



2024:UHC:9783-DB

HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE THE ACTING CHIEF JUSTICE SRI MANOJ KUMAR TIWARI

AND

HON'BLE SRI JUSTICE PANKAJ PUROHIT

Writ Petition (S/B) No. 773 of 2024

20th December, 2024

State of Uttarakhand and others

--Petitioners

Versus

Praveen Kumar

--Respondent

Presence:-

Mr. B.S. Parihar, learned Standing Counsel for petitioners/State of Uttarakhand

The Court made the following:

JUDGMENT: (per Hon'ble The Acting Chief Justice Sri Manoj Kumar Tiwari)

1. State has filed this writ petition, challenging judgment dated 08.01.2024, rendered by Uttarakhand Public Service Tribunal in Claim Petition No. 71/N.B./S.B./2020. By said judgment, punishment of censure imposed upon respondent and also the appellate order passed by D.I.G. Kuman Range, were set aside and Senior Superintendent of Police, Udham Singh Nagar, was directed to expunge the entry regarding said punishment from the service book of respondent.

2. In the year 2018, while respondent was posted as Sub-Inspector in Police Station, Nanakmatta, District Udham Singh Nagar, an FIR No. 101 of 2018 under Section 60 of Excise Act, was registered there and investigation was handed over to respondent. After investigation respondent prepared a chargesheet, which was handed over to the concerned clerk in



Nanakmatta Police Station. The chargesheet could not be found for some months and a notice was issued to respondent, asking him to show-cause as to why punishment of censure may not be imposed upon him for his negligence in the matter. In other words, respondent was held prima facie responsible for the lapse of not maintaining the charge sheet in the file.

3. Respondent refuted the allegation made against him in his reply to the show-cause notice. He contended that a government employee can be punished only for a misconduct and the allegation made against him do not constitute misconduct. Senior Superintendent of Police, Udham Singh Nagar, imposed punishment of censure upon respondent vide order dated 25.01.2020.

4. Respondent challenged said punishment in a departmental appeal. The appeal filed by him was dismissed by D.I.G., Kumaon Range vide order dated 27.04.2020. Thus, feeling aggrieved, respondent approached Uttarakhand Public Services Tribunal; his claim petition was allowed by learned Tribunal by impugned judgment which is challenged in this writ petition.

5. Heard learned counsel for parties and perused the record.

6. From perusal of impugned judgment, it is revealed that chargesheet in question was found in old files, lying in the concerned Police Station and entry to this effect was also made in the concerned register on



20.09.2019. Thus, the charge levelled against respondent gets washed off with recovery of the charge sheet in question from some other file of the Police Station.

7. Learned Tribunal has also considered and discussed the contradictions in the enquiry report submitted by Circle Officer, Khatima and also the order passed by D.I.G. Kumaon Range on 27.04.2020.

8. From perusal of impugned judgment, it is revealed that punishment of censure was given by Senior Superintendent of Police to respondent on 25.01.2020, even though the chargesheet was recovered from the old files in the Police Station, on 20.09.2019. The appellate authority has also overlooked this material aspect while deciding the appeal.

9. We concur with the reasoning given by learned Tribunal for setting aside the punishment order and the order passed by Appellate Court. Merely because chargesheet could not be found for some time, not be a valid ground for imposing punishment upon respondent. Even otherwise also, as Investigating Officer, respondent was required to do investigation and prepare chargesheet, however, he was not expected to maintain the chargesheet in safe custody at all times and like any other record, maintaining chargesheet is the responsibility of ministerial employees.

10. Learned Tribunal has taken note of the statement made by Ms. Priyanka Chanyal, lady constable (ministerial), where she admits that chargesheet in



question, was kept in the concerned file maintained in computer room and she also made entry regarding chargesheet in Register No. 4. The said statement is sufficient to establish innocence of the respondent as chargesheet was handed over by him to the concerned clerk who made entry regarding chargesheet in the relevant register, therefore, respondent cannot be punished for any lapse on the part of other employee due to which the chargesheet could not be found for some time.

11. Thus viewed, learned Tribunal was justified in setting aside the punishment imposed upon respondent. We do not find any reason to interfere with the judgment rendered by learned Tribunal.

12. Accordingly, the Writ petition fails and is dismissed.

MANOJ KUMAR TIWARI , A.C.J.

PANKAJ PUROHIT, J.

Dt: 20th December, 2024
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