

IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL
Writ Petition No. 276 of 2011(S/S)

Raj Kumar Singh

.....Petitioner.

Versus

State of Uttarakhand and others

...Respondents.

Present: Mr. N. S.Pundir, Advocate for the petitioner.
Mr. Anil Bisht, Brief Holder for the State of
Uttarakhand.

Hon'ble Sudhanshu Dhulia, J.

Heard Mr. N. S. Pundir, counsel for the petitioner
and Mr. Anil Bisht, Brief Holder for the respondents.

By means of present writ petition the petitioner has
prayed for quashing the impugned order dated
24.12.2010 passed by respondent no.2 whereby the
major penalty along with some minor penalties have been
imposed upon the petitioner.

Before the matter could be heard on merits, learned
Brief Holder for the State Mr. Anil Bisht has raised a
preliminary objection and stated that the petitioners have
an alternative remedy by way of an appeal provided
under Rule 11 of the Uttaranchal Government Servant
(Discipline and Appeal) Rules, 2003 (from hereinafter
referred to as the "Rules") before the next higher
authorities. Rule 11 of the Rules reads as follows:

11. Appeal.-(1) Except the orders passed
under these rules by the Governor, the
Government Servant shall be entitled to appeal
to the next higher authority from an order
passed by the Disciplinary Authority.

(2) The appeal shall be addressed and
submitted to the Appellate Authority. A
Government Servant preferring an appeal shall
do so in his own name. The appeal shall
contain all material statements and arguments
relied upon by the appellant.

(3) The appeal shall not contain any intemperate language. Any appeal, which contains such language may be liable to be summarily dismissed.

(4) The appeal shall be preferred within 90 days from the date of communication of impugned order. An appeal preferred after the said period shall be dismissed summarily.

The above statutory provision of appeal is admitted by the learned counsel for the petitioner. Apart from this, Rule 13 further provides for a revision before the State Government.

Since the above remedies provided under Rule 11 of the Rules have not been exhausted by the petitioner and no special case is made out before this Court whereby this admitted alternative remedy can be overlooked, the writ petition is liable to be dismissed on the ground of alternative remedy and the same is hereby dismissed.

This Court in another writ petition being Writ Petition No. 226 of 2011 (S/S) had already dismissed the writ petition of a similarly situated employee on the ground of alternative remedy.

No order as to cost.

Interim order dated 17.3.2011 stands vacated.

(Sudhanshu Dhulia, J.)

29.4.2011

Kuldeep