



**HIGH COURT OF UTTARAKHAND AT NAINITAL**

**HON'BLE SRI JUSTICE MANOJ KUMAR TIWARI**

**Writ Petition Service Single No. 2199 of 2022**

**15<sup>TH</sup> April, 2026**

Jagdish Nath

--Petitioner

**Versus**

State of Uttarakhand & others

--Respondents

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Presence: -

Mr. Pankaj Goswami and Mr. Deepak Chandra, Advocate for the petitioner.

Mr. K.N. Joshi, Deputy Advocate General for the State of Uttarakhand.  
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**JUDGMENT**

Petitioner was appointed as Constable in Uttarakhand Police in the year 2012. He was dismissed from service, vide order dated 24.05.2020, passed by Senior Superintendent of Police, Udham Singh Nagar.

2. The dismissal order is on record as Annexure-2 to the writ petition. Charge against the petitioner was that he misbehaved with a lady, whose husband was quarantined in Surajmal Engineering College, Pulbhatta, Kichha, during lockdown imposed in view of Covid-19 Pandemic. It is mentioned in the dismissal order that petitioner was subjected to medical examination and he was found under influence of liquor.

3. Learned counsel for the petitioner submitted that the date of the alleged incident is 24.05.2020 and the dismissal order was also passed with undue haste,



the same day without holding any inquiry whatsoever. He further submitted that petitioner was neither given notice nor opportunity of hearing while passing the impugned order and the punishment of dismissal is therefore violative of Article 311 (1) of the Constitution of India and also the provisions contained in the U.P. Police Officers of the Subordinate Ranks (Punishment and Appeal) Rules, 1991, as applicable in State of Uttarakhand.

4. Learned State Counsel submitted that the dismissal order was passed against the petitioner based on a report submitted by Circle Officer, Sitarganj, which is enclosed as Annexure CA-2 to the counter affidavit filed on behalf of respondent nos. 1 & 2.

5. Perusal of Annexure CA-2, however, reveals that Circle Officer was not appointed Inquiry officer and he simply reported a incident to the Senior Superintendent of Police. It further reveals that alleged incident occurred on 24.05.2020 and the report was submitted by Circle Officer, Sitarganj on the same day. The dismissal order was incidentally passed by the Senior Superintendent of Police Udham Singh Nagar the same day, i.e. on 24.05.2020.

6. This Court finds substance in the submission made by learned counsel for the petitioner that petitioner was dismissed from service without holding any inquiry.

7. Learned State Counsel then contended that the Disciplinary Authority was justified in invoking the power available to him under Rule 8 (2) (b) of the U.P. Police Officers of Subordinate Rank (Punishment and



Appeal) Rules, 1991, which reads as under: -

"8. Dismissal and removal-(1)...

(2) No police officer shall be dismissed, removed or reduced in rank except after proper inquiry and disciplinary proceedings as contemplated by these rules:

Provided that this rule shall not apply-

(b) Where the authority empowered to dismiss or remove a person or to reduce him in rank is satisfied that for some reason to be recorded by that authority in writing, it is not reasonably practicable to hold such enquiry."

8. This Court is not impressed by the contention raised by learned State Counsel. Although, Rule 8(2)(b) of the applicable Rules enables the Disciplinary Authority to dispense with the disciplinary inquiry in appropriate cases, however, it cannot be dispensed with in a routine or casual manner. The power to dispense with disciplinary inquiry is meant to be used in exceptional circumstances, when conducting disciplinary inquiry is not reasonably practicable, such as due to witness intimidation, threats to the disciplinary authority, an atmosphere of violence or general indiscipline or when the disciplinary authority is satisfied that holding an inquiry would be prejudicial to the interest of the security of the State.

9. To ensure that power to dispense with disciplinary inquiry is invoked for legally defensible reason and not arbitrarily, the following conditions have to be satisfied:- (i) disciplinary authority has to explicitly record the reasons for dispensing with the inquiry in the final order; (ii) the decision to dispense with the disciplinary inquiry must be based on objective facts e.g. intelligence reports, witness statements etc. rather than mere suspicion, surmises or speculation;



(iii) the penalty imposed must not be grossly excessive or disproportionate to the misconduct; and (iv) courts can review the decision to ensure that it was not made malafide or in bad faith or based on irrelevant considerations.

10. In the present case, the only reason assigned for dispensing with disciplinary inquiry is that there is information/evidence that while on duty in a quarantine center at Pulbhatta, petitioner misbehaved with a lady, and it is not reasonably practicable to hold disciplinary inquiry in the matter. The reason is neither plausible nor satisfactory and it is a ploy to use the power under Rule 8 (2) (b) of the applicable Punishment and Appeal Rules, 1991.

11. Hon'ble Supreme Court in paragraph no. 130 of the judgment rendered in the case of *Union of India v. Tulsiram Patel* reported as (1985) 3 SCC 398, has held that a disciplinary authority is not expected to dispense with a disciplinary inquiry lightly or arbitrarily or out of ulterior motives or merely in order to avoid the holding of an inquiry or because the department's case against the government servant is weak and must fail. Paragraph no. 134 of the said judgment is reproduced below: -

**"134.** It is obvious that the recording in writing of the reason for dispensing with the inquiry must precede the order imposing the penalty. The reason for dispensing with the inquiry need not, therefore, find a place in the final order. It would be usual to record the reason separately and then consider the question of the penalty to be imposed and pass the order imposing the penalty. It would, however, be better to record the reason in the final order in order to avoid the allegation that the reason was not recorded in writing before passing the final order but was subsequently fabricated. The reason for dispensing with the inquiry need not contain detailed particulars, but the reason must not be vague or just a repetition of the language of clause (b) of the second proviso. For



instance, it would be no compliance with the requirement of clause (b) for the disciplinary authority simply to state that he was satisfied that it was not reasonably practicable to hold any inquiry. Sometimes a situation may be such that it is not reasonably practicable to give detailed reasons for dispensing with the inquiry. This would not, however, per se invalidate the order. Each case must be judged on its own merits and in the light of its own facts and circumstances."

12. There is nothing on record which may justify invocation of power available under Rule 8 (2) (b) of the applicable Punishment and Appeal Rules, 1991. Availability of a power in itself cannot be a valid justification for use of that power, especially when such power curtails the legal/ constitutional right available to a citizen and there must be valid reason for use of such extraordinary power. The disciplinary authority, in the present case, has merely reproduced the wordings of Rule 8(2) (b) and has not indicated any valid reason for dispensing with the enquiry.

13. Even otherwise also, here, the disciplinary authority straightaway came to the conclusion that enquiry is not practicable, without making any effort for holding disciplinary inquiry. This is evidenced from the fact that the dismissal order was passed on the date of the alleged incident and reason for dispensing with disciplinary inquiry is mentioned not on the file but only on the dismissal order. This reveals that the impugned decision was taken mechanically, without application of mind to relevant aspects.

14. Learned counsel for the petitioner is therefore right in submitting that the disciplinary authority did not examine the feasibility of holding disciplinary inquiry and he invoked the power available under Rule 8(2) (b) of the Rules without considering whether



disciplinary inquiry is practicable in the facts and circumstances of the case.

15. In the absence of valid reason for dispensing with the disciplinary inquiry, the power available under Rule 8 (2) (b) could not have been invoked by the Disciplinary Authority.

16. Since petitioner was dismissed without holding disciplinary inquiry and disciplinary inquiry was dispensed with without valid reason, therefore, the punishment of dismissal, imposed upon petitioner cannot be sustained in the eyes of law. The impugned dismissal order and the order passed by the appellate authority are therefore liable to be set aside and are hereby set aside. The writ petition is allowed; petitioner shall be reinstated with continuity of service, however, he shall be entitled to arrears of salary only to the extent of 50%. The Disciplinary Authority shall be at liberty to initiate disciplinary proceedings afresh and to pass appropriate order, as per law based on the findings returned by enquiry officer. Disciplinary proceedings, however, may be initiated within three months from the date of presentation of certified copy of this order before the disciplinary authority.

(Manoj Kumar Tiwari, J.)

**Dt: 15<sup>th</sup> April, 2026**

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