



2025:DHC:97-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 07.01.2025

+ W.P.(C) 63/2025 & CM APPLs. 184-85/2025
EX CONST CREW MONU YADAV

.....Petitioner

Through: Mr.S.S. Pandey & Mr.Roshan
Kumar, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr.Himanshu Pathak, SPC with
Mr.Chetanya Puri, Mr.Amit
Singh & Mr.Rajat Yadav, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

1. This petition has been filed by the petitioner praying for the following reliefs:

“(a) Issue a Writ of Certiorari calling for the records including the Court of Inquiry which was finalized illegally and used against the Petitioner to pass Impugned Order dated 21.01.2022 vide which Petitioner was dismissed from service against such order of termination and thereafter quash all such orders including the Court of Inquiry.

(b) Issue a Writ of Mandamus by directing the Respondents to reinstate the Petitioner in service with all consequential benefits.”

2. The Impugned Order dated 21.02.2022 has been passed by the Office of the Commandant 102 Bn. BSF, Sedata, Bhuj (Gujarat), striking off the petitioner from the strength of the Marine Coy 102 Bn,



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BSF, with effect from 21.01.2022, *inter alia* observing as under:-

“05. No. 160534340 Constable (Crew) Monu Yadav, ‘Marine Coy’ of 102 Bn BSF is found blameworthy for producing and using fake experience certificate for recruitment of CT(Crew) in BSF. Hence, as per terms and conditions given at Para No. 08 of the offer of appointment letter No. A.6/Pers (Rectt)/CT(Crew)/WW/00A/2016/13599-604 dated 05/07/2016 in respect of 160534340 Constable (Crew) Monu Yadav, ‘Marine Coy’ of 102 Bn BSF are required to be terminated from service for production of fake/false certificate at the time of enrolment in BSF as CT/Crew under Section 11(2) of BSF Act read with Rule-17 of BSF Rules.”

3. The order having been passed at Bhuj (Gujarat), we enquired from the petitioner as to how he invoked the jurisdiction of this Court for entertaining the present petition. In response, the learned counsel for the petitioner submitted that as the Impugned Order places reliance on the Court of Inquiry that was conducted at Delhi and which had found that the Mechanised Fishing Boat Certificate (ref. No. 15 dated 31.03.2015) was issued to the petitioner by the Prabhu Bhai and Sons Water Wing, Near Punjab National Bank, Gandhidham, Kandla, Gujarat, basis whereof the petitioner had obtained appointment in the BSF, this Court would have the jurisdiction to entertain the present petition.

4. We do not find any merit in the submissions made. The petitioner for invoking the jurisdiction of this Court, in the writ petition has pleaded as under:

“18. That the Petitioner have the cause of



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action to approach this Hon'ble Court because he not only the Inquiry was finalized in Delhi but even the decision to terminate Petitioner was issued from Delhi though the orders of dismissal was passed by the was of orders in Delhi but even the entire process of selection has been carried out in Delhi. Therefore, the Petitioner have approached this Hon'ble Court by way of present Writ Petition."

(Emphasis supplied)

5. Apart from the fact that the Impugned Order dismissing the petitioner from service has not been issued at Delhi, it is trite law that "cause of action" means a bundle of facts which is necessary for the petitioner to prove in order to succeed in the proceedings. It does not completely depend upon a character of the relief prayed for by the petitioner. A small part of the cause of action arising within the territorial jurisdiction of a High Court may not be considered as a determinative factor compelling the High Court to decide the matter on its own merits. In such a case, the doctrine of *forum non conveniens* shall apply.

6. In the present case, before passing the Impugned Order, a Show Cause Notice had been issued to the petitioner at Bhuj, Gujarat, and the reply of the petitioner to the same is stated to have been considered before passing the Impugned Order at Bhuj, Gujarat. The petitioner is aggrieved by the Impugned Order dated 21.01.2022, which had terminated his service. The said order, as noted hereinabove, has been passed at Bhuj, Gujarat. Therefore, the major cause of action has arisen at Bhuj, Gujarat merely because the cause of inquiry was ordered at Delhi, it will not make this Court a *forum conveniens*.



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7. Applying the principle of the doctrine of *forum non conveniens*, therefore, we are of the opinion that this Court would not be the appropriate/convenient Forum. Accordingly, we decline to entertain the present petition in exercise of the discretion vested in as under Article 226 of the Constitution of India.

8. The petition and the pending applications are dismissed while reserving the liberty of the petitioner to approach the jurisdictional High Court.

NAVIN CHAWLA, J

SHALINDER KAUR, J

JANUARY 7, 2025/rv/DG

Click here to check corrigendum, if any