2021 found the charges to be proved. Thereafter, a show-cause notice dated 03.07.2021, along with the enquiry report, was served upon the petitioner, who submitted his explanation on 22.07.2021. Since the explanation failed to discredit the enquiry findings, the disciplinary authority passed the punishment order dated 27.07.2021 imposing a censure entry.

5. The opposite parties further submit that the petitioner's appeal dated 20.10.2021 and the subsequent revision were considered and rejected by

reasoned orders dated 30.04.2022 and 28.01.2023, respectively. They have denied all allegations relating to violation of natural justice, non-supply of documents, denial of an opportunity of hearing, and non-consideration of the petitioner's defence. According to them, the petitioner was afforded an adequate opportunity of defence at every stage and the impugned orders are legal, reasoned, and free from any procedural irregularity.

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 03.07.2021 (Annexure No. 5), and the following charge was levelled against him:

"जब यह वर्ष-2020 में परिवहन शाखा में आरक्षी चालक के पद पर नियुक्त थे तब दिनांक: 22.09.2020 को इनकी ड्यूटी खाना वतरण के लिए मय वाहन लगाई गयी थी तब इनके द्वारा कुक रनवीर सिंह के साथ मारपीट करने के कतिपय आरोप में जाँच सहायक सेनानायक श्री अवध सिंह को आवंटित कर जाँच कराई गयी, जाँचकर्ता अधिकारी की जाँच आख्या दिनांक: 25.04.2021 में आपको कुक रनवीर सिंह के साथ अभद्रता व गाली-गलौज करने के लिए दोषी अंकित किया गया है। आपका यह कृत्य अपने कर्तव्य के प्रति घोर अनुशासनहीनता, उदासीनता,

अकर्मण्यता एवं स्वेच्छाचारिता का स्पष्ट
परिचायक है। जिसकी कड़ी निन्दा की जाती है।"

The petitioner submitted his reply to the show cause notice on 22.07.2021 (Annexure No. 6). Thereafter, the disciplinary authority passed the impugned punishment order dated 27.07.2021 (Annexure No. 1), which was affirmed by the appellate authority through its order dated 30.04.2022 (Annexure No. 2). The revision preferred by the petitioner was also rejected by the revisional authority through its order dated 28.01.2023 (Annexure No. 3). Hence, the present claim petition.

9. The learned counsel for the petitioner has argued that the disciplinary authority imposed the punishment of censure solely on the basis of the preliminary enquiry report dated 25.04.2021 without independently evaluating the petitioner's defence submitted in response to the show-cause notice dated 22.07.2021. It has further been contended that the impugned order neither discusses the evidence relied upon nor records any reason for discarding the specific explanations furnished by the petitioner.

The learned Presenting Officer, on the other hand, has submitted that the proceedings were conducted in accordance with Rule 14(2) of the Rules, 1991 and that the preliminary enquiry report constituted sufficient material for imposing the punishment.

This Tribunal finds that the punishment order merely records that the petitioner's explanation was considered but does not disclose how or why it was found unsatisfactory. The disciplinary authority was required to apply its independent mind to the material available on record rather than mechanically adopting the conclusions recorded in the preliminary enquiry. In **Raj Kumar Mehrotra v. State of Bihar and Others**, the Hon'ble Supreme Court observed that :

"No reason has been given by the respondent authority for holding that the charges were proved except for the ipse dixit of the disciplinary authority."

The material on record does not demonstrate a reasoned exercise of jurisdiction under Rule 14(2), thereby rendering the punishment order legally unsustainable.

10. The learned counsel for the petitioner has argued that the punishment order dated 27.07.2021 was passed in violation of the principles of natural justice as the petitioner's detailed reply dated 22.07.2021 was not objectively considered by the disciplinary authority. It has further been contended that the petitioner's defence, as disclosed in the reply to the show-cause notice, was completely ignored and that no effective opportunity of hearing was afforded before the punishment was imposed.

The learned Presenting Officer has submitted that the petitioner was served with the show-cause notice along with the preliminary enquiry report and was granted an adequate opportunity to submit his explanation.

This Tribunal finds that the impugned order merely states that the petitioner's explanation was considered, but it does not indicate which of the specific grounds raised by the petitioner were examined or the reasons for rejecting them. In ***Kranti Associates Pvt. Ltd. v. Masood Ahmed Khan and Others***, the Hon'ble Supreme Court held that:

"A quasi-judicial authority must record reasons in support of its conclusions"

and that

"a pretence of reasons or 'rubber-stamp reasons' is not to be equated with a valid decision-making process."

The absence of a reasoned consideration of the petitioner's defence renders the decision-making process legally unsustainable and materially affects the fairness of the proceedings. The ratio laid down in the aforesaid decision squarely supports this conclusion.

11. The learned counsel for the petitioner has argued that the findings recorded against him are not supported by the evidence available on record. It has been contended that the disciplinary authority accepted the preliminary enquiry report without examining whether the evidence actually established the allegations levelled against the petitioner. It has further been argued that several material witnesses, including those specifically referred to by the petitioner in his defence, were not examined during the preliminary enquiry and that the statements relied upon by the authorities did not substantiate the original allegation of assault.

The learned Presenting Officer has submitted that the statements of the witnesses recorded during the preliminary enquiry sufficiently established that the petitioner had indulged in abusive and unbecoming conduct.

This Tribunal finds that the disciplinary authority did not undertake any independent assessment of the evidentiary material and merely reproduced the conclusions recorded in the preliminary enquiry report. The appellate authority also relied upon the same material without examining the evidentiary deficiencies specifically pointed out by the petitioner. The record reveals that the allegation of assault was ultimately reduced to allegations of abusive conduct, without any

discussion regarding the inconsistency between the accusation and the evidence relied upon. Findings affecting the civil consequences of a public servant must be supported by relevant and demonstrable evidence and cannot rest solely upon inferential conclusions. In the absence of a clear correlation between the evidence and the findings recorded against the petitioner, the conclusions reached by the authorities cannot be sustained.

12. The learned counsel for the petitioner has argued that the punishment order dated 27.07.2021 is a non-speaking and unreasoned order, as it neither discusses the petitioner's reply nor discloses the evidentiary basis on which the allegations were held to be proved. It has been contended that the disciplinary authority failed to examine the specific objections raised by the petitioner and mechanically affirmed the conclusions recorded in the preliminary enquiry report.

The learned Presenting Officer has submitted that the punishment order was passed after due consideration of the preliminary enquiry report, the petitioner's explanation, and the material available on the departmental record.

This Tribunal finds that the impugned order does not contain any independent analysis of the petitioner's defence or any reason explaining why the explanation submitted by him was considered unsatisfactory. The order merely records that the reply was examined and that no material was produced warranting interference with the proposed action. ***In Kranti Associates Pvt. Ltd. v. Masood Ahmed Khan***, the Hon'ble Supreme Court held that,

"Reasons are the links between the materials on which certain conclusions are based and the actual conclusions."

The requirement of recording reasons is intended to ensure transparency, fairness, and accountability in administrative decision-making. The absence of any meaningful discussion of the petitioner's defence demonstrates a clear lack of application of mind and renders the punishment order legally unsustainable.

13. The learned counsel for the petitioner has argued that the appellate order dated 30.04.2022 and the revisional order dated 28.01.2023 suffer from serious legal and procedural infirmities, inasmuch as both authorities failed to independently examine the specific grounds raised by the petitioner. It has been contended that the petitioner had specifically pleaded before the appellate authority that the disciplinary authority had not considered his reply dated 22.07.2021, that the preliminary enquiry was incomplete, and that material witnesses had not been properly examined. Similar objections were reiterated in the revision petition.

The learned Presenting Officer has submitted that both the appellate and revisional authorities passed detailed, reasoned, and speaking orders after considering the entire record and, therefore, no interference is warranted.

This Tribunal finds that the appellate authority reproduced the petitioner's submissions at considerable length; however, the fundamental challenge relating to the validity of the disciplinary proceedings was not effectively addressed. The revisional authority also affirmed the punishment without rectifying the deficiencies that had already been pointed out before the appellate forum. Under the Rules of 1991, the appellate authority possesses ample jurisdiction to reappraise the material available on record and to affirm, modify, or set aside the punishment. The appellate authority is required to independently evaluate the record and record its satisfaction while

exercising its statutory jurisdiction. Once the punishment order is found to be vitiated on account of non-consideration of the petitioner's defence and the absence of a reasoned analysis, the subsequent orders affirming the same cannot be sustained merely by reiteration. The appellate and revisional orders are, therefore, equally susceptible to judicial interference.

14. Foregoing discussions made hereinabove clearly demonstrate that the disciplinary authority, while exercising powers under Rule 14(2) read with Rule 4(1)(Kh)(4) of the U.P. Subordinate Police Officers (Punishment and Appeal) Rules, 1991, failed to independently consider the petitioner's defence and substantially relied upon the preliminary enquiry report dated 25.04.2021. The punishment order dated 27.07.2021 neither reflects a reasoned consideration of the petitioner's reply dated 22.07.2021 nor adequately establishes the evidentiary basis of the findings. The appellate and revisional authorities also failed to effectively examine the petitioner's objections. Consequently, the impugned orders cannot be sustained and warrant interference by this Tribunal.

O R D E R

15. Accordingly, the claim petition No. 589/2023 is allowed on the following terms:

(i) The impugned punishment order dated 27.07.2021 passed by the Commandant, 43rd Battalion, P.A.C., Etah (Annexure No. 1), the appellate order dated 30.04.2022 passed by the appellate authority (Annexure No. 2), and the revisional order dated 28.01.2023 passed by the revisional authority (Annexure No. 3) are hereby quashed and set aside.

(ii) The adverse entry of censure recorded against the petitioner in pursuance of the aforesaid orders shall stand expunged from his service record.

(iii) The petitioner shall be entitled to all consequential service benefits arising therefrom, in accordance with law.

(iv) Compliance with this order shall be ensured within a period of three months from the date of production of a certified copy of this order before the competent authority.

16. 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- 19.08.2026
Virendra/Steno(o).