2026:UHC:10632

JUDGMENT RESERVED on: 30.09.2026

JUDGMENT DELIVERED on: 20.11.2026

HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition (S/S) No.1088 of 2021

Ashwini Kumar --Petitioner

Versus

Union of India & others --Respondents

Presence:-
Mr. Shobhit Saharia, learned counsel for the petitioner.
Mr. Atul Bahuguna, learned CGSC for the Union of India.

Hon'ble Pankaj Purohit, J.

By means of present writ petition, petitioner has sought the following reliefs:-

> *"(I). Issue a writ, order or direction in the nature of certiorari quashing the impugned order dated 07.05.2021 (annexure-14) issued by Commanding CI & JW School SSB Gwaldam and order dated 08.06.2021 (Annexure-15) issued by Inspector General Frontier Headquarters SSB Ranikhet.*
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> *(II). Issue a writ order or direction in the nature of mandamus commanding the respondents to reinstate the petitioner in service with all consequential benefits."*

2. Brief facts of the case are that petitioner, Ashwini Kumar, while serving in the Sashastra Seema Bal (SSB), was posted at Transit Camp, Rishikesh. Petitioner allegedly left his place of duty on 15.11.2020, which the respondents treated as unauthorized absence. Petitioner, on the other hand, attributed his absence to his medical condition and claimed to have sought leave on medical grounds. Consequently, proceedings under Section 74 of the Sashastra Seema Bal Act, 2007, (for short "the Act, 2007") were initiated and a Court of Inquiry was constituted on 18.11.2020. Despite notices and summons issued by the authorities directing the

petitioner to resume duty and furnish medical documents, he allegedly failed to comply. The Court of Inquiry submitted its report on 30.01.2021, followed by further proceedings culminating in the petitioner's dismissal from service vide order dated 07.05.2021. His appeal against the dismissal was rejected vide order dated 08.06.2021, which orders have been assailed in the present writ petition.

3. Learned counsel for the petitioner submitted that the impugned orders dated 07.05.2021 and 08.06.2021 are illegal, arbitrary and actuated by mala fides, having been passed out of personal grudge and vengeance against the petitioner, without due consideration of his serious medical condition, he being a cancer patient. It is contended that petitioner was on casual leave from 17.11.2020 to 21.11.2020, and on 15.11.2020, after completing his duty, proceeded on station leave with the permission of the In-charge, while 16.11.2020 was a holiday. Owing to his medical condition, he proceeded for treatment and, upon recovery, attempted to join duty at Transit Camp, Rishikesh on 22.11.2020, but was not permitted to join.

4. Learned counsel for the petitioner contended that petitioner had submitted an application seeking urgent/local leave on medical grounds on 15.11.2020 itself, which was duly forwarded by his immediate superior to the competent authority, and the allegation that he had left the camp without information or sanctioned leave was, therefore, misconceived. It is further submitted that despite repeated attempts to join duty and submission of his medical records, petitioner

was allegedly prevented from joining pursuant to directions of the DIG, CTC Srinagar, and subjected to harassment.

5. Learned counsel for the petitioner further submitted that initiation of proceedings under Section 74 of the Act, 2007, was premature and contrary to the statutory provisions, as the Court of Inquiry was constituted on 18.11.2020, before completion of the prescribed thirty days' absence. It is pointed out that on the same date, orders bearing Nos.13625, 13626-27 and 13628 were issued, respectively marking the petitioner absent. Petitioner also challenged the subsequent declaration of desertion vide order dated 08.03.2021, contending that the statutory conditions for invoking the deeming provision were not fulfilled. It is further contended that the show-cause notice dated 15.03.2021 incorrectly proceeded on the premise that the petitioner had not submitted any reply or medical documents, despite his having furnished his explanation and medical records. The proceedings culminating in his dismissal under Section 11(2) of the Act, 2007, r/w Rule 179, were thus stated to be in violation of statutory procedure and principles of natural justice, besides being disproportionate to the alleged misconduct. Accordingly, it is prayed that the impugned orders be quashed and consequential relief be granted.

6. Learned counsel for the respondents submitted that petitioner had remained absent from duty without obtaining sanctioned leave and that his alleged medical condition was unsupported by any contemporaneous medical records. It is contended that petitioner had

earlier also overstayed his leave for 74 days and had resumed duty only on 05.11.2020, whereafter he again left the Transit Camp, Rishikesh, on 15.11.2020 without prior permission, despite his leave application being pending consideration. The respondents further submitted that petitioner had neither furnished documents establishing any continuing treatment for cancer nor responded satisfactorily to repeated communications directing him to resume duty and submit his medical records.

7. Learned counsel further submitted that the medical examination conducted at the petitioner's hometown pursuant to the directions of the competent authority revealed that he was apparently healthy, without any recent complications, and physically fit to travel and report for duty. It is also contended that petitioner's allegations of harassment and ill-treatment against the superior officers were baseless and had been specifically denied. Accordingly, respondents justified the initiation and conclusion of the proceedings under the Act, 2007, and submitted that the dismissal order as well as the appellate order was passed in accordance with law, warranting no interference by this Court.

8. Having heard learned counsel for the parties and upon perusal of the material available on record, this Court is of the considered opinion that petitioner, being a member of a disciplined force, was under an obligation to maintain discipline and comply with the directions issued by his superior authorities. The material on record indicates that petitioner left the Transit Camp, Rishikesh, on 15.11.2020 without sanctioned leave and failed to

resume duty despite repeated communications issued by the authorities requiring him to report for duty and furnish medical documents in support of his alleged illness. Although petitioner sought to justify his absence on medical grounds, no cogent medical material was furnished to substantiate his claim of continuing illness during the relevant period. The respondents also took steps to ascertain his medical condition, and the examination conducted at his hometown indicated that he was apparently healthy and fit to travel. In the circumstances, petitioner's prolonged absence without authorization and failure to comply with the directions of the authorities cannot be justified.

9. This Court further finds that no material has been placed before it to establish that the disciplinary proceedings were conducted in violation of the prescribed procedure or that the petitioner was denied reasonable opportunity to defend himself. The orders impugned, namely, the dismissal order dated 07.05.2021 and the appellate order dated 08.06.2021, do not warrant interference in exercise of the writ jurisdiction of this Court. Consequently, the writ petition is devoid of merit and is liable to be dismissed.

10. Accordingly, the writ petition is dismissed.

11. Pending application, if any, stands disposed of accordingly.

(Pankaj Purohit, J.)
20.11.2026

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