

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

120

CWP-28670-2025
DECIDED ON:15.10.2025

RAVINDER

...PETITIONER

VERSUS

UNION OF INDIA AND OTHERS

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Ishaan Bhardawaj, Advocate for the petitioner

Mr. Rakesh Verma, Senior Panel Counsel
for the respondent/UOI

SANDEEP MOUDGIL, J

1. Prayer

The petitioner has filed the present petition under Article 226 of the Constitution of India seeking quashing of the impugned notice dated 17.05.2025 (Annexure P-8), the Invalidation Medical Board (in short as IMB) proceedings dated 01.05.2025 (Annexure P-7), and Departmental Rehabilitation Board (in short as DRB) proceedings dated 11.02.2025 (Annexure P-4).

2. Brief Facts

The petitioner was appointed as Constable (GD) in the Indo-Tibetan Border Police Force (hereinafter referred to as ITBP) on 13.08.2007 and has rendered about 17 years of service. In March 2023, he claims to have sustained a shoulder injury while on duty. Thereafter, he underwent medical treatment at different hospitals for the same.

Subsequently, he was examined by the DRB on 11.02.2025 and by the Invalidation Medical Board IMB on 01.05.2025, which found him

suffering from Alcohol Dependence Syndrome (ADS) and recommended his invalidation from service.

On 17.05.2025, an impugned notice (Annexure P-8) was issued to the petitioner under Rule 26(3) of the Indo-Tibetan Border Police Rules, 1994 (hereinafter referred to as ITBP Rules, 1994), informing him of the medical findings and granting an opportunity to submit a representation along with supporting medical evidence. The petitioner submitted his representation dated 16.06.2025 (Annexure P-10), enclosing a medical certificate from the Civil Surgeon, Mahendargarh, dated 13.06.2025 (Annexure P-9), declaring him fit for duty.

The present petition has been filed seeking quashing of the IMB proceedings and the notice dated 17.05.2025, alleging procedural irregularities and bias in the process.

3. Contentions

On behalf of Petitioner

Learned counsel for the petitioner submits that the impugned IMB and DRB proceedings are arbitrary and violative of principles of natural justice. It is argued that no Court of Inquiry was held despite the petitioner having suffered an injury while on duty, and that the finding of Alcohol Dependence Syndrome (ADS) is medically unfounded. Reliance is placed on a medical certificate from the Civil Surgeon, Mahendargarh (Annexure P-9), declaring the petitioner fit for duty. It is urged that, despite the petitioner having made a representation to the respondents, no steps have been taken to convene a fresh Medical Board for the purpose of conducting a fair and impartial proceeding. It is further contended that the authorities acted with premeditation, and therefore, a fresh Medical Board should be constituted.

On behalf of Respondents

Per contra, learned counsel for the respondents submits that the petition is premature. The notice dated 17.05.2025 is only a show cause notice under Rule 26(3) of the ITBP Rules, 1994, and no final order has yet been passed. The petitioner has already submitted his representation, which is under consideration. It is further contended that the medical findings were arrived at by a duly constituted Board and there is no violation of any statutory provision.

4. Analysis

Having heard learned counsel for the parties and perused the material placed on record, this Court finds that the core question that arises for determination is whether the present writ petition is maintainable at this stage, when the competent authority has not yet taken a final decision on the petitioner's representation submitted under Rule 26(3) of the ITBP Rules, 1994.

At the outset, it is undisputed that the impugned communication dated 17.05.2025 is a show cause notice issued under Rule 26(3) of the ITBP Rules, which merely informs the petitioner of the opinion of the IMB and grants him an opportunity to make a representation along with supporting medical evidence before any final order is passed. Also, the petitioner has indeed availed this opportunity by submitting his representation dated 16.06.2025 (Annexure P-10) along with a fitness certificate from the Civil Surgeon, Mahendargarh (Annexure P-9).

In such circumstances, the process under Rule 26(3) and (4) is still underway, and the competent authority is yet to form its final opinion.

Therefore the grievance is at a nascent and inchoate stage. The provisions has

26. Retirement discharge of subordinate officers and enrolled persons on grounds of physical unfitness.-

(3) Where the said subordinate officer or the enrolled person is found by the Medical Board to be unfit for further service in the Force, as the case may be, the authority as specified in rule 17, if he agrees with the finding of the Medical Board, communicate to the said person the findings of the Medical Board and thereupon, within a period of 30 days of such communication, the person may make a representation against it to the competent authority supported by a prima-facie evidence of error of judgement in the opinion expressed by the Medical Board. Such an evidence should be from a government doctor not below the status of Civil Surgeon and should contain specific mention that he has taken into consideration the findings of the Medical Board before giving his opinion.

(4) Where the person declared to be unfit for further service makes a representation under sub-rule (3) the same shall be awarded to the next superior officer, who shall have the case referred to be reviewed by a fresh Medical Board, which shall be constituted in such manner as may from time to time, be laid down by the Director General. The superior officer may, having regard to the findings of the fresh Medical Board, pass such order as he may deem fit.

The settled position of law, as expounded by the Supreme Court in “*Union of India v. Kunisetty Satyanarayana, (2006) 12 SCC 28*”, is that ordinarily, a writ petition does not lie against a mere show cause notice or charge-sheet unless the same is issued wholly without jurisdiction or in clear violation of statutory provisions. The Court in that case observed that interference at a premature stage would obstruct due process and deprive the competent authority of the opportunity to rectify or consider the representation of the employee. Relevant extract of which is as follows:

“12. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show-cause notice

13. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

14. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge sheet.

15. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter.”

Similarly, in “***Special Director v. Mohd. Ghulam Ghouse, (2004) 3 SCC 440***”, the Supreme Court held that courts should refrain from interdicting administrative or quasi-judicial proceedings at the show cause stage, as doing so would amount to pre-empting the authority from exercising its lawful jurisdiction.

Applying these principles to the present case, it is evident that the impugned notice is procedural in nature, affording the petitioner a statutory right of representation before any adverse order is passed. Judicial review under Article 226 of the Constitution of India is intended to correct jurisdictional or procedural errors of final administrative decisions, not to supervise pending processes or anticipate future orders.

This Court also notes that Rule 26(4) of the ITBP Rules itself provides a built-in safeguard, permitting reconsideration or fresh medical examination if the competent authority, upon considering the representation and supporting documents, finds it necessary to do so. Therefore, the apprehension of prejudice is speculative and premature.

Administrative efficiency and discipline in uniformed services such as the ITBP forces require that internal mechanisms be allowed to function without undue judicial intervention unless palpable illegality or *malafides* are demonstrated. In the absence of any final order, or any demonstrable illegality in the issuance of the notice, this Court finds no reason to invoke its extraordinary writ jurisdiction at this stage.

5. Conclusion

Accordingly, this Court holds that no cause of action arises in favour of the petitioner at this stage. Thus, the present writ petition being pre-mature at this stage is hereby dismissed.

15.10.2025
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(SANDEEP MOUDGIL)
JUDGE

Whether speaking/reasoned
Whether reportable

:Yes/No
:Yes/No