

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

SWP No.1628/2011
CM No.1386/2025

1. Mohinder Singh, Age 43 years Petitioner (s)
Const. No.890160203 ITBP
S/o Sh. Ajit Singh E/o H.No.57
Mangwal Colony Tehsil and District
Sangroor (Punjab)

2. Kulwant Singh, Age 43 years Const.
No.890195221 ITBP S/o Sh. Ranga
Singh R/o Bhura Karimpura Patti Tehsil
Tarantaran (Punjab)

3. Gurnam Singh, Age 43 years Const.
No.890194438 ITBP S/o Sh. Sawroop
Singh R/o Barmal Jattan, P.O. Narota
Jaimal Singh (Punjab).

4. Pardeep Kumar, Age 43 years Const.
No.890195239 ITBP S/o Sh. Shanker
Dass R/o Vill. Bamial, P.O. Bamial
Tehsil Pathankot (Punjab).

Through :- Mr. K. S. Johal, Sr. Advocate with
Mr. Supreet R. S. Johal, Advocate

v/s

1. Union of India through Ministry of
Home Affairs, New Delhi.

2. Inspector General Indian Tibetan
Boarder Police New Delhi.

3. Dy. Inspector General SHQ (LDK),
ITBPF MHA (Govt. of India) C/o56
APO.

4. Commandant 24th Bn. ITBP
Choglamsar, Leh.

.....Respondent(s)

Through :- Mr. Vishal Sharma, DSGI with
Mr. Karan Sharma, CGSC

CORAM: HON'BLE MR. JUSTICE WASIM SADIQ NARGAL, JUDGE

ORDER
23.07.2026

CM No.1386/2025

01. This is an application filed by the petitioners/applicants for placing on record, the requisite documents which are necessary to clinch the controversy in question.
02. For the reasons stated in the application coupled with the submissions made at Bar, the same is ***allowed*** and the documents accompanying the said application are taken on record with all just exceptions.
03. The application is ***disposed of***

SWP No.1628/2011

01. Through the medium of the instant petition, the petitioners have prayed for the following reliefs:-
 - i) *A writ of Mandamus for commanding the respondents to conclude the de-novo inquiry initiated in terms of the order passed by this Court vide a common judgment dated 22.07.2000 and upheld by the Hon'ble Division Bench in a common judgment dated 03.09.2009;*
 - ii) *In the alternative, a writ commanding the respondents to withdraw the proceedings initiated for holding the denovo inquiry and treat the petitioner exonerated of the charges;*
 - iii) *A writ directing the respondents to reinstate the petitioners and give all consequential benefits w.e.f. the date they were suspended including emoluments, promotions, seniority and other benefits permissible to the petitioners in ITBP.*
02. Learned Senior Counsel appearing on behalf of the petitioners fairly submits that the reliefs sought in the present writ petition have substantially been granted by the respondents. It is submitted that the petitioners have been reinstated and have also been extended consequential service benefits with effect from the dates of their

suspensions, including emoluments, promotions, seniority and other service benefits admissible under the applicable rules governing the ITBP. Learned senior counsel further submits that during the pendency of the present petition, the respondents passed a detailed order dated 06.11.2023, which has been brought on record along with the the instant application as **Annexure-I.**

03. A perusal of order dated 06.11.2023, annexed as Annexure-I to the instant application, reveals that the competent authority has decided the case of the petitioners in the following terms:-

“It is apparent that there is an inordinate delay in completion of disciplinary proceedings against the above Constable, which has caused mental agony, stress etc. to him and has also made a stigma on his character. Hence, the de-novo enquiry ordered against above person is liable to be stopped. Accordingly, the de-novo enquiry which was ordered against him vide order No.763-71 dated 07.12.2012 is hereby closed.

The question regarding the back wages for the period of suspension above Constable yet to be decided. As already discussed that the above personnel have faced lot of mental agony and financial crisis as is mentioned in reinstatement order of suspension also. Furthermore, as discussed above, in CA No.958 of 2010 titled Prem Nath Bali versus Registrar, High Court of Delhi & anr., by the Hon’ble Supreme Court “..... it should be concluded within six months as an outer limit. Where it is not possible for the employer to conclude due to certain unavoidable causes the time frame then efforts should be made to conclude within reasonably extended period depending upon the cause and the nature of inquiry but not more than a year.”

The de-novo enquiry ordered on 22.09.2011, should have been reasonably concluded within a period of one year from the date of its order, given the nature of enquiry and the articles of charges to be enquired. However, looking into the nature and

technicalities of the case, the enquiry should have been reasonably concluded within a period of two years. Therefore, the continuous suspension of above Constable beyond the period of two years from the date of order of de-novo enquiry does not seem to be justified. Hence, to deny the back wages of suspension period beyond the period of two years from the date of order of de-novo/fresh enquiry does not appear to be just and appropriate in the present circumstances.

The period of suspension of above Constable w.e.f. 22.11.1993 to 26.07.2018 shall be treated as 'duty' for all purposes. However, he be paid full pay and allowances, only for the period of 23.09.2013 to 26.07.2018. For the period of 22.11.1993 to 22.09.2013, the above Constable be paid an amount being 'Subsistence Allowance' @50% of his basic pay and other allowance(s), if not already paid, for which he is entitled as per F.R. 53. However, the amount already drawn, if any, by above Constable being 'Subsistence Allowance' shall be adjusted against the amount to be drawn for the aforementioned period.

During the period of suspension, the above Constable has also availed permission leave and same is ordered to be regularized/adjusted as mentioned below:-

Sr. No.	Period सत्यमेव जयते		Regularized as
	From	To	
1	10.05.2010	24.05.2010	15 days as E.L
2	31.10.2010	14.11.2010	15 days as E.L
3	20.03.2011	03.04.2011	15 days as E.L
4	05.05.2011	03.06.2011	30 days as E.L
5	22.07.2011	05.08.2011	15 days as E.L
6	24.11.2011	08.12.2011	15 days as E.L
7	09.12.2011	22.01.2012	45 days as E.L
8	03.07.2013	22.07.2013	20 days as E.L
9	09.10.2013	07.11.2013	30 days as E.L
10	12.04.2024	26.04.2024	15 days as E.L
11	27.04.2014	16.05.2014	20 days as E.L
12	14.10.2014	12.11.2014	30 days as E.L
13	25.06.2015	09.07.2015	15 days as E.L
14	01.09.2015	08.09.2015	08 days as E.L
15	29.09.2015	28.10.2015	30 days as E.L

16	01.02.2016	15.02.2016	15 days as E.L
17	26.03.2016	04.04.2016	10 days as E.L
18	18.05.2016	06.06.2016	20 days as E.L
19	11.07.2016	25.07.2016	15 days as E.L
20	10.10.2016	08.11.2016	30 days as E.L
21	10.11.2016	29.11.2016	20 days as E.L
22	15.01.2017	13.02.2017	30 days as E.L
23	22.02.2017	08.03.2017	15 days as E.L
24	23.03.2017	06.04.2017	15 days as E.L
25	20.04.2017	04.05.2017	15 days as E.L
26	06.06.2017	20.06.2017	15 days as E.L
27	04.08.2017	13.08.2017	10 days as E.L
28	19.09.2017	28.09.2017	10 days as E.L
29	28.03.2018	26.04.2018	30 days as E.L
30	03.05.2018	12.05.2018	10 days as E.L
31	28.01.2019	06.02.2019	10 days as E.L
32	28.03.2019	30.03.2019	03 days as E.L
33	18.04.2019	27.04.2019	10 days as E.L
34	18.11.2019	24.12.2019	37 days as E.L
35	01.02.2020	01.03.2020	30 days as E.L
36	23.11.2020	22.12.2020	30 days as E.L
37	16.01.2021	14.02.2021	30 days as E.L
38	05.11.2021	04.12.2021	30 days as E.L
39	06.01.2022	25.01.2022	20 days as E.L
40	25.10.2022	26.10.2022	02 days as E.L
41	08.12.2022	14.01.2023	38 days as E.L
42	23.01.2023	21.02.2023	30 days as E.L
43	06.11.2023	05.12.2023	30 days as E.L

04. Upon perusal of the detailed order passed by the respondents during the pendency of the instant writ petition, learned senior counsel appearing on behalf of the petitioners submits that the said order gives rise to a fresh cause of action. He, accordingly, seeks permission of this Court to withdraw the present petition with liberty to challenge the aforesaid order by way of appropriate proceedings, as the reliefs claimed in the instant petition were confined only to the prayers reproduced hereinabove and did not encompass a challenge to the subsequent order dated 06.11.2023.

05. It is submitted that since the aforesaid order has been passed by the respondents during the pendency of the present writ petition, the petitioners seek leave of this Court to withdraw the instant petition with liberty to assail the said order by instituting appropriate proceedings in accordance with law.
06. In view of the aforesaid facts and the subsequent developments that have taken place during the pendency of the present petition, the instant writ petition is **dismissed as withdrawn**, with liberty to the petitioners to challenge the order dated 06.11.2023 by availing such remedy as may be available to them in law. Consequently, all connected application(s) shall also stand disposed of.
07. It is made clear that the order dated 06.11.2023 came to be passed by the respondents during the pendency of the present writ petition. Immediately thereafter, without any undue delay, the petitioners filed the instant application placing on record the said order and other relevant documents, while simultaneously seeking liberty to challenge the same by way of appropriate proceedings. Accordingly, it is made clear that in the event the petitioners institute such proceedings, the period during which the present writ petition remained pending, including the time spent in seeking appropriate liberty from this Court, shall not operate to their prejudice on the question of limitation. It shall be open to the petitioners to seek exclusion of the said period before the competent forum, which shall consider the issue in accordance with law.

(Wasim Sadiq Nargal)
Judge