

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2746 of 2023

=====

Sonu Kumar Yadav Son of Bir Bahadur Yadav, Resident of Village- Phulwar Gamahariya, Police Station- Banjariya, District- East Champaran.

... .. Petitioner/s

Versus

1. The Union of India through the Inspector General S.S.B. Karpuri Thakur Bhawan, Ashiana Nagar, Patna.
2. The Deputy Inspector General S.S.B., Head Quarter Purnea, Purnea.
3. The Commandant, 52nd Batalian, Araia, Bihar.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s : Mr. Anant Kumar Mishra with Mr. Niraj Kumar Singh, Advocates

For the UOI : Mr. Sujeet Kumar Sinha CGC

=====

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 10-08-2023

Heard learned counsel for the petitioner and learned counsel for the Union of India.

2. The petitioner, who is a constable in the respondent- *Sashastra Seema Bal (SSB)*, was on leave from 29-06-2020 to 28-07-2020. The petitioner has overstayed the leave, which resulted in constitution of a Court of enquiry against him by an order dated 27-08-2020, when 30 days period lapsed after his leave period. The court of inquiry was ordered under section 74(1) of the *Sashastra Seema Bal Act, 2007* (for short 'the Act'). The court of enquiry was conducted and upon receipt of the court of enquiry report, the Commandant 52nd Bn. SSB, Araria (Bihar) (Respondent No.3) taking note of the report of



the court of inquiry as well as the fact that the petitioner was also retaining with himself government property in his possession, i.e., Government I- Card, bearing No. 099011, issued by the SSB, issued an Apprehension Role to the concerned Police Authority to apprehend the petitioner. The Apprehension Role was issued on 08-09-2020. The petitioner continued to stay away from his duties without any intimation whatsoever. He, thereafter, has been declared a “Deserter” on 23.09.2020 as per Section 74(2) of the Act. Having been declared a “Deserter”, he was asked to assume his duties within a period of 15 days by show cause notices dated 25.09.2020 and 12.10.2020 both sent to his native address. The same evinced no response. Thereafter, a show cause notice was also published in the daily newspapers being published from his native place on 14.10.2020 asking the petitioner to resume duties within 15 days. The petitioner even, thereafter, chose not to respond to the notice. The Respondent no.3, therefore, issued an order of "dismissal from service" w.e.f. date of issuance of the order i.e. 31.10.2020 (FN), as per Rule- 21 read with Rule- 18 of the Sashastra Seema Bal Rules-2009 (for Short ‘2009 Rules’). He was given liberty to prefer an appeal to the Dy. Inspector General, Sector Hqrs SSB, Purnea, within a period of



90 days, as contemplated under Rule 29 of the 2009 Rules.

3. The petitioner, after nearly 1 and ½ years, has filed an appeal, copy of which is Annexure-9 to the supplementary affidavit filed by the petitioner. From perusal of the appeal, it is apparent that the petitioner admits to his continued absence from his duties, which are sought to be justified by various factors such as flood, some vague incident, which compelled him to leave home and some rivalry in his society with some others, though he claims to have received intimation regarding his dismissal on 14.11.2020. He has chosen to file an appeal against the said order on 21.03.2022. The same is not only barred by the time limit of 90 days prescribed, but *prima facie* to the court's opinion, appears to be raising no issue which could merit consideration so as to condone the continued absence from the respondent- SSB for such a long time.

4. The petitioner's claim based on the reasons of emerging flood, vague incident etc., have to be viewed keeping in background the fact that he is a member of the uniform service and is required to maintain a high standard of discipline and devotion towards duty. The learned counsel is not in a position to show to this court that there was any provision for condoning the delay in filing the appeal or that even such prayer



has been made in the appeal for condoning the delay in filing the appeal.

5. From the facts, as observed, this Court does not find any infirmity in the order passed by the appellate authority (Dy Inspector General) SHQ SSB Purnea on 24.06.2022 (Annexure-8) rejecting the petitioner’s appeal. The admitted fact of the petitioner's absence in his appeal also is required to be considered. Insofar as the petitioner's assail to the initial order of dismissal dated 31.10.2020, this Court would find the same clearly records the fact of at least three opportunities being given to petitioner even after he had been declared as “deserter”, which he has chosen not to avail. Being a member of a uniform service, the petitioner was expected to maintain higher degree of discipline and commitment towards his duty, which clearly has not been done in the instant case. No grounds are made out for interfering with the impugned order of the dismissal dated 31-10-2020 (Annexure-7) passed by the Respondent No.3.

6. The writ petition is dismissed.

(Madhuresh Prasad, J)

shyambihari/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	26-08-2023
Transmission Date	N/A

