

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CONSTITUTIONAL WRIT JURISDICTION
(APPELLATE SIDE)**

RESERVED ON: 13.06.2025

DELIVERED ON: 18.06.2025

PRESENT:

THE HON'BLE JUSTICE GAURANG KANTH

W. P. A. 2380 OF 2024

HIMANSHU KUMAR

VERSUS

THE UNION OF INDIA & ORS.

Appearance:-

Mr. Jagriti Mishra, Adv.
Mr. S. K. Dhar, Adv.
Mr. Ashit Kumar Das, Adv.
Ms. Ananya Bhattacharya, Adv.
Ms. Mrinmayee Das, Adv.

.....**For the Petitioner**

Mr. Sudipto Kumar Mazumder, Id. D.S.G.I.
Mr. Tridip Saha, Adv.
Mr. Sourab Kar, Adv.

..... **For the UOI**

JUDGMENT

Gaurang Kanth, J. :-

1. The Petitioner has preferred the present Writ Petition, being aggrieved by:
 - (i) the order dated 11.05.2024 passed by the Commandant, 52 Bn, SSB, Simlabari-Falakata, whereby his services were terminated and his name was struck off from the strength of the Battalion w.e.f. 11.05.2024; and

(ii) the order dated 24.09.2024 passed by the Appellate Authority, whereby the appeal filed by the Petitioner was rejected, thereby upholding the termination order dated 11.05.2024.

2. The facts leading to the filing of the present Writ Petition are as follows:
3. The Petitioner was appointed as a Constable/General Duty (CT/GD) vide appointment letter dated 12.03.2021 under the Sashastra Seema Bal (SSB) and was posted to the 53rd Battalion, SSB, at Falakata-Simlabari, West Bengal. As per the terms of the appointment letter, the appointment was purely temporary but likely to continue. The appointment included a probationary period of two years, extendable for a further period of two years for reasons recorded in writing. The appointment was also subject to the successful completion of the Basic Recruit Training Course (BRTC) conducted by the SSB. The Petitioner was to be given two opportunities to pass the said training, failing which his services would be liable to be terminated.
4. Upon accepting the aforesaid terms and conditions, the Petitioner reported to the Commandant, 39th Battalion, Palia, Uttar Pradesh on 20.04.2021.
5. While undergoing the BRTC from 10.05.2021, the Petitioner sustained a serious injury on 06.10.2021 during a mid-term test firing exercise at the SSB firing range in Shahjahanpur, Uttar Pradesh. An extracted fired cartridge case from a co-trainee's INSAS rifle struck his left eye. He was immediately taken to Sitarpur Eye Hospital, where surgery was performed on his cornea. He remained under treatment at Sitarpur Eye Hospital from 06.10.2021 to 13.10.2021 and again from 06.01.2022 to 31.01.2022, totaling 32 days of medical care. As he was a trainee who suffered a major injury and remained out of training for over 30 days, he was relegated

under Paragraph V of SOP No. 83/2024. However, contrary to Paragraph III of the said SOP, he was never referred to a Medical Board.

6. Due to incomplete recovery from the treatment at Sitarpur Eye Hospital, the Petitioner sought further medical attention at Shankara Nethralaya, Chennai, where he remained under care from 22.04.2022 to 19.09.2022. Owing to his condition, he was placed in SHAPE-II medical category. He was subsequently declared SHAPE-I by the Medical Board on 07.09.2023.
7. It is pertinent to note that a Court of Inquiry (CoI) was conducted in relation to the incident of 06.10.2021, which concluded that the injury sustained by Reg. No. 210800866 RCT/GD Himanshu Kumar of the 53rd Battalion was attributable to Government service while discharging bona fide duties. The findings of the CoI were accepted by Respondents No. 3, 4, and 5. Respondent No. 3 further directed Respondent No. 5 to provide all necessary financial and medical assistance to the Petitioner and facilitate his completion of BRTC within the permissible two-year time frame.
8. Due to his medical condition, the Petitioner was not sponsored for BRTC during his initial two-year service period. After his medical classification was changed from SHAPE-II to SHAPE-I, he was re-nominated for BRTC at Alwar with effect from 04.12.2023, pending consideration of a proposal for exemption from the two-year limitation by the Headquarters.
9. Respondent No. 5 informed the DIG, Centre, Alwar that the Commandant (Pers-II), FHQ SSB, New Delhi, via WAN/Fax message No. VI/35/prob/SSB/CT(GD)/HK/Pers-II/2023/3701 dated 18.03.2024, had directed appropriate action in accordance with the Recruitment Rules for Constable (GD). The DIG was accordingly requested to relieve the Petitioner immediately and direct him to report back to the 53rd Battalion.

Consequently, the Petitioner resumed training for a second time but was withdrawn on 30.03.2024, prior to completing the full course.

10. Thereafter, Respondent No. 5 issued a Show Cause Notice dated 10.04.2024, calling upon the Petitioner to explain why his services should not be terminated for failing to complete the BRTC within two years. The Petitioner submitted a reply dated 09.05.2024. However, without due appreciation of the circumstances and explanations provided, the Respondent, vide impugned order dated 11.05.2024, terminated his services.
11. The Petitioner preferred a statutory appeal before the Director General, SSB. However, by order dated 24.09.2024, the Appellate Authority rejected the appeal.
12. Aggrieved by the impugned orders dated 11.05.2024 and 24.09.2024, the Petitioner has filed the present Writ Petition.

Submission on behalf of the Petitioner

13. Learned Counsel for the Petitioner submits that the termination of the Petitioner from service under Rule 26 of the SSB Rules is not only inappropriate but also contrary to the established Government policies, Rule 27 of the SSB Rules, and Standard Operating Procedure (SOP) No. 83/2014 framed by the Respondents themselves. It is submitted that the Petitioner was unable to complete the Basic Recruit Training Course (BRTC) within the stipulated two-year period not due to any fault on his part, but owing to a serious injury sustained by him while undergoing training.
14. The said injury, as per the findings of the Court of Inquiry, was held to be attributable to Government service while the Petitioner was discharging bona fide official duties. Owing to the resulting medical condition, the

Petitioner was not sponsored for BRTC during the initial two-year period. It is further submitted that under Rule 3-A(1) of the Extraordinary Pension Rules, Rule 27 of the SSB Rules, and Paragraph III of SOP No. 83/2014, the Petitioner is entitled to compensation and appropriate relief.

15. As per the provisions of the said SOP, in cases where a trainee sustains a major injury or suffers from a serious ailment, and where there is no sign of improvement despite treatment, termination of service can only be resorted to upon the recommendation of a duly constituted Medical Board. In the present case, however, no such medical assessment or opinion was ever obtained or placed on record at any stage, rendering the termination order legally unsustainable.
16. In view of the aforesaid submissions, Learned Counsel for the Petitioner prays for setting aside the impugned orders dated 11.05.2024 and 24.09.2024, and for granting consequential reliefs as may be deemed just and proper by this Hon'ble Court.

Submission on behalf of the Respondents

17. Learned Counsel for the Respondents submits that, in terms of the SSB Combatized (General Duty) Group 'C' Posts Recruitment Rules, 2011, a Constable (GD) appointed through direct recruitment is mandatorily required to qualify the Basic Recruit Training Course (BRTC) within a period of two years from the date of appointment. It is further stipulated that no more than two attempts shall be permitted for qualifying the said training, failing which the services of the concerned individual are liable to be terminated. These conditions are also clearly reflected in the Petitioner's appointment letter, which he accepted at the time of joining service.

- 18.** It is submitted that the Petitioner, having failed to successfully complete the BRTC within the prescribed time frame and permitted attempts, was lawfully terminated from service in accordance with the applicable rules. The Appellate Authority, upon consideration of all the contentions and materials placed by the Petitioner, passed a reasoned order upholding the termination.
- 19.** Learned Counsel further contends that the scope of judicial review in matters concerning service jurisprudence, particularly in the realm of disciplinary or administrative decisions based on statutory rules, is extremely limited. In the absence of arbitrariness or violation of principles of natural justice, no interference by this Hon'ble Court is warranted.

Legal Analysis

- 20.** This Court has heard the arguments advanced by the learned counsel for both parties and has perused the material available on record.
- 21.** At the very outset, this Court records its deep anguish and disapproval at the manner in which the Respondents have handled the case of the Petitioner. The Commandant, 53rd Battalion, SSB, Simlabari-Falakata, and the Commandant (Personnel-II), have exhibited an inhumane and insensitive approach in dealing with the legitimate concerns of the Petitioner. This Court is compelled to reiterate that members of the military and paramilitary forces tirelessly serve under extreme and often life-threatening conditions to ensure the safety and security of the nation. It is, therefore, imperative that such officers are treated with dignity, compassion, and the highest degree of human consideration. The realities and challenges faced by personnel in uniform are often beyond ordinary understanding. It is, therefore, all the more essential that the authorities

treat such officers with fairness and empathy, ensuring that their rights are upheld and protected in a humane and just manner.

- 22.** A perusal of the impugned orders dated 11.05.2024 and 24.09.2024, reveals a glaring non-application of mind by both the Commandant, 53rd Battalion, and the Appellate Authority, i.e., Commandant (Personnel-II). The order fails to consider the bona fide and unavoidable circumstances that prevented the Petitioner from attending the BRTC. Such a mechanical and indifferent approach is antithetical to the principles of natural justice.
- 23.** It is undisputed that the Petitioner was unable to complete his BRTC within the prescribed two-year period. However, this delay was not due to any fault or negligence on his part, but was directly attributable to his official duties under government employment. In such a scenario, it was incumbent upon the Respondent authorities to objectively assess the factual matrix and apply a reasoned and equitable approach. Rules and regulations are designed to be applied judiciously, taking into account the context and circumstances of each case. Rigidity in interpretation should not defeat the ends of justice. The law must serve as a means to achieve fairness and equity, not as a tool of oppression or arbitrary exclusion.
- 24.** In the present case, the Petitioner joined service in good health and high spirit. Unfortunately, during the course of training, he sustained an injury that was in no manner attributable to any misconduct or negligence on his part. Based on medical advice, he was unable to complete the training. As a model employer, the Respondents were expected to take ownership of the situation and facilitate his re-entry into training upon his recovery especially considering the injury occurred during the course of government service. This is not a case where the Petitioner failed to meet the requisite

medical standards post-recovery; rather, he did recover and was fit to resume training. Despite this, he was served with a termination order, effectively ending his career due to an injury entirely arising from the course of his official duties. This action is not only unfair but undermines the very ethos of a welfare-oriented public administration.

- 25.** In light of the foregoing discussion, this Court finds no hesitation in holding that the orders dated 11.05.2024 and 24.09.2024 are vitiated by illegality, gross non-application of mind, and a perverse appreciation of facts. The original order dated 11.05.2024 passed by the Commandant, 53rd Battalion, SSB, Simlabari-Falakata, as well as the appellate order dated 24.09.2024 passed by the Commandant (Personnel-II), are accordingly quashed and set aside. The Petitioner shall stand reinstated in service with all consequential benefits, including continuity of service and arrears of pay. The Respondents are further directed to take immediate steps to sponsor the Petitioner for the next available BRTC, without any further delay.
- 26.** With this direction, the present writ petition is allowed.

(Gaurang Kanth, J.)

SAKIL AMED (P.A.)