



2026:UHC:2461

HIGH COURT OF UTTARAKHAND AT NAINITAL

HON'BLE SRI JUSTICE MANOJ KUMAR TIWARI

Writ Petition No. 1675 of 2017 (SS)

Pradeep Singh Bhauryal Constable No. 3554 --Petitioner

Versus

Deputy Inspector of P.A.C. Police Headquarter
and another -Respondents

Advocates: Mr. M.C. Kandpal, Senior Advocate assisted by Mr. Devesh
Kandpal, Advocate for the petitioner.
Mr. Ganga Singh Negi, Additional Chief Standing Counsel for the
State of Uttarakhand.

JUDGMENT

1. Petitioner was serving as Constable in Indian Reserve Battalion, and he was dismissed from service vide order dated 05.09.2012 passed by Commandant, IRB, Bailparaw, Ramnagar, Nainital. Against his dismissal, petitioner filed an appeal, which has been dismissed on the ground of delay vide order dated 05.05.2014. Thus, feeling aggrieved, petitioner has filed this writ petition, challenging the order passed by Appellate Authority as well as the Disciplinary Authority.

2. Perusal of the order passed by Appellate Authority/Deputy Inspector General of Police, P.A.C. Uttarakhand, reveals that the appeal was dismissed on the sole ground that it was not filed within 03 months from passing of the punishment order and there was delay of 01 year 07 months and 24 days.

3. Learned counsel for the petitioner submits that petitioner was dismissed from service on the ground of unauthorized absence between 07.04.2012 to 19.05.2012; the dismissal order was passed by the Commandant on 05.09.2012, therefore, the limitation for filing appeal, prescribed in Uttar Pradesh Police Officers of the



Subordinate Ranks (Punishment and Appeal), Rules 1991 would have no application, when the Police Act, 1861 under which the said Rules were framed itself was repealed by Uttarakhand Police Act, 2007.

4. He submits that Section 26 of the Uttarakhand Police Act, 2007, provides for appeal against orders of punishment; however, no limitation for filing appeal is prescribed in Uttarakhand Police Act, therefore, the limitation prescribed in Rules of 1991 framed under Police Act, 1861 cannot be invoked for dismissing petitioner's appeal.

5. Learned State Counsel, however, refers to Section 86 of Uttarakhand Police Act, 2007, which deals with repeal and savings. State Counsel relies upon Clause (2) of Section 86 for contending that Rules or Regulations framed under Police Act, 1861 are protected by the saving clause and they shall have the same effect as if they were framed under Uttarakhand Police Act, 2007.

6. Learned counsel for the petitioner, however, refers to the latter half of Clause (2) of Section 86 of the Uttarakhand Police Act for contending that the Rules or Regulations framed under Police Act, 1861 can have application after enforcement of Uttarakhand Police Act 2007, only if they are not inconsistent with the provisions of Uttarakhand Police Act, 2007.

7. He submits that there is inconsistency between Rules of 1991 framed under Police Act, 1861 and Section 26 of Uttarakhand Police Act in as much as in the Uttarakhand Police Act 2007, there is no period of limitation prescribed for appeal, while in the Rules, there is limitation prescribed for filing appeal, therefore, to the extent of this



inconsistency, the Rules of 1991 will have to give way to the provisions of Uttarakhand Police Act, 2007.

8. He submits that Rules of 1991 can have application with the caveat that the limitation prescribed in Clause (6) of Rule 20 of 1991 Rules will stand superseded by Section 26 of the Uttarakhand Police Act, 2007, meaning thereby that there would be no limitation for filing an appeal after enforcement of Uttarakhand Police Act 2007.

9. This Court finds substance in the contention raised by learned counsel for the petitioner.

10. Rules framed under a legislation are subservient to the parent legislation. In the present case, Rules of 1991 were framed under Police Act, 1861 which was repealed by Uttarakhand Police Act, 2007; however, on the strength of Clause (2) of Section 86 of Uttarakhand Police Act 2007, rules framed under the old Act are still in force. However, the provision regarding limitation for filing appeal, as mentioned in Clause (6) of Rule 20 of the Rules of 1991 cannot have any application in view of latter half of Section 86(2) of Uttarakhand Police Act, 2007, which has repealed the parent Act under which the said rules were framed.

11. In view of the aforesaid discussion, the writ petition is allowed. The order passed by Appellate Authority on 05.05.2014 is liable to be set aside and is hereby set aside. The matter is relegated back to Appellate Authority, who shall examine the appeal filed by petitioner and decide it on merits within two months from date of presentation of certified copy of this order.

MANOJ KUMAR TIWARI, J.



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