



2025:UHC:7851-DB

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE MR. G. NARENDAR

AND

THE HON'BLE JUSTICE MR. SUBHASH UPADHYAY

Writ Petition (S/B) No. 187 of 2022

3rd September, 2025

Shyam Sundar Yadav

-----Petitioner

Versus

State of Uttarakhand and another

-----Respondents

Presence:-

Mr. D.S.Patni, learned Senior Counsel, assisted by Mr. Himanshu Yadav, learned counsel for the petitioner.

Mr. S.S.Rawat, learned Chief Standing Counsel, assisted by Mr. B.S.Parihar, learned Standing Counsel for the State.

JUDGMENT : (per Mr. SUBHASH UPADHYAY, J.)

The petitioner has filed the present Writ Petition praying for the following reliefs:

- i. To set aside the impugned judgment dated 27.12.2021 passed by the learned Uttarakhand Public Service Tribunal in claim petition No. 149/DB/2019 "S.S.Yadav vs. State of Uttarakhand and others" (Annexure No.1 to this writ petition) and impugned judgment dated 13.01.2021 passed by the learned Uttarakhand Public Service Tribunal in Review Application No. 1/DB/2022 "S.S. Yadav vs. State of Uttarakhand and others" (Annexure No. 2 to this writ petition).*



- ii. *Issue a writ, order or direction in the nature of certiorari quashing the impugned punishment order dated 13.01.2016 (Annexure No. 11 to this writ petition) passed by respondent no. 1 and impugned order dated 03.04.2018 and 03.05.2018 passed by respondent no.1 (Annexure No. 18 and 24 to this writ petition).*
- iii. *Issue a writ, order or direction in the nature of mandamus directing the respondent concerned to provide the all service benefits to the petitioner keeping in abeyance the orders under challenge those are penal in nature.*
- iv. *Issue a writ, order or direction in the nature of mandamus directing the respondent-authorities to give the fresh look on the representations of the petitioner dated 16.07.2016, 02.02.2017 and 21.04.2017 and pass the fresh order after hearing the petitioner and also effected office bearer taking into account the file noting dated 15.12.2020 received through RTI dated 27.07.2021 (Annexure No. 27 to the writ petition)*

2. The counsel for the petitioner submits that vide order dated 13.01.2016, Special Adverse Entry was given to the petitioner, which came to his knowledge in June, 2016 and the representation submitted against the said order was rejected by respondent no.1 on 03.04.2018. The petitioner challenged the said Order in Claim Petition No. 149 /DB/2019 on 25.11.2019 and there was a delay of 208



days as the Limitation of one year expired on 03.04.2019. The Claim Petition was dismissed vide order dated 27.12.2021 on the ground of Limitation and the Review Application was also dismissed on 13.01.2022. The aforesaid orders are challenged in the present Writ Petition.

3. Learned counsel appearing for the petitioner submits that in a similar matter, the Coordinate Bench of this Court in **Writ Petition (S/B) No. 163 of 2025, Constable 23 N. P. Ganesh Prasad vs. State of Uttarakhand & others**, had condoned the delay of 195 days and the matter was remitted back to the Tribunal for consideration and disposal on merits.

4. The counsel for the State does not dispute the said facts.

5. Learned counsel for the petitioner further drew the attention of this Court on para 31 of the impugned order dated 27.12.2021, wherein the learned Tribunal has observed as hereunder:

“Limitation is for the Tribunal, not for the Govt. We have observed that the impugned punishment ought not to have been given to the



petitioner, for various reasons, enumerated herein above. The Govt. can always review or revise its own order. No time limit has been prescribed for the Govt. to do the same. ***Although the claim petition has substance on merits, but since the same has been filed beyond limitation period, therefore, no direction can be issued to the respondent authorities.”***

6. Thus, learned counsel for the petitioner contends that the petitioner is entitled for the benefit of the order passed by his Hon'ble Court in Writ Petition (S/B) No. 163 of 2025, as the learned Tribunal has though observed that the claim petition has substance on merits but the same has been dismissed on the ground of Limitation.

7. Having heard learned counsel for the parties, the Writ Petition is disposed of finally in terms of the order dated 23.05.2025, passed in Writ Petition (S/B) No. 163 of 2025. The order passed by learned Public Service Tribunal dated 27.12.2021 and 13.01.2022 are set aside and the matter is remitted back to the learned Tribunal for consideration and disposal on merits.

8. The Writ Petition stands ordered accordingly.



2025:UHC:7851-DB

There shall be no orders as to costs.

Pending application(s), if any, also stands disposed
of.

(G. NARENDAR, C. J.)

(SUBHASH UPADHYAY, J.)

Dated: 03.09.2025
Kaushal