

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

**Court No. 07**

**PRESENT: HON'BLE MR. ANAND KUMAR SINGH, MEMBER (ADMN).**

**Claim Petition No. 1131/2023**

Chandahas Mishra, age about 50 years, son of Shri Ram Lakhani, resident of C-636, Mohalla- Srinagar near Belhara House, Deva Road, Barabanki, Uttar Pradesh, present posting as Inspector Incharge, Survey Lines Cell, Shravasti.

**...Petitioner**

**Versus**

1. By the Additional Chief Secretary/Principal Secretary, Home Department, Uttar Pradesh Secretariat, Lucknow.
2. Additional Director General of Police, Gorakhpur Zone, Gorakhpur, Uttar Pradesh.
3. Inspector General of Police, Devipatan Range, Gonda, Uttar Pradesh.
4. Superintendent of Police, Balrampur.

**...Opposite Parties**

**MR. S.N. MISHRA (ADV.) LEARNED COUNSEL FOR THE PETITIONER.  
MR. SURESH SINGH (ADV.) LEARNED P.O. FOR OPPOSITE PARTIES.**

**JUDGMENT**

**(Judgment Authored by Hon'ble Mr. Anand Kumar Singh, Member (A))**

1. The present claim petition has been instituted under Section 4 of the U.P. Public Services (Tribunal) Act, 1976, by the petitioner, presently serving as an Inspector in the Police Department of the State of Uttar Pradesh, assailing the legality, propriety and validity of the censure order dated 04.01.2023, the appellate order dated 12.03.2023 and the

revisional order dated 02.05.2023, whereby the punishment of censure imposed upon him has been affirmed. The petitioner seeks quashing of the aforesaid orders on the grounds of arbitrariness, illegality, non-application of mind and violation of the principles of natural justice, and further prays for grant of all consequential service benefits, including arrears together with admissible interest thereon.

2. The petitioner was appointed as Sub-Inspector on 06.11.2009 and, on account of his meritorious and unblemished service record, was subsequently promoted to the rank of Inspector. Except for the impugned punishment, his entire service career has remained exemplary and free from adverse entries. During the relevant period, he was posted as Incharge Inspector at Police Station *Kotwali* Gainsari, District Balrampur, from 04.03.2021 to 22.03.2021. On 15.03.2021, a tractor trolley loaded with alleged illegal sand was seized by revenue and police personnel, and the petitioner contends that he directed his subordinates to bring the vehicle to the police station and informed the competent authorities in accordance with the prescribed procedure.

3. The petitioner's case, in substance, is that a preliminary inquiry conducted by the then Additional Superintendent of Police, Balrampur, culminated in a report dated 31.03.2021, wherein he was categorically exonerated of all allegations. However, subsequently, in proceedings arising out of departmental action against a subordinate official, a second inquiry report dated 08.11.2022 was submitted by another officer of the same rank holding the petitioner guilty. The petitioner asserts that under the Uttar Pradesh Subordinate Police Officers (Punishment and Appeal) Rules, 1991, there is no provision for conducting a second preliminary inquiry without setting aside the earlier report, particularly when the first inquiry had found him not guilty.

4. The petitioner further submits that the allegations against him are primarily founded upon an alleged audio clip and

call detail records, which, according to him, were selectively relied upon and distorted. He maintains that the complete audio recording establishes that he had instructed his subordinates to apprehend the concerned person and bring the vehicle to the police station. He also contends that the FIR was registered subsequently on the direction of the Superintendent of Police and that any alleged delay cannot be attributed to him.

5. Aggrieved by the censure order dated 04.01.2023, the petitioner preferred an appeal, which was dismissed by order dated 12.03.2023. Thereafter, the revision petition was also rejected by order dated 02.05.2023. The petitioner contends that the impugned orders are non-speaking, arbitrary, contrary to the governing service rules and violative of the principles of natural justice, and are therefore liable to be set aside with all consequential benefits.

6. Per contra, the opposite parties, in their written statement, have admitted only to the limited extent that the petitioner has challenged the censure order dated 04.01.2023 and the appellate and revisional orders dated 12.03.2023 and 02.05.2023 respectively. However, they have categorically denied all other allegations made in the claim petition, terming them baseless, unfounded and devoid of merit. According to them, the petition has been instituted on misconceived facts and does not disclose any legal ground warranting interference by this Hon'ble Tribunal.

7. It is the stand of the opposite parties that during the petitioner's tenure as Incharge Inspector at *Kotwali* Gainsari, District Balrampur, from 04.03.2021 to 22.03.2021, a tractor trolley loaded with illegal sand was recovered on 15.03.2021. On the basis of the complaint given by Head Constable Talimuddin Khan on 22.03.2021, FIR No. 21/2021 under Sections 379/411 IPC was registered and investigation was undertaken by Sub-Inspector Kripa Ram Yadav. The

opposite parties rely upon audio recordings and call detail records (CDR), alleging that the petitioner failed to give clear instructions to his subordinates, instructed release of the seized vehicle under pressure from Ashok Kumar Ojha, and delayed registration of the case despite knowledge of the offender's identity. It is asserted that such conduct amounts to gross negligence, indiscipline and dereliction of duty unbecoming of an officer in a disciplined force.

8. The opposite parties further contend that a preliminary inquiry was conducted by the competent authority and, on the basis of the findings therein, a show cause notice dated 16.11.2022 was issued to the petitioner along with the inquiry report. The petitioner submitted his explanation dated 03.01.2023, which was duly considered. After examining the explanation, available evidence, records, audio material and inquiry findings, the disciplinary authority found the explanation unsatisfactory and, by a reasoned and speaking order, imposed the punishment of censure. According to the opposite parties, the entire disciplinary process was conducted strictly in accordance with the applicable service rules, and the petitioner was afforded full and adequate opportunity of defence.

9. It is also asserted that the appellate and revisional authorities independently examined the grounds raised by the petitioner in his appeal and revision. After due application of mind, consideration of records and exercise of lawful discretion, both authorities found no merit in the petitioner's contentions and dismissed the appeal and revision by reasoned orders dated 12.03.2023 and 02.05.2023 respectively. The opposite parties maintain that these orders are fully legal, well-reasoned and passed in compliance with the governing rules and procedures, without any violation of principles of natural justice.

10. In conclusion, the opposite parties submit that the impugned censure order, as well as the appellate and

revisional orders, are valid, lawful and in conformity with the rules and regulations governing departmental proceedings. They deny that there has been any procedural irregularity, arbitrariness or illegality in the matter. It is therefore contended that the petitioner is not entitled to any relief, interim or final, and the claim petition, being devoid of merit and substance, deserves to be dismissed with costs.

11. A rejoinder affidavit has been filed by the petitioner, wherein he has reiterated and reaffirmed the averments already pleaded in the claim petition, while specifically controverting the assertions made in the written statement filed on behalf of the opposite parties.

12. This Tribunal has heard learned counsel for the applicant and learned counsel appearing for the opposite parties at considerable length and has carefully perused the pleadings, written statement, rejoinder affidavit, annexures appended thereto and perused the records placed before it.

13. Upon a comprehensive consideration of the pleadings of the parties, the documentary material placed on record, and the rival submissions advanced at the Bar, it becomes evident that the present claim petition raises substantial questions touching upon the legality of disciplinary action, adherence to statutory procedure and observance of the principles of natural justice in service jurisprudence; accordingly, the issues that arise are: *firstly*, whether the disciplinary proceedings culminating in the censure order dated 04.01.2023 were conducted in strict conformity with the Uttar Pradesh Subordinate Police Officers (Punishment and Appeal) Rules, 1991 and settled principles of service law; *secondly*, whether reliance upon the second preliminary enquiry report dated 08.11.2022, despite the earlier report dated 31.03.2021 exonerating the petitioner, is legally sustainable without formally setting aside the earlier report; *thirdly*, whether the findings of guilt are supported by cogent, reliable and legally admissible evidence including the alleged audio recordings and CDR analysis, or whether they

suffer from arbitrariness and non-application of mind; *fourthly*, whether the show cause notice and subsequent proceedings afforded the petitioner a real and meaningful opportunity of defence in compliance with the principles of natural justice; *fifthly*, whether the censure order is a reasoned and speaking order reflecting due consideration of the petitioner's explanation; *sixthly*, whether the appellate and revisional authorities independently applied their mind or merely mechanically affirmed the disciplinary authority's findings; *seventhly*, whether the punishment of censure is proportionate to the alleged misconduct; and *finally*, whether the impugned orders are liable to be set aside with consequential service benefits, including arrears with admissible interest thereon.

14. The disciplinary proceedings culminating in the censure order dated 04.01.2023 do not withstand scrutiny under the Uttar Pradesh Subordinate Police Officers (Punishment and Appeal) Rules, 1991. Even in cases involving minor penalties, the authority is bound to follow fair procedure and record objective satisfaction based on material evidence. Even for minor penalties, where factual allegations are disputed and consequences are civil in nature, principles of fairness cannot be bypassed. The record reveals procedural inconsistency in shifting reliance from the first preliminary enquiry to a subsequent contradictory report without formal review or statutory backing.

15. With respect to reliance upon the subsequent preliminary enquiry report dated 08.11.2022, this Tribunal is guided by the settled principle that a second enquiry on the same charges cannot be resorted to mechanically or without lawful justification. Under the Uttar Pradesh Subordinate Police Officers (Punishment and Appeal) Rules, 1991, Rule 14 governs the procedure for imposing penalties, including minor penalties under Rule 14(2), read with Rule 4(1)(b) relating to censure. The scheme of Rule 14 does not contemplate repeated or parallel preliminary enquiries on identical allegations without recorded reasons for differing

from earlier findings. While the Rules do not impose an absolute bar on further enquiry, any departure from an earlier exonerating report must be preceded by a formal order setting aside the earlier report or by recording cogent reasons such as discovery of fresh material evidence or demonstrable defect in the earlier enquiry. The disciplinary proceedings must conform strictly to statutory procedure and fairness. In the present case, the earlier preliminary enquiry report dated 31.03.2021 had exonerated the petitioner. However, there is no order on record demonstrating that the competent authority exercised any power under the 1991 Rules to review, recall, or set aside the said report. No recorded dissatisfaction or finding of perversity in the earlier report has been produced. The disciplinary authority has proceeded directly on the basis of the later enquiry report dated 08.11.2022 without reconciling or displacing the earlier exoneration. In absence of statutory authority under Rule 14 permitting successive enquiries on the same set of allegations without recorded justification, such reliance amounts to arbitrary re-opening of concluded findings.

16. The findings of guilt are primarily founded upon selective interpretation of audio clips and CDR analysis, without forensic authentication or comprehensive evaluation. Suspicion, however strong, cannot take the place of proof in departmental proceedings. The first enquiry did not find the petitioner guilty; nor did independent witnesses directly implicate him. The evidentiary basis, as reflected in the record, does not rise to the level of cogent and reliable proof necessary even in departmental action.

17. Although a show cause notice was issued and an explanation submitted, the disciplinary authority failed to meaningfully engage with the defence raised, including the earlier exoneration and complete audio context. A mere statement that the explanation is “unsatisfactory” does not satisfy the requirement of fair consideration. The principle “*audi alteram partem*” requires not only hearing but

reasoned evaluation. The manner in which the explanation was disposed of suggests formal compliance but substantive violation of natural justice.

18. The censure order dated 04.01.2023 is deficient in analytical reasoning. It reproduces allegations but does not address contradictions between the two enquiry reports or the petitioner's detailed defence. The reasoned orders are an indispensable facet of transparency and accountability in administrative decision-making. The maxim "*reason is the soul of justice*" underlies this principle. The absence of detailed reasoning renders the order vulnerable as a non-speaking and mechanically concluded determination.

19. The appellate order dated 12.03.2023 and the revisional order dated 02.05.2023 substantially affirm the disciplinary findings without independent analysis of the grounds raised. The absence of fresh reasoning or engagement with core issues reflects mechanical affirmation rather than judicial scrutiny. Moreover, where the impugned punishment order itself is non-speaking and unreasoned, the doctrine embodied in the maxim "*sublato fundamento cedit opus*" squarely applies—once the foundation is removed, the superstructure falls. If the original order lacks legal sustainability, the appellate and revisional orders, being consequential and derivative in nature, cannot independently survive and must necessarily fall with the foundational order.

20. Even assuming arguendo that procedural compliance existed, the punishment of censure appears disproportionate in view of the petitioner's brief tenure, absence of prior adverse record, and contradictory enquiry findings. The maxim "*nulla poena sine culpa*" underscores that punishment must correspond to proven misconduct. In

the present facts, proportionality is not convincingly established.

21. In view of the cumulative procedural irregularities, reliance on a contradictory enquiry without lawful basis, absence of cogent evidence, and non-speaking nature of the impugned orders, the censure order dated 04.01.2023 and the consequential appellate and revisional orders cannot be sustained. They are liable to be quashed. However, the claim for automatic grant of consequential monetary benefits with interest cannot be granted as a matter of course in absence of demonstrated pecuniary loss directly attributable to the censure entry. The compensatory relief must rest on proven loss. Accordingly, while the impugned orders deserve to be set aside, the prayer for consequential financial benefits with interest stands rejected unequivocally.

22. In the cumulative conspectus of facts, evidence and governing legal principles, it stands manifest that the disciplinary action against the petitioner suffers from procedural impropriety, selective reliance on material, absence of cogent reasoning and mechanical affirmation at the appellate and revisional stages. The foundational exoneration recorded in the first preliminary enquiry was neither lawfully displaced nor convincingly rebutted, yet the petitioner was visited with adverse civil consequences on the strength of a subsequent contradictory report without transparent justification. Administrative discretion, howsoever wide, cannot transgress the boundaries of fairness, reason and statutory discipline. When quasi-judicial authorities fail to demonstrate conscious application of mind and adherence to settled principles of natural justice, judicial correction becomes not merely permissible but necessary. The impugned orders, therefore, cannot be allowed to stand

on the touchstone of legality, rationality and procedural fairness. Consequently, the claim petition has substantial merit and deserves to be allowed.

### **ORDER**

23. Accordingly, the claim petition no. 1131/2023 is allowed. The censure order dated 04.01.2023, along with the appellate order dated 12.03.2023 and the revisional order dated 02.05.2023, are hereby quashed and set aside. The censure entry shall stand erased and shall not be read against the petitioner for any present or future service purpose, and the petitioner shall be entitled to all consequential benefits as per law. However, the prayer for monetary benefits together with interest is rejected, as no proof of any actual or quantifiable pecuniary loss has been shown. Compliance of this order shall be ensured within three months from the date of receipt of the certified copy.

24. There shall be no order as to costs.

Sd/-

**(ANAND KUMAR SINGH)**  
**MEMBER(ADMN.)**

State Public Services Tribunal U.P.  
Indira Bhawan Lucknow

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

Sd/-

**(ANAND KUMAR SINGH)**  
**MEMBER(ADMN.)**

State Public Services Tribunal U.P.  
Indira Bhawan Lucknow

**Dated: 19.02.2026**

Kalpna Sahay/ ps.