

**(2018) 11 UK CK 0153**

**In the Uttarakhand High Court**

**Case No : Writ Petition (S/B) No. 187 Of 2012**

Ramesh Singh Bora

APPELLANT

Vs

State Of Uttarakhand And Others

RESPONDENT

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**Date of Decision : 13-11-2018**

**Acts Referred:**

Uttar Pradesh Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991 — Rule 4, 5(2), 14, 14(2)  
Constitution of India, 1950 — Article 226

**Citation : (2018) 11 UK CK 0153**

**Hon'ble Judges : Ramesh Ranganathan, CJ;Alok Singh, J**

**Bench : Division Bench**

**Advocate : Davesb Bishnoi, B.P.S. Mer**

**Final Decision : Dismissed**

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## **Judgement**

Ramesh Ranganathan, C.J.

1. The order passed by the Public Services Tribunal, Uttarakhand, Nainital Bench, Nainital in Claim Petition No. 09/N.B./2010 dated 28.12.2011 is subjected to challenge in this writ petition,. The petitioner herein is also the petitioner before the Public Services Tribunal. He sought a direction from the Public Services Tribunal to set aside the orders dated 19.05.2008, 08.08.2008, 28.01.2009 and 19.01.2010; for a direction to the respondents to consider his candidature for training for the post of Sub-Inspector (Special Class); and to direct the respondents to grant notional promotion to him to the post of Sub-Inspector (Special Class).

2. Facts, to the limited extent necessary, are that the petitioner was promoted as a Head Constable at Rudrapur Police Station, and was deputed to Halka No. 2 comprising of certain villages. The Circle Officer, Rudrapur, by his letter dated 18.09.2007, recommended that action be taken against the petitioner for certain irregularities on his part. The Senior Superintendent of Police, District Udham Singh Nagar initiated inquiry against the petitioner, and appointed the Circle

Officer as the Inquiry Officer. After causing an inquiry with the villagers, a report was submitted by the Inquiry Officer on 21.01.2008. The Senior Superintendent of Police, District Udham Singh Nagar called upon the Circle Officer to conduct a detailed inquiry. Pursuant thereto, the Circle Officer conducted a detailed inquiry, examined several villagers and again recommended action against the petitioner in his report dated 07.02.2008. The Senior Superintendent of Police, District Udham Singh Nagar issued a notice to the petitioner on 05.03.2008, which was served upon the petitioner on 10.03.2008, calling upon him to show cause why an entry of censure should not be recorded in his character roll. Thereafter, by order dated 19.05.2008, the punishment of censure was awarded against the petitioner. Aggrieved thereby, the petitioner preferred an appeal, which was dismissed. Aggrieved by the appellate order, the petitioner preferred a revision, which was also dismissed by order dated 18.01.2010. Questioning all these orders, the petitioner invoked the jurisdiction of the Public Services Tribunal. In its order, impugned in this writ petition, the Public Services Tribunal observed that the punishment imposed upon the petitioner was a minor penalty, and an elaborate inquiry was unnecessary; before recording an adverse remark, a show cause notice was issued to the petitioner, to which he had submitted his reply; the punishment was awarded after considering the petitioner's reply; it could not be said that the procedure adopted suffered from any defect; and no benefit could be extended to the petitioner.

3. With regards the petitioner's contention that his reply was not properly considered, the Public Services Tribunal observed that the impugned order, and the records, clearly revealed that the reply submitted by the petitioner was properly considered. On the contention of the petitioner, that two punishments were awarded for the same incident i.e. an adverse remark was recorded in his character roll, and after some time his integrity has also been withheld on the same ground, the Public Services Tribunal observed that only one punishment could have been awarded for one incident; and, since an adverse remark has been awarded in the character roll of the petitioner, there was no justification in withholding the integrity of the petitioner on the same ground. The order withholding the integrity of the petitioner was, therefore, set aside by the Public Services Tribunal. The Public Services Tribunal further observed that, since there was an adverse remark against the petitioner, the respondents were justified in not considering his candidature for further promotion. Aggrieved thereby, the present writ petition.

4. Sri Daves Bishnoi, learned counsel appearing on behalf of the petitioner, would submit that no allegations of receipt of a bribe were made specifically against the petitioner by any of the villagers whose statements were recorded; while they had stated that they had heard that bribes were given and were taken by police officers, none of them had specifically stated that the petitioner had received bribes; and failure to consider relevant material would also amount to an error apparent on the face of the record justifying interference by this Court in the exercise of its certiorari jurisdiction.

5. On the other hand, Sri B.P.S. Mer, learned Brief Holder appearing on behalf of the State of Uttarakhand, would submit that the charge leveled against the petitioner was not of taking bribes but of gross dereliction and negligence in the discharge of his duties; the fact that brewing and sale of illicit liquor continued unabated, during the period when petitioner was in charge of the area, is borne out by the statements recorded from various villagers; and even if the contention, urged on behalf of the petitioner, that none of the villagers had specifically alleged that the petitioner had taken a bribe is accepted, even then no interference is called for in as much as it is evident from the statements recorded from various villagers that the petitioner has been grossly negligent in the discharge of his duties.

6. The petitioner, a head constable, is governed by the Uttar Pradesh Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991 (hereinafter referred to as the "Rules"), which have been adopted by the State of Uttarakhand. Rule 4 of the Rules relates to punishment. Under sub-rule (1)(b) (iv) of Rule 4 of the Rules, the minor penalty, of punishment of Censure, may be imposed upon a police officer for good and sufficient reasons. Rule 5(2) of the Rules stipulates that cases in which the minor punishment, enumerated in Clause (b) of sub-rule (1) of Rule 4 may be awarded, shall be dealt with in accordance with the procedure laid down in sub-rule (2) of Rule 14. Rule 14(2) stipulates that, notwithstanding anything contained in sub-rule (1), punishment, in cases referred to in sub-rule (2) of Rule 5, may be imposed after informing the police officer in writing of the action proposed to be taken against him and of the imputation of acts or omissions on which it is proposed to be taken, and after giving him a reasonable opportunity of making such representation as he may wish to make against the proposal.

7. In the present case, a show cause notice was issued to the petitioner; he was given an opportunity to furnish his reply thereto; and it is only thereafter was the punishment of censure imposed on him. The procedural requirement of Rule 14(2) have, thus, been complied with. The submission of Sri Davesb Bishnoi, learned counsel for the petitioner, that none of the villagers had specifically stated that the petitioner had received a bribe is of no avail as the charge leveled against him is not of taking a bribe, but of gross dereliction and negligence in the discharge of his duties. It is not in dispute that the petitioner was in charge of the area during the relevant period. It is also not in dispute that illicit liquor was brewed and sold in the said area during the periods when the petitioner was in charge of the said area. The various statements recorded from the villagers clearly show that illicit liquor continued to be brewed and sold despite several complaints made by the villagers in this regard.

8. While the villagers have, no doubt, alleged that they heard bribes were given and were taken by the police officers for permitting brewing and selling illicit liquor, it does not appear from the material on record that there is any specific allegation of the petitioner having taken a bribe. Be that as it may, the fact that

the petitioner was unable to control brewing and sale of illicit liquor, (which continued unabated as is evident from the complaints given by the villagers and from several statements recorded by the Inquiry Officer), establishes negligence on his part in the discharge of his duties. Unlike in the cases where a major penalty is imposed, no requirement of an elaborate inquiry is stipulated for imposing a minor penalty. It is not even contended before us by Sri Daves Bishnoi, learned counsel for the petitioner, that the petitioner was not furnished copies of the preliminary inquiry report, and other statements recorded from the villagers. We are satisfied, therefore, that the order passed by the Public Services Tribunal does not suffer from any error, much less a patent error, justifying interference in proceedings under Article 226 of the Constitution of India.

9. With regards the petitioner's complaint of being denied promotion, learned Brief Holder for the State of Uttarakhand would submit that the previous service record of an employee is examined while considering the case of a police officer for promotion to a higher post. We consider it wholly inappropriate to examine the question, whether denial of promotion to the petitioner ever since 2007-08 for past more than a decade is justified or not, in the present writ proceedings. Suffice it to leave this question open to be agitated by the petitioner, if need be, in independent legal proceedings.

10. We are satisfied however that the order of punishment of censure does not necessitate interference in the present writ proceedings. The writ petition fails and is, accordingly, dismissed. No costs.