



2025:DHC:8058-DB



\$~94

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6034/2021 & CM APPL. 19094/2021**
SI MIN MRITUNJAY KUMAR SINGHPetitioner

Through: Mr. Ankur Chhibber and Mr.
Arjun Panwar, Advs.
versus

UNION OF INDIA AND ORSRespondents
Through: Mr. Vikrant N. Goyal, Sr. PC
with Mr. Arun Kumar Yadav and Mr. Prince
Balyan, Advs. for UOI

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGEMENT (ORAL)

% **10.09.2025**

C. HARI SHANKAR, J.

1. Having heard Mr. Ankur Chhibber, learned Counsel for the petitioner and Mr. Vikrant N. Goyal, learned Senior Panel Counsel for the respondents, we deem it appropriate to allow this writ petition on a limited ground.

2. The order dated 16 June 2021 dismissing the petitioner from service has been issued in exercise of the powers vested in the Disciplinary Authority by Section 11(2)¹ of the BSF Act, 1968 read

¹ **11. Dismissal, removal or reduction by the Director-General and by other officers.—**

(1) The Director-General or any Inspector-General may dismiss or remove from the service or reduce to a lower grade or rank or the ranks any person subject to this Act other than an officer.

(2) An officer not below the rank of Deputy Inspector-General or any prescribed officer may dismiss or remove from the service any person under his command other than an officer or a subordinate officer of such rank or ranks as may be prescribed.

(3) Any such officer as is mentioned in sub-section (2) may reduce to a lower grade or rank or the ranks any person under his command except an officer or a subordinate officer.

(4) The exercise of any power under this section shall be subject to the provisions of this Act and the rules.



with Rule 22(3) of the BSF Rules, 1969. Rule 22(3)² of the BSF Rules enables the Disciplinary Authority to dispense with the requirement of holding a General Security Force Court³.

3. However, we find that the order does not contain any reason as to why it was felt inexpedient to hold the GSFC.

4. Mr. Ankur Chhibber points out that the respondents had in fact held an additional ROE⁴ and had also examined witnesses and it was only because they could not secure any evidence against the petitioner from the said witnesses that they have decided to dispense with the GSFC.

5. We do not propose to enter into whether that is the reason for dispensing with the GSFC. Suffice it to state that, in the absence of any reason whatsoever, howsoever perfunctory, the decision to dispense with the GSFC cannot sustain in law. We draw sustenance from the judgment of the Supreme Court in *UOI v Tulsiram Patel*⁵ as well as by the Division Bench of this Court in *Yacub Kispotta v Director General BSF*⁶, which followed *Tulsiram Patel* and from which the relevant paragraphs may be extracted as under:

“30. If all the authorities were to be considered in the backdrop of the facts of the present case, there cannot be any doubt that the sudden and inexplicable *volte face* of the BSF, from its earlier decision to hold a General Security Force Court, to altogether dispense with any inquiry and follow Rule 22 is utterly

² (3) The competent authority after considering his explanation and defence if any may dismiss or remove him from service with or without pension:
Provided that a Deputy Inspector General shall not dismiss or remove from service, a Subordinate Officer of and above the rank of an Inspector.

³ GSFC

⁴ Record of Evidence

⁵ (1985) 3 SCC 398

⁶ 2015 SCC OnLine Del 12437



indefensible. The only inkling as to why it was not reasonably practicable to hold an inquiry is that BSF states that its attempt to secure the presence of independent witnesses through the local police was not successful. This explanation, in the counter affidavit, and even on the record is less than credible, to say the least. The BSF at the outset was of opinion that a full-fledged inquiry into the incident was necessary, as evidenced by the fact that the four petitioners and two others, i.e. injured BSF personnel were kept in close arrest, under Rule 36. This procedure is mandatory wherever the charge contemplated is an offence under Section 14-as the present case undoubtedly is. Thirdly, a SCOI was held and thereafter a Record of Evidence was conducted. Several witnesses deposed about the incident; they were cross examined. The petitioners' statements too were recorded, after administering warnings to them. Rule 47 mandates that in cases involving Section 14 violation, summary proceedings cannot be resorted to. The RoE and the SCOI proceedings showed that not only witnesses were available, but willingly deposed during these proceedings. These proceedings were held for almost a year. 13 BSF personnel deposed; the statements of eight others, mostly villagers who had witnessed the incident-either voters or others posted on election duty, showed that there was no atmosphere of fear which could threaten them. Indeed, to avoid such a situation, the petitioners were kept under close arrest for two years.

31. The law thus, from *Tulsiram Patel* onwards is that while the competent authority can dispense with an inquiry if it is not reasonably practicable, that view should be grounded on reasons. The courts can exercise judicial review to decide whether there was any material to determine the reasonableness of such view. *Singasan Rabi Das*⁷ is closest in the facts to the circumstances of the present case. The court rejected the view that holding an inquiry would have resulted in humiliation of the witnesses rendering them ineffective, was sufficient to say that it was not reasonably expedient to hold an inquiry. *Chandigarh Administration v Ajay Manchanda*⁸ is authority for the proposition that vague inferences are insufficient for a sustainable opinion that inquiry is not reasonably practicable.”

6. Mr. Goyal candidly acknowledges that the order dated 16 June 2021 does not contain any cogent reason as to why the GSFC was dispensed with but submits that the decision in *Yacub Kispotta* is

⁷ (1991) 1 SCC 729

⁸ AIR 1996 SC 3152



clearly distinguishable.

7. We, therefore, hold in favour of the petitioner on the sole ground that the dispensation with the requirement of GSFC under Rule 22(3), which enables the respondents to dispense with the requirement of holding of a GFSC, has been invoked without any reason for regarding the holding of a GSFC as inexpedient.

8. We, therefore, quash and set aside the order dated 16 June 2021.

9. The petitioner would, therefore, be entitled to be reinstated in service and would also be entitled to continuity in service for all purposes but would not be entitled to any back wages.

10. However, he would be entitled to notional pay fixation as though he was continuing in service without having been dismissed.

11. This shall, however, not preclude the respondents from proceeding against the petitioner by any means which is sustainable in law if they so deem it appropriate.

12. The writ petition is allowed to the aforesaid limited extent.

C.HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

SEPTEMBER 10, 2025/aky