

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No.2776 of 2022**

=====

Pawan Josi S/o Sri Krishna Deo Josi Constable No. 13100154 (Sweeper) 61 BN, BSF, Head Quarter North Bengal Frontier Post- Kadamtala, District- Darjeeling West Bengal. Presently residing at Itahari, Post- Fudki Chak, P.S.- Gogri, District- Khagariya.

... .. Petitioner/s

Versus

1. Union of India through Ministry of Defence, New Delhi
2. The Director General of Boader Security Force, New Delhi.
3. The DY Inspector General/ PSO For IG BSF NB FTR, Post Office- Kadamtala, District- Darjeeling, West Bengal.
4. The Commandant 61 BN, BSF HQ, Raninagar, Post- Patakata District- Jalpaiguri, West Bengal.
5. The Assistant Commandant (MIN) of IG, BSF, NB, HQ, North Begal FTR, Post- Kadamtala, District- Darjeeling, West Bengal.
6. The Officer Commandant, BSF, 61 BN, HQ, Raninagar, Post- Patakata, District- Jalpaiguri, West Bengal.

... .. Respondent/s

=====

**Appearance :**

|                      |   |                                   |
|----------------------|---|-----------------------------------|
| For the Petitioner/s | : | Mr.Raj Kishore Prasad, Adv.       |
| For the Respondent/s | : | Mr.Dr. Krishna Nandan Singh (ASG) |
|                      |   | Mr.Anshay Bahadur Mathur, CGC     |

=====

**CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN**  
**ORAL JUDGMENT**

**Date : 20-01-2026**

Heard learned counsel for the petitioner and learned counsel for the Union of India.

**I.A. No.01 of 2024.**

2. Counsel for the petitioner submits that the I.A. No.01 of 2024 has become infructuous. Therefore, he is pressing the same.

3. As such, the present I.A. No.01 of 2024 is hereby dismissed as having become infructuous.

**Re:- C.W.J.C. No.2776 of 2022**

4. Learned Counsel for the petitioner submits that



the present writ petition has been filed with the following reliefs:-

*(i) For issuance of writ in nature of certiorari for setting aside the order dt. 11.11.2016 passed by commandant 61 BN, BSF, whereby and where under the petitioner was dismissed from his service and order dt. 25.07.2017 by which the representations of the petitioner for reinstate were rejected by Dy Inspector General ,BSF,NB,FTR which are mechanical and unjustified itself.*

*(ii) For issuance of other appropriate writ/writs commanding and directing to the respondents to reinstate the petitioner on his post by considering sympathetically in view of having look over his livelihood.*

5. Counsel for the petitioner further submits that the petitioner was discharging his duty honestly and sincerely. He further submits that the petitioner was absent from his service without grant of leave due to emergency illness of his wife. He further submits that due to pregnancy his wife was suffering from Pneumonia and admitted in Suray Dharsan Nursing Home at Khagariya on 05.08.2016. He further submits that his child was also suffering from Pneumonia and he was under treatment of Child Specialist since 06.08.2016 to 30.10.2016 for which certificate has been issued by the doctor.

6. Counsel further submits that the petitioner is a sole



bread earner and total responsibility upon his shoulder. Therefore, a sympathetic view may be taken into consideration.

7. Learned counsel for the Union of India submits that a counter-affidavit has been filed in which preliminary objection with regard to territorial jurisdiction has been raised and on merit, it has been submitted that petitioner even remained absent for a continuous period of 103 days which shows his casual and irresponsible behaviour particularly when he is working in a defence service.

8. Counsel further submits that during his short span of service *i.e.*, 3 years 8 months in the BSF, he was awarded punishment on 3 occasions and always due to unauthorised leave. On many early occasions, keeping sympathetic view, his service was regularised even after imposing punishment, but this time, his earlier conduct has also been looked into. He further submits that on his representation due consideration has been taken and sympathetic view has also been taken, but it has been found that with a view to get relief, he has placed a false and fabricated documents.

9. In the light of the submissions made by the parties, it transpires to this Court that being a member of Armed force,



discipline is the prime duty and here petitioner was in habit of absence without leave about which due consideration has been made in the order of Appellate Authority as well as in the Original Authority. It is due to this reason, this Court is not inclined to interfere in the decision of the authority. As such, the present writ petition is hereby dismissed.

10. With the aforesaid directions and observations, the present writ application stands dismissed.

**(Dr. Anshuman, J)**

Prakashmani/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | NAFR       |
| CAV DATE          | NA         |
| Uploading Date    | 21/01/2026 |
| Transmission Date | NA         |

