



2025:DHC:98-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 07.01.2025

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**W.P.(C) 67/2025 & CM APPLs. 200/2025 & 201/2025
EX CONST CREW PRADEEP**

.....Petitioner

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

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr.Kushagra Kumar, SPC with
Mr.Abhinav Bhardwaj, GP &
Mr.Vipul Mittal, Adv.

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 13.05.2022 vide which Petitioner was dismissed from service and thereafter quash all such orders including the Court of Inquiry.

(b) Issue a Writ of Mandamus further, by directing the Respondents to permit the petitioner to the issuance of the Writ in the nature of Mandamus by directing the



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Respondents to permit the petitioner to rejoin services with all consequential benefits.”

2. The Impugned Order dated 13.05.2022 has been passed by the Officer Commanding, Water Wing, BSF, Rajarhat Action Area, New Town, Kolkata, striking off the petitioner from the strength of the Water Wing, BSF, Rajarhat with effect from 13.05.2022, *inter alia* observing as under:

3. The order having been passed at Kolkata, 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 neither the Swimming Experience Certificate (Reference No. 083 of 05.06.2015) was issued to the petitioner by the Amngani Group Society, Swimming Pool, Near Pilot Chowk, Daharuhera (Haryana), nor the Boat Handling Experience Certificate (ref. No. 10 dated 20.02.2015) was issued to him by Rajan & Sons Marine Dock, Marine Complex, Kochi, Kerala, 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:

“21. That the Petitioner have the cause of action to approach this Hon'ble Court because he not only the Inquiry was finalized in Delhi



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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."

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 Kolkata, and the reply of the petitioner to the same is stated to have been considered before passing the Impugned Order at Kolkata. The petitioner is aggrieved by the Impugned Order dated 13.05.2022, which had terminated his service. The said order, as noted hereinabove, has been passed at Kolkata. Therefore, the major cause of action has arisen at Kolkata merely because the cause of inquiry was ordered at Delhi, it will not make this Court a *forum conveniens*.

7. Applying the principle of the doctrine of *forum non conveniens*, therefore, we are of the opinion that this Court would not be the



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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