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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 1585/2023, CM APPL. 5996/2023—Exp., CM APPL. 5997/2023—stay, CM APPL. 5998/2023—Exp., CM APPL. 5999/2023—permissions to file lengthy synopsis, CM APPL. 27313/2023—by petitioner for directions, CM APPL. 27314/2023—Exp.

VINEET SEHGAL

.....Petitioner

Through: Mr. Deepak Prakash, Mr. Rahul Suresh and Mr. Rahul Lakhera, Advs.

versus

UNION OF INDIA THROUGH ITS SECRETARY MINISTRY OF HOME AFFAIRS & ORS.

.....Respondents

Through: Mr. Vineet Dhanda, CGSC with Mr. Abhishrut Singh and Mr. Abhijit Singh, Advs.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

10.07.2024

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1. The petitioner who was serving as a Commandant in the Border Security Force has approached this Court under Article 226 of the Constitution of India seeking the following reliefs:-

“(i) Issue an appropriate writ in the nature of mandamus or any other Writ, Order or direction, to declare Rule No. 40 (3A) of the Border Security Rules, 1969 as illegal, arbitrary and unconstitutional, being against the general principles of law as laid down by the Hon’ble Supreme Court of India in the case of Ajay Kumar Choudhary Versus Union of India & Anr. (2015) 7 SCC 291; and/or,

(ii) Issue an appropriate writ in the nature of mandamus or any other



Writ, Order or direction, to call for the records pertaining to Order dated 23.02.2022 passed by the Respondent No. 1 bearing No. C-14011/114/2021/CC/Pers/BSF/3689-98, including the Delay Reports mandated under Rule No. 39 and Rule No. 40 A (5) of the Border Security Force Rules, 1969; and/or,

(iii) Issue an appropriate writ in the nature of mandamus or any other Writ, Order or direction, thereby declaring the Order dated 23.02.2022 passed by the Respondent No. 1 bearing no. C-14011/114/2021/CC /Pers/BSF/3689-98 and all the consequential proceedings thereof as arbitrary, illegal and against the mandate as laid down in Article 14, 21 and Article 20(2) of the Constitution of India and quash the same; and/or,

(iv) Issue an appropriate writ in the nature of mandamus or any other Writ, Order or direction, thereby declaring the operations of paragraph No. (3) of the Order dated 23.02.2022 passed by the Respondent No. 1 bearing no. C-14011/114/2021/CC/Pers/BSF/3689-98 as illegal and arbitrary, amounting to curtailing the Right to Movement and Personal Liberty of the Petitioner, which is against the mandate as laid down in Article 21 of the Constitution of India and quash the same; and/or,

(v) Issue an appropriate writ in the nature of mandamus or any other Writ, Order or direction, to declare that the detention on 27.09.2022 and arrest on 28.09.2022 of the Petitioner and the consequential confinement of the Petitioner till date is illegal, arbitrary and against his Fundamental Rights under Article 21 of the Constitution of India; and/or

(vi) Issue an appropriate writ in the nature of mandamus or any other Writ, Order or direction, thereby directing the Respondent No.1 to release the Petitioner from confinement within the campus SHQ BSF Sirchar; and/or, (vii) Issue an appropriate writ in the nature of mandamus or any other Writ, Order or direction, thereby directing the Respondent No.1 to pay the full salary of the Petitioner with effect from 23.02.2022; and/or,

(viii) Issue an appropriate writ in the nature of mandamus or any other Writ,



Order or direction, to initiate disciplinary actions against the Respondent No. 2 herein, for acting in violation of the Border security Force Act and Rules, 1969.”

2. We are informed by the learned counsel for the respondents that during the pendency of the present writ petition, the petitioner stands dismissed from service on 01.08.2023, which dismissal has not been assailed by him till date.

3. In these circumstances, we are of the view that when the petitioner is no longer in service, no useful purpose would be served by adjudication of the relief sought by him. We, therefore, dismiss the petition along with the pending applications, granting liberty to the petitioner to seek revival thereof, in the eventuality of the dismissal order passed against him being set aside.

REKHA PALLI, J

SHALINDER KAUR, J

JULY 10, 2024
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