

**STATE PUBLIC SERVICE TRIBUNAL, INDIRA BHAWAN
LUCKNOW**

COURT NO. 6

CLAIM PETITION NO. 895/2022

MOHAN LAL YADAV, (Sub Inspector of Civil Police/PNO-980741131) aged about 43 years, Son of Sri Babu Ram Yadav, R/o Village Kabirpur, Post Office Station Mardah District Ghazipur.

Petitioner

Versus

- 1- State of U.P. through Additional Chief Secretary, Home, U.P. Government, Civil Secretariat, Lucknow.
- 2- Additional Director General of Police Gorakhpur Zone Gorakhpur.
- 3- Deputy Inspector General of Police, Gorakhpur Range Gorakhpur.
- 4- Superintendent of Police Deoria.

Opposite parties

Shri Afzal Siddiqui, counsel for petitioner

Presenting Officer for O.Ps

JUDGMENT

(Delivered by Hon'ble Dr. Anil Kumar Singh, Member (Admn))

The instant claim petition filed under Section-4 of the U.P. State Public Services Tribunal Act 1976 seeking following reliefs;

- i- To set-aside the impugned orders bearing no. Da-101/2019 dated 24-12-2020, order dated 23-07-2021 and order dated 05-12-2021 passed by O.Ps no. 4, 3 and 2 respectively as contained in Annexure No. 1 to 3 to the claim petition.
- ii- To direct the respondents to grant all consequential benefits to the petitioner treating the aforesaid impugned orders as non existent.

iii- To direct the respondents to pay the full salary and allowances to the petitioner pertaining to his suspension period from 08-12-2019 to 11-02-2020.

iv- Issue any other order or direction which this Hon'ble Tribunal may deem just, fit and proper under the circumstances of the case, in favour of the petitioner.

v- Allow the present claim petition with costs.

2- Briefly stated the facts of the case are that petitioner, a Sub Inspector (Civil Police) was placed under suspension vide order dated 08-12-2019. The petitioner served with a show cause notice dated 09-12-2019 which is reproduced below;-

“जब आप वर्ष 2018 में बतौर उप निरीक्षक के पद पर थाना कोतवाली में नियुक्त थे, तो आप द्वारा थाना कोतवाली पर पंजीकृत मु0अ0सं0 556/17 धारा 304 भदवि0 की अभियोग की विवेचना की जा रही थी। जिसमें आप द्वारा मृतक के दो मोबाईल सेट आला कत्ल चाकू व मृतक का पी0एम0 रिपोर्ट प्राप्त नहीं किया गया तथा न ही अभियोग के अनावरण हेतु कोई ठोस एवं सार्थक प्रयास नहीं किया गया। प्रश्नगत प्रकरण की जांच क्षेत्राधिकारी सलेमपुर से कराई गयी तो उ0नि0 जय शंकर पाण्डेय दिनांक 16.09.2017 को स्थानान्तरण पर थाना गौरी बाजार चले गये जिसके बाद आप द्वारा दिनांक 4.10.2018 को उक्त विवेचना को ग्रहण किया गया, आप द्वारा विवेचना ग्रहण करने के पश्चात् एफ0आई0आर0 में दिये गये वादी के मोबाईल नम्बर से सम्पर्क नहीं किया और न ही वादी के सम्बन्ध में पता किया गया। आप द्वारा खानापूर्ति करते हुये गवाहों के बयान अंकित किया गया तथा अनावश्यक रूप से पी0एम हेतु मुकदमा वादी के थाने पर जाकर पता किया गया, जबकि विवेचक को मृतक के स्थान बीआरडी मेडिकल कालेज व पुलिस अधीक्षक कार्यालय गोरखपुर से सम्पर्क किया जाना चाहिये था, परन्तु आप द्वारा ऐसा नहीं किया गया। विवेचना ग्रहण करने के पश्चात् करीब तीन माह बाद वादी का बयान अंकित किया गया है। वादी का बयान अंकित कराने के बाद भी आप द्वारा उसके जाति प्रमाण पत्र के सम्बन्ध में कोई पूछताछ नहीं की गयी और न ही अभियुक्त की गिरफ्तारी व मृतक के दो मोबाईल सेट आला कत्ल के सम्बन्ध में कोई जानकारी प्राप्त नहीं किया गया। विवेचना में करीब एक वर्ष का समय व्यतीत हो जाने के उपरांत मुकदमा वादी द्वारा अनूसूचित जाति/अनूसूचित जनजाति आयोग के समक्ष उपस्थित होकर जांच प्रमाण पत्र उपलब्ध कराते हुये विवेचना के सम्बन्ध में पुनः जांच हेतु मांग किया गया जिसके आधार पर जांच के क्रम में आप द्वारा वादी मुकदमा से उसके जांच प्रमाण पत्र प्राप्त कर करीब

एक वर्ष बाद धारा-3(2) 5 एस/एस0टी0 एक्ट की बढोतरी की गयी। जांच से आप दोषी पाये गये हैं। ”

To know the veracity of allegation a preliminary inquiry was constituted against the petitioner and Shri Varun Mishra, Circle Officer Salempur district Deoria was nominated Inquiry Officer who submitted his report holding the petitioner guilty . Petitioner submitted his reply denying the charges imposed upon him but the disciplinary on receipt of inquiry report and reply to the show cause notice has passed the impugned order of punishment dated 24-12-2020. Petitioner submitted appeal on 26-03-2021 before O.Ps no. 3 and the same was dismissed vide order dated 23-07-2021. Subsequently, he filed a revision on 13-10-2021, the same was also dismissed vide order dated 05-12-2021 in very cursory and arbitrary manner. Under these circumstances, petitioner has left no option but to approached the Tribunal. Hence the present petition.

3- The CA/Ws has been filed by the Opposite parties with the allegation for an act of indiscipline a preliminary enquiry was conducted according to rules in which the petitioner was found prima facie guilty and after affording him an opportunity of hearing the enquiry was concluded and thereafter a show cause notice was issued to the petitioner and after obtaining his reply the impugned punishment order dated 24-12-2020 has been passed. Similarly the appeal and revision of the petitioner has been considered and rejected by a reasoned and speaking order. There is no procedural or legal infirmity in passing of the impugned punishment order. His appeal has also been disposed off with a reasoned order. The petition is devoid of merit and is liable to be dismissed.

4- In reply to Opposite parties CA/Ws, the petitioner filed Rejoinder Affidavit refuting the allegations of CA/Ws and reiterating the averments made in the claim petition.

5- Heard the learned counsel for the petitioner and learned Presenting Officer on behalf of the O.ps and perused the record carefully.

6- The learned counsel for the petitioner has mainly assailed the impugned punishment order that the reply of the petitioner has not been considered and material evidence relied upon in the inquiry have not

been got proved in the presence of petitioner. Petitioner was not allowed to cross examine the witnesses.

7- On the contrary, the learned Presenting Officer has contended that a investigation was assigned to the petitioner in the year 2018 but he did not discharge his duty with devotion.

8- I have perused the entire record and find that petitioner has not tried to collect the two mobile set, murder's knife and post-mortem report of the deceased. No concrete and meaningful efforts were made to disclose the matter. Moreover, the petitioner had not contacted again on the plaintiff's mobile number nor did he contact the BRD Medical College and the Superintendent of Police office Gorakhpur. The statement of the witnesses were recorded in a very casual manner and even after recording the statement of the plaintiff after three months, the petitioner did not try to find out his Caste Certificate. It is urged that after one year had passed, the plaintiff appeared before the SC/ST Commission provided the caste certificate and demanded re-investigation into the matter. Thereafter the petitioner added Section 3(2)5 SC/ST Act which prima facie shows the gross negligence, indiscipline and dereliction in duty on the part of petitioner.

9- As far as the inquiry is concerned, I have carefully perused the inquiry report as well as punishment order and find that the statement of petitioner with other relevant witnesses were recorded and the points raised by the petitioner in his reply has been taken into account while passing the punishment order by the disciplinary authority. Thus I find no prejudice caused to the petitioner in the matter nor principles of natural justice have been violated. Similarly the order has been passed by the appellate and revisional authorities considering the facts mentioned therein. After perusal of the impugned orders I am of the opinion that there is no valid reason to interfere with the orders as discussed above.

10- Now legal question is whether in case of minor penalty the disciplinary authority can suspend the employee who is under his subordination and can he withheld the pay and allowances of suspension period of delinquent employee. In this regard I would like to quote case law **State of U.P. And Others Versus Arun Kumar**

Singh and Another [2015 (33)LCD 1927] in which it has been held by the Hon'ble High Court that in case of minor penalty as per provision of Rule 54 B of F.H.B the delinquent is entitled to salary for the period of his suspension. In the referred case it has been directed by the Tribunal that the remaining pay and allowances of suspension to delinquent employee be paid which was challenged in the Hon'ble High Court and Hon'ble High Court dismissed the petition filed from the side of State. This case law is fully applicable in the matter of petitioner and he is entitled to get advantage of this case law because he was suspended in the matter of minor penalty and he was awarded minor punishment.

On the basis of the above discussion, I conclude that the petition filed by the petitioner is liable to be allowed partly.

ORDER

The claim petition is allowed partly. Petitioner is entitled to get the salary for the suspension period whatsoever. The O.Ps are directed to pay the salary of the suspension period to the petitioner within a period of 03 months from the date of receipt of certified copy of this judgment/order. No order is made as to costs.

Sd/-

(Dr. Anil Kumar Singh)

Member (Admn)

Judgment signed, dated and pronounced today in the open Court.

Sd/-

(Dr. Anil Kumar Singh)

Member (Admn)

Dated: 20th August 2026

M.Husain/Ps