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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2281/2022**
EX CONST (CREW) SHARAD DIXIT Petitioner

Through Mr.Ajit Kumar Kakkar, Advocate.

versus

UNION OF INDIA & ORS. Respondents
Through Mr.Rajnish Kumar Gaiind, Advocate
for UOI.
Mr.Hemendra Singh, Law Officer,
BSF.

% Date of Decision: 07th February, 2022

CORAM:
HON'BLE MR. JUSTICE MANMOHAN
HON'BLE MR. JUSTICE NAVIN CHAWLA

J U D G M E N T

MANMOHAN, J: (Oral)

C.M.No.6564/2022

Exemption allowed, subject to all just exceptions.

Accordingly, the application stands disposed of.

W.P.(C) No.2281/2022

1. The petition has been heard by way of video conferencing.
2. Present writ petition has been filed challenging the dismissal order dated 07th December 2021 passed by the Respondents. Petitioner also seeks a direction to the Respondents to conduct a re-verification of the Petitioner's Swimming Certificates which had been done for two similarly situated personnel.



3. Learned counsel for the Petitioner states that vide the impugned dismissal order dated 07th December 2021, the Petitioner has been unlawfully dismissed from the Border Security Force under Rule 17 of the BSF Rules, 1979 after serving for 6 years and 5 months on the ground of presenting a fake/ forged Swimming Certificate.

4. Mr.Hemendra Singh, Law Officer, BSF raises a preliminary objection with regard to the maintainability of the present writ petition on the ground that the Petitioner has an alternative effective remedy by filing a petition under Rule 28A of the BSF Act, 1969.

5. Mr.Ajit Kumar Kakkar, learned counsel for the Petitioner candidly admits that the Petitioner has not filed a petition under Rule 28A of the BSF Act till date.

6. Accordingly, the present writ petition is disposed of with liberty to the Petitioner to file a petition under Rule 28A of the BSF Act, 1969 within a week. In the event such a petition is filed within the stipulated period, the same shall not be dismissed on the ground of limitation and shall be decided on merit by way of a reasoned order within twelve weeks. It is clarified that this Court has not commented on the merits of the controversy. The rights and contentions of all the parties are left open.

MANMOHAN, J

NAVIN CHAWLA, J

FEBRUARY 07, 2022
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