

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

114

CWP No.8345 of 2022 (O&M)
DATE OF DECISION: 25th APRIL, 2022

Lakhveer Singh

.... **Petitioner**

Versus

The Union of India and others

.... **Respondents**

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present: Mr. Sumeet Singh Brar, Advocate,
for the petitioner.

* * * *

RAJBIR SEHRAWAT, J. (Oral)

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of mandamus directing the respondents to decide the representation dated 06.01.2022 (Annexure P-2) on merits and give one opportunity of hearing to the petitioner.

It is submitted by the counsel for the petitioner that the petitioner was appointed in Indo Tibetan Border Police Force (for short, ITBP Force). However, the petitioner was discharged from service on 21.05.2013 during the period of probation. The petitioner had filed the writ petition bearing CWP No.27956 of 2013 challenging the said order. Although the said writ petition was dismissed by this Court, vide order dated 18.12.2013, however, the petitioner was granted liberty to seek an audience before the nominee of the Director General of Police, ITBP,

New Delhi. But when approached the respondent-DIG, ITBP Force has dismissed the appeal/representation vide order dated 10.02.2022 by observing that the petitioner did not have any right under the Rules to file appeal. The case of the petitioner has not been considered on merits.

Notice of motion.

Mr. Sunil Kumar Sharma, Advocate, Senior Panel Counsel for UOI, accepts notice on behalf of the respondents and submits that the work and conduct of the petitioner was not found to be satisfactory during the probation. The petitioner was found repeatedly absent from duty. Hence, he was discharged from service under the service rules applicable to the Force. Although, while dismissing the aforesaid CWP No.27956 of 2013 on 18.12.2013, this Court had granted liberty to the petitioner to approach the nominee of the respondent-Director General of Police Force, however, the petitioner did not approach the authorities-Force for about 9 years. The representation was filed only on 06.01.2022. The said representation has been rejected vide order dated 10.02.2022 by observing that since discharge of the petitioner was under Rule 4 of the Indo Tibetan Border Police Force Rule, 1994 and under the Rules the petitioner did not have any right to appeal against the discharge order. The counsel has further submitted that neither there was any provision for appeal nor was the representation made by the petitioner in time, therefore, the order has rightly been passed by the Deputy Inspector General, ITBP Force, Bhuvneshvar. The present petition deserves to be dismissed.

Having heard the counsel for the parties, this Court does not find any substance in the argument raised by the counsel for the

petitioner. The discharge of petitioner from service is a subject-matter governed by the statutory rules. The rules do not provide for any appeal against the order of discharge from service during probation. Hence, this Court does not find any illegality with the order passed by the respondent-Deputy Inspector General, ITBP Force, Bhuvneshvar. Moreover, even if the petitioner is taken to have some kind of right to approach the respondents on account of the order dated 18.12.2013 passed by this Court in CWP No.27956 of 2013, still the petitioner has lost that right by not approaching the appropriate authority for about 9 long years.

In view of the above, this Court does not find any ground to interfere in the matter.

Dismissed.

25th APRIL, 2022
'sandeep'

(RAJBIR SEHRAWAT)
JUDGE

<i>Whether speaking/reasoned:</i>	<i>Yes</i>	<i>No</i>
<i>Whether Reportable:</i>	<i>Yes</i>	<i>No</i>