

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

**Pronounced on : 09.04.2026
Uploaded on : 15.04.2026**

SWP No. 1899/2011

Bishan Lal

.....Petitioner

Through: None

Vs

Union of India & Ors.

.....Respondents

Through: Mr. Vishal Sharma, DSGI with
Mr. Eishaan Dadhichi, CGSC

**CORAM: HON'BLE MR. JUSTICE RAHUL BHARTI, JUDGE
ORDER
(09.04.2026)**

- 01.** The petitioner while serving as Hawaldar in 17th Battalion in Indo-Tibetan Border Police-(ITBP) and at the relevant point of time posted in Leh (Ladakh) which then was part of State of Jammu and Kashmir, suffered dismissal from service by virtue of an **order No. 8395 dated 29.12.2003.**
- 02.** The petitioner came to approach the Hon'ble High Court of Uttarakhand with a writ petition WPS(Writ Petition Service) **No. 701/2004** which remained pending on the docket of Single Bench when by virtue of an order dated **30.03.2010**, said writ petition was dismissed on account

of being not maintainable before the High Court of Uttarakhand for lack of territorial jurisdiction to decide the matter.

03. Against said outcome, the petitioner preferred a Special Leave Petition before the Hon'ble Division Bench of the High Court of Uttarakhand through Special Appeal No. **81/2010**.

04. The Hon'ble Division bench of the High Court of Uttarakhand dealt with the grievance of the petitioner in the light of dismissal of his writ petition and found that the learned Single Bench was right in dismissing the writ petition as being not maintainable, particularly, when the dismissal order dated **29.12.2003** was never ever questioned in the said writ petition.

05. The Hon'ble Division Bench of the High Court of Uttarakhand further considered the contention of the petitioner's counsel about the order dated **08.07.2004** relating to the transfer of the petitioner from **17th Battalion Leh to B.T.C Bhanu** which was impliedly meant to be reckoning the fact that the petitioner was in service notwithstanding the termination order dated **29.12.2003**.

06. The Hon'ble Division Bench dealt with this contention by saying that if the petitioner would reckon that order dated **08.07.2004** meant the petitioner to be in service then he should have joined and assumed his duty at B.T.C Bhanu but since that option was not exercised by the petitioner it meant that the petitioner was reconciling with the fact that his dismissal from service has taken place by virtue of the order dated **29.12.2003** being still in effect.

07. The Hon'ble Division Bench of the High Court of Uttarakhand, by virtue of judgment dated **01.06.2010**, dismissed the **Special Appeal No. 81 of 2010** of the petitioner.

08. It took the petitioner more than one year in coming to realization that he needs to approach the High Court of State of Jammu and Kashmir as it was then with the present writ petition filed only on **16.09.2011**.

09. In the name of explaining the delay and laches on his part in coming up with the present writ petition, particularly, after having suffered rejection of his Special Appeal No. **81 of 2010** from the Hon'ble Division Bench of High Court of Uttarakhand, there is no whisper of averments in the entire writ petition and, therefore, the

delay and laches right from the very inception have been staring the petitioner to explain but the counsel for the petitioner is found absent in attending this long pending writ petition, as such, this Court is under no obligation to wait for counsel to take his time and appear in the case and is thus, constrained to dismiss the writ petition for non-prosecution.

10. Dismissed for non-prosecution.

JAMMU
09.04.2026
SUNIL

(RAHUL BHARTI)
JUDGE

Whether the order is speaking ? : Yes/No
Whether the order is reportable ? : Yes/No

