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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision : 30.03.2026*

+ W.P.(C) 3064/2026 CM APPL. 14864/2026

**AJIT KUMAR SINGH THROUGH SMT. POONAM SINGH
WIFE AND PAIROKAR**

.....Petitioner

Through: Mr. Arjun Pawar and Mr. Prahil
Sharma, Advocates

versus

UNION OF INDIA AND ORS

.....Respondents

Through: Ms. Swati R.K., CGSC with Ms.
Dumni Soren, GP, and Mr. Mohnish
Balu, Advocate alongwith Mr. Amit
Kumar Singh, DC (Law)

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

V. KAMESWAR RAO, J. (ORAL)

1. This petition has been filed with the following prayers:-

“i. Issue a Writ of Certiorari for quashing of Order dated May, 2025 whereby Internal Complaint Committee was re-constituted; the Findings and Opinion of the ICC dated 26.05.2025; Remarks of the IG, Ftr HQ BSF, Punjab vide letter dated 26.05.2025; order for convening ROE dated 30.07.2025; chargesheet dated 12.01.2026 issued against the Petitioner's order dated 12.01.2026 for convening GSFC against the Petitioner and Findings and sentence passed against the Petitioner (Uncommunicated);

ii. Issue a Writ of Mandamus directing the Respondents to reconstitute the Internal Complaints Committee in terms of Section 4 of the Sexual Harassment of Women



at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and thereafter to re-conduct the inquiry afresh into the alleged misconduct thereby affording all the protections to the Petitioner as afforded under the relevant provisions of law pertaining to the said subject.”

2. The petitioner in this petition seeks quashing of order of May, 2025 whereby the Internal Complaint Committee (“ICC”) was reconstituted; the quashing of the findings and opinion of the ICC dated 26.05.2025; the remarks of the IG, Ftr HQ, BSF, Punjab vide letter dated 26.05.2025; the order of convening Record of Evidence (“RoE”) dated 30.07.2025 and charge-sheet dated 12.01.2026. The petitioner also seeks setting aside of order dated 12.01.2026 which was for convening the General Security Force Court (“GSFC”) against the petitioner along with the findings and the sentence passed therein. The petitioner has also sought reconstitution of the ICC in terms of Section 4 of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (“POSH Act”) for holding a fresh enquiry.

3. Mr. Arjun Pawar, learned counsel appearing on behalf of the petitioner stated that the petitioner was recruited as a Sub-Inspector (GD) on 29.07.2013 and upon completing his training, he was posted to 58th Battalion where he remained posted apart from his tenure as Instructor in TC&S Hazari Bagh from 2018 to 2023. It was in November, 2023 that the petitioner was posted back to the 58th Battalion, which was located in Madhopur, Pathankot, Punjab. Mr. Pawar has stated that the petitioner has a good record in terms of professionalism and discipline, which can be seen from the service record.



4. He stated that during the petitioner's tenure in the 58th Battalion, he was posted as an Officiating Company Commander at Border Outpost, Tash. During December, 2024 to January, 2025, there was acute shortage of resources. There were frequent power outages due to which the floodlights installed at the border went out. The reason for overloading of the fuse which resulted in the power shortages was due to the personal appliances used by the Company personnel and it was decided that all heating appliances were to be seized, which were to be returned once the winter was over.

5. According to Mr. Pawar, an incident took place on 14.01.2025 when it had been instructed by the authorities that in case of dense fog the personnel who are deployed at the border shall carryout effective patrolling. Those who are deployed in the LCTS room shall patrol the DHUSSI area since the visibility of the cameras installed at the border is low during such period. He insists that this background is crucial to establish the circumstances in which the incident took place. In the intervening night of 13-14.01.2025, the petitioner after completing his patrolling duty reached back the BOP, however, he did not see the Sentry who was assigned duty at the LCTS room, and who was supposed to be patrolling the DHUSSI area due to the dense fog. When he reached the LCTS room even after knocking the door, he received no answer and upon opening the door, he saw the Mahila Constable sleeping on duty. After which the petitioner tapped on the table on which she was resting her head but no response was received and he caught hold of her jacket and tugged at her jacket to wake her up. It was then that the petitioner found out that it was the complainant, who was on duty at that time. It is his case that the petitioner vehemently reproached the



complainant as she was deployed in the LCTS room, which is the nodal point where all the camera recordings were being monitored. It is his case that the complainant was new in service and the same is confirmed by the ICC proceedings as well as the GSFC that she is shy in nature and neither bold nor outspoken in her deposition. When the petitioner scolded her for dereliction of duty, it had overwhelmed the complainant. The petitioner resorted to consoling her, after which the petitioner instructed the complainant to resume her duty by patrolling the DHUSSI area. It was after two days from the incident i.e. 16.01.2025, the petitioner received information from other personnel that the complainant had filed a complaint against him, which is why the petitioner asked the complainant to meet him so that he could clarify his stance and the complainant agreed for the same.

6. He stated that the petitioner met the complainant outside his office in the presence of M/Ct. Sushmita Dey and at the same time, the complainant started voice recording on her phone so as to keep a record of the conversation between them. He stated that it is clear from the recording that the petitioner was trying to apologise for anything which could be construed as inappropriate. According to him, the petitioner was not confrontational but only tried to apologise for anything which may have been perceived as inappropriate. It was thereafter in January, 2025 that the respondents forwarded the complaint to the ICC, and the proceedings were conducted for over a month. However, the same was annulled by the Competent Authority as the composition of the ICC was not in terms of Section 4 of the POSH Act as the Presiding Officer of the ICC was a male. The ICC was then reconstituted vide order of May, 2025 issued on behalf of the DIG, SHQ, BSF, Gurdaspur. The composition of the subsequent ICC was as under:-



S. No.	Name	Particulars	Designation
1.	Dr. Chhering Dikit	Assistant Commander (veterinary cadre)	Presiding Officer
2.	Aruna Devi	Head Constable (Ministerial)	Clerical/Ministerial Staff
3.	Santosh Kumari	C/o Rani Jhasi Ladies Welfare Society, Gurdaspur (Punjab)	Co-opted Member

7. The newly constituted ICC conducted the enquiry as per POSH Act and the Border Security Forces Act, 1968 (“BSF Act”) and issued its findings and opinion dated 26.05.2025 wherein the petitioner was found to be blameworthy of misconduct and disciplinary action was recommended to be taken against him. The findings and opinion of the ICC were approved by the IG, Ftr, HQ BSF, Punjab wherein he directed that the disciplinary action be taken against the petitioner and that the petitioner be posted out from his battalion. Pursuant to the remarks of the IG, the Commandant issued order dated 30.07.2025 for convening the ROE against the petitioner. The ROE was concluded when the certificate dated 31.08.2025 was issued. Pursuant to the conclusion of the ROE vide order dated 12.01.2026, it was directed that the GSFC be convened against the petitioner. The charge-sheet was issued on the same date i.e., 12.01.2026. The GSFC was convened during the period of 17.01.2026 to 17.02.2026, which announced its findings and sentence. The petitioner being aggrieved by the same, preferred a pre-confirmation appeal dated 23.02.2026 under Section 117(1) of the BSF Act. After which, the petitioner approached this Court *vide* this petition on the grounds that the ICC was constituted contrary to the POSH Act; the ICC proceedings were rife with procedural lapses and were conducted against the principles of natural justice. He further stated that there was a lack of



quorum as the ICC was supposed to be constituted of four members whereas it only had three members and furthermore, the members of the ICC did not have a requisite legal experience to conduct the proceedings.

8. According to Mr. Pawar, *coram non judice* is alone a ground to vitiate the proceedings. He has also referred to the voice recordings to state that the petitioner is not guilty of the act as suggested. In support of his case, he has relied upon various judgments as under:-

- i. *Whirlpool Corporation v. Registrar of Trade Marks, Mumbai, (1998) 8 SCC 1, State of U.P. v. Mohammad Nooh, 1957 SCC OnLine SC 21, Harbans Lal Sahnia v. Indian Oil Corporation, (2003) 2 SCC 107 and M.P. State Agro Industries Development Corpn. Ltd. & Anr. v. Jhan Khan, (2007) 10 SCC 88* to state that an existence of an alternative remedy does not bar to writ jurisdiction.
- ii. He has relied upon the judgement in the case of *S.J.S. Business Enterprises (P) Ltd. v. State of Bihar & Ors., (2004) 7 SCC 166* to argue that invoking of an alternative remedy is not a bar to writ jurisdiction which is sought to be invoked subsequently.
- iii. *Dr. Shyam Bihari v. Nuclear Power Corporation of India Ltd., 2025 SCC OnLine Bom 4025, Vidya Vikas Mandal & Anr v. Education Officer & Anr., (2007) 11 SCC 352, Ravi Malik v. National Film Development Corpn, Ltd & Ors., (2004) 13 SCC 427 and Ruchika Singh Chhabra v. M/s. Air France India and Anr., 2018:DHC:3592-DB* have been relied upon to assert that composition of the ICC under Section 4 of the POSH Act suffers from *coram non judice*.
- iv. *Surendra Kumar v. UOI & Ors., 2012 SCC OnLine Del 5568* to



advance the proposition that there has been a violation of procedural safeguard before convening the GSFC inasmuch as Rule 45 of the BSF Rules confers a discretionary power to the Commandant to discharge the an accused on lack of material on record to establish guilt and also giving due regard to the nature of the allegations and previous conduct of the accused.

- v. ***Union of India and Ors. v. Major A. Hussain, 1998 (1) SCC 357, Union of India & Ors. v. L.D. Balam Singh, 2002 (9) SCC 73*** has been referred to argue that the respondents cannot contest that since the petitioner is a member of a uniformed force he cannot be placed on the same footing as the personnel in the Central Civil Services and the Supreme Court has clearly held that there is no express statutory bar to that effect and that such protection ought to be extended to petitioner.
- vi. ***Amit Kumar v. Bharati College (University of Delhi) & Ors., W.P.(C) 5486/2018 dated 21.05.2018*** has been referred to, for the proposition that the ICC proceedings were contrary to the principles of natural justice as the complainant was unaware of the option to press for conciliation in the present case.
- vii. A reference has also been made to the judgement in the case of ***Dr. Amit Prasad v. Union of India & Ors., 2025:DHC:9243-DB*** to claim that the findings of the ICC which comprises of a chairperson who is a man ought not to be given effect to.
- viii. Judgements in the cases of ***Abrar Ali v. CISF & Ors., Civil Appeal No. 6020/2012 dated 24.08.2012, Sumit Kumar v. Union of India & Ors., W.P.(C) No. 96/2017 dated 29.03.2017*** and ***Sunil Kumar v. The***



Director General- S.S.B & Ors., W.P.(C) No. 3983/2022 dated 18.03.2025 have been relied upon to assert that this Court has territorial jurisdiction to entertain this petition.

- ix. The judgment in ***Union of India & another v. Ex.No.3192684 W.Sep. Virendera Kumar, (2020)2 SCC 714*** has also been relied upon against the order of the General Court Martial in the context of Rule 180 of the Army Rules, 1954 as applicable to the petitioner as he is also part of a uniformed Force.

9. Ms. Swati R.K., learned Central Government Standing Counsel on behalf of the respondents has relied on the findings of the ICC dated 26.05.2025 to state that the petitioner had found the complainant Constable sleeping, woke her up but did not take any action against her for this, however, he initiated a conversation with her and held her hand and when she took herself back, the petitioner pulled the complainant's jacket towards him, which made the complainant feel uncomfortable. In addition to this, the petitioner also offered to make a personal friendship with her and gave his mobile number to her with directions to contact him through call, message and/or WhatsApp. Further, on the same day, at around 1400 hours, when the complainant was performing her duties, the petitioner came there to ask her why she had not called him. After which, he made calls through the intercom with the intention to talk with the complainant and stated that he will confirm the leave of her roommate only when the complainant accepts to be friends with the petitioner.

10. On 16.01.2025, the petitioner called the complainant to have a conversation with her and the same was recorded and it could be gathered



from the same that he continuously apologised to the complainant. He further mentioned specific ingredients of the complaint dated 17.01.2025 while apologising to her from which it can be gathered that he knew about the elements of the complaint before the same was lodged. As per the ICC report, it can be inferred that the women Constable may have initially been annoyed given the directions for removing personal heaters, but this argument of a conspiracy against the petitioner does not stand since there were no subsequent disobedience by any of the women Constables. However, the petitioner kept apologising and tried to influence the complainant to take back the complaint and make an excuse for such withdrawal. More so, the ICC report came to a clear finding that the petitioner tried to misuse his official position and his acts show a character unbecoming of a Subordinate Officer and ICC recommended that appropriate disciplinary proceedings be initiated against the petitioner.

11. Ms. Swati would submit that pursuant to the findings of the ICC disciplinary proceedings were initiated against the petitioner *vide* letter dated 26.05.2025 issued by the IG Ftr HQ BSF, Punjab after which RoE was issued dated 30.07.2025 and the pursuant thereto chargesheet was issued on 12.01.2026. The order for convening the GFSC was also issued on the same date i.e., 12.01.2026. She has also drawn our attention to Annexure P-9 of the petition which is a certificate stating that the RoE was recorded in the presence and hearing of the accused/petitioner under the provisions of Rule 48 of the Border Security Force Rules, 1969 (“Rules”).

12. Mr. Pawar in his rejoinder submissions has argued that the chargesheet along with the findings and sentence of the GSFC be quashed as the sentence as well as the findings have not been communicated to the



petitioner.

13. Having heard the learned counsel for the parties, the short issue which arises for consideration is whether the petitioner is entitled to the reliefs as prayed for in the petition inasmuch as whether the order dated 26.05.2025 of the ICC and charge-sheet dated 12.01.2026 and also order dated 12.01.2026 for convening GSFC and further the findings of the GSFC are liable to be set aside.

14. The grounds for challenging the same can be seen from the petition and also contended by the counsel for the petitioner that the constitution of the ICC is hit by principle of *coram non iudice*; the proceedings, which have been held by the ICC are in violation of principles of natural justice, impairing the fairness behind the decision to convene GSFC. So in that sense, the present case strikes at the procedural fairness of entire proceedings and as such, liable to be set aside. There is no dispute that the petitioner has filed a pre-confirmation petition, which is pending decision before the concerned Authority and hence, in that sense, the very finding of the GSFC are pending consideration before the concerned Authority, the counsel for the respondents is justified in stating that the present petition is pre-mature.

15. On a specific query to the learned counsel for the petitioner, whether the grounds urged by the petitioner in this petition have been taken in the pre-confirmation petition, the answer is in affirmative. If that be so, surely, it is expected that the Authority considering the pre-confirmation petition shall consider all the pleas, which have been urged by the petitioner in the pre-confirmation petition and accordingly pass a reasoned order. In fact, we have been informed that after pre-confirmation petition is decided,



the petitioner has a remedy of post-confirmation as well under Rule 117(2) of the BSF Rules.

16. That apart, it is a settled position of law that till such time a final order is passed in the proceedings of this nature, any interference without waiting for the final decision on the proceedings by the High Court in a writ petition is uncalled for.

17. The judgments for the propositions as highlighted by the counsel for the petitioner are concerned, there cannot be any dispute on the said propositions of law but those propositions have to be seen in the facts of the case. Surely, the facts of this case would not warrant any interference at this stage by this Court when the findings of the GSFC are yet to be confirmed by the Authority concerned.

18. In so far as the judgment in the case of **L.D. Balam Singh** (*supra*) is concerned, a perusal of paragraph 5 thereof reveal that the challenge before the High Court was for quashing of charge sheet, sentence of the General Court Martial, order of confirmation of General Officer Commanding and also to quash the trial of the General Court Martial.

19. Concedingly, there is no order of confirmation as of today for this Court to entertain this writ petition as filed by the petitioner herein. This is precisely we have held that the present petition is pre mature. Surely, the petitioner shall be at liberty to urge all contentions as and when the finding of the GSFC are confirmed. Hence, the judgment in the case of **L.D. Balam Singh** (*supra*) is clearly distinguishable alone.

20. In so far as the judgment in the case of **Ex.No.3192684 W.Sep. Virendera Kumar** (*supra*) is concerned, similar is the position in this case as well in as much as the General Court Martial was held against the



respondent therein which convicted him under Section 302 of the Indian Penal Code, 1860 and for attempting to commit suicide. The respondent was sentenced to suffer imprisonment for life and to be dismissed from service. The statutory complaint filed by the respondent was rejected by the Chief of the Army Staff. It was the order of the General Court Martial and the order of the Chief Army Staff rejecting the statutory complaint, which were assailed before the Tribunal. It is not such a case herein as the pre-confirmation petition is still pending consideration before the authority concerned. Hence, the said judgment is not applicable in the facts of this case.

21. This Court is of the view that no interference is called for against the orders passed by the respondents, which are challenged in the writ petition. The petition being without any merit in the facts as it is premature is dismissed along with the pending application.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

MARCH 30, 2026/sr