2026:JHHC:32331

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P.(S) No. 6988 of 2019

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Illiyas Ahmad @ Eliyas Ahmed (Regimental No. 960040104), aged about 45 years, son of Mangal Khan, resident of village Shahpur, P.O. and P.S. Farah, District-Mathura (Uttar Pradesh). ….Petitioner

-Versus-

1. Union of India through its Secretary, Ministry of Home Affairs, Government of India, Northblock, Cabinet Secretariat, Raisina Hills, New Delhi-110001.
2. Director General of Indo-Tibetan Boarder Police Force, Complex, Government of India, Block-2, CGO Complex, P.O. CGO, New Delhi-110003.
3. Inspector General of Indo-Tibetan Border Police Force, Head Quarter, Block-2, CGO Complex, P.O. CGO, Complex, Government of India New Delhi-110003.
4. Deputy Inspector General of Indo-Tibetan Border Police Force, S.K.Puram, R.P.S. More, Danapur, P.O. Danapur-801503.
5.Commandant, 40th Battalion, Indo-Tibetan Border Police Force, Sukruhuttu Camp, P.O. Kanke, District-Ranchi (Jharkhand).

…Respondents

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CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN

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For the Petitioner : Mr. A. Allam, Sr Advocate
Mr. Shadab Bin Haque, Adv
Mr. S. Ahmad, Adv
Mr. Altaf Hussain, Adv
Ms. Asfia Sultana, Adv

For the Respondent : Mr. Prashant Pallav, ASGI
Mr. Ravi Prakash, CGC
Ms. Shivani Jaluka, Adv

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CAV on 17.8.2026 **Pronounced on:04.11.2026**

1. Heard learned counsel for the parties.

2. The instant writ petition has been preferred *inter alia* for quashing the order dated 17.02.2016 (Annexure-5), passed by the Commandant, 40th Battalion, Indo-Tibetan Border Police Force, Sukurhutu Camp, Kake, Ranchi, by which the services of the petitioner have been terminated.

The petitioner has also challenged the order dated 12.02.2018 (Annexure-10), passed by the Deputy Inspector General of the Indo-Tibetan Border Police Force, by which the appeal filed by the petitioner has been dismissed.

The petitioner further throws a challenge to the order dated 3.10.2019 (Annexure-12), by which the application filed for restoration of service has been rejected.

3. The petitioner additionally prays that appropriate directions be issued to the respondents to permit the petitioner to join and continue his duties as a constable in the Indian Tibetan Border Police Force, along with all consequential benefits.

4. Mr. A. Allam, learned Senior Counsel for the petitioner, assisted by Mr. Shadab Bin Haque, submits that the petitioner joined the Indo-Tibetan Border Police Force as a constable and was transferred from place to place till 2015. The petitioner was falsely implicated in Crime Case No. 112 of 2006, along with three other persons, for committing alleged offences punishable under Section 302 of the Indian Penal Code, 1860. The Ld. Sr. Counsel submits that no evidence was filed as against the petitioner, and resultantly the police filed a final form in favour of the petitioner.

5. However, the Ld. Trial Court, while exercising powers under Section 319 of the Code of Criminal Procedure, 1973, put the petitioner on trial and convicted him for committing an offence under Section 302 read with Section 34 of the Indian Penal Code, 1860. The petitioner was

given the sentence of life imprisonment in Sessions Trial Case No. 580 of 2006.

6. At this stage Ld. Sr. Counsel submits that the petitioner had specifically asserted that he was not present at the time when the alleged occurrence took place, as he was discharging his duties with the respondents. However, this plea was not taken into consideration by the Ld. Trial Court.

He submits that the execution of the conviction and sentence passed in Sessions Trial Case No. 580 of 2006 has been suspended during the pendency of the appeal on 22.07.2019 by the High Court of Judicature at Allahabad in Criminal Appeal No. 4152 of 2015.

The Ld. Senior Counsel, placing heavy reliance on Annexure-3 (which is the order dated 22.07.2019 passed in Criminal Appeal No. 4152 of 2015), submits that the sentence has been suspended primarily on the ground that, at the time when the incident took place, the Petitioner was in service as a constable in the Indo-Tibetan Border Police Force.

7. On the basis of the above facts, the Ld. Sr. Counsel vehemently argues that once the sentence and conviction have been suspended, the effect of that conviction will not operate from the date of such stay. He submits that the case of the Petitioner is not a mere stay of the sentence but the stay of the conviction as well. In light of the fact that the conviction has been stayed, the punishment order is fit to be set at naught.

8. *Per Contra*, Mr Prashant Pallav, Ld. Sr. Counsel -cum-Additional Solicitor General of India assisted by Mr. Ravi Prakash,

Central Government Counsel, and Shivani Jaluka, Advocate, opposes the relief sought by the Petitioner. The Ld. ASGI submits that the Respondent is a disciplined force governed by their own set of service rules. The services of the petitioner were terminated on account of conviction for the serious offence of murder, and the petitioner has been punished with life imprisonment.

The argument advanced by the petitioner with respect to his reinstatement on account of suspension of conviction is not tenable in the eye of law. He submits that at the time when the order of termination was passed, the order of conviction and sentencing was still operational, and as such, the subsequent suspension could not lead to the reinstatement of the Petitioner.

9. The Ld. ASGI has placed reliance on the case of ***Govt. of A.P. and Ors. vs. B. Jagjeevan Rao (12.05.2014 - SC) : MANU/SC/0503/2014*** to further buttress his argument.

10. Learned ASGI further submits that apart from this ground, there is no other infirmity in the procedure that has been argued or pleaded by the Petitioner. In light of no any procedural infirmity, it is contended that this Court may not exercise its extraordinary jurisdiction in setting aside the disciplinary proceedings, in light of the judgement rendered in the case of ***State of Rajasthan and others v. Bhupendra Singh (2024 INSC 592)***, where the Hon'ble Apex Court has held that Court, in exercise of their jurisdiction under Article 226 of the Constitution cannot

sit over the decision taken by the disciplinary authorities and can interfere with the findings of the authorities only in case of perversity.

11. Having heard Ld. Sr. Counsel for the parties and perusing the records; the short issue raised in the instant petition is *whether the petitioner can be reinstated in service in light of his conviction being suspended in a criminal court in a criminal case being suspended by a superior (appellate court) ?*

12. The skeletal facts which are relevant for deciding the issue and which is admitted by the parties is that the petitioner was appointed as a constable with the respondent. The petitioner thereafter was convicted for committing offences punishable under Section 302 read with Section 34 of the Indian Penal Code, 1860. After the conviction of the petitioner, his service was terminated by the disciplinary authority which was subsequently confirmed by the appellate authority. Subsequently, the appellate court, in the criminal proceeding has suspended the conviction of the petitioner by virtue of the order dated 22.07.2019 passed in Criminal Appeal No. 4152 of 2015 (Annexure 3). It is based on this order that the petitioner claims his right to be reinstated.

13. The thrust of the argument advanced by the Ld. Senior Counsel representing the petitioner is that once the order of conviction has been suspended, all orders flowing from such conviction should be set at naught.

14. In response to this, the Ld. ASGI submits that even an order staying conviction rendered after the order of termination, would not

affect orders passed in disciplinary proceedings, especially in connection with disciplined force and where a person who has been held guilty of committing a serious and heinous offence. Therefore, the Petitioner cannot be reinstated on suspension of the conviction.

15. In the factual background of the case, the petitioner is not entitled to relief as prayed for on the said date when the conviction was suspended, inasmuch as, the petitioner already stood terminated. The Hon'ble Apex Court in the case of ***State of Maharashtra v. Gajanan (2003) 12 SCC 432,*** has held that in cases where conviction itself is stayed, the effect of that conviction will be operative from the date of stay. The effect of such stay of conviction would therefore operate from the date when such conviction is stayed, and would not turn the clock back in the favour of the Petitioner.

16. In light thereof, the instant writ petition stands dismissed. Pending I.A., if any, also stands closed. No order as to cost.

(Deepak Roshan J.)

Dated:4 /11/2026
Amardeep/
A.F.R
Uploaded
5.11.2026