



2026:DHC:3146-DB



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

Date of Decision: 10.04.2026

+ W.P.(C) 4805/2026

CT. AJAY KUMAR

.....Petitioner

Through: Mr. Nitin Bhardwaj and Mr.
Rohit Pratap Singh, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Saumya Tandon, CGSC
along with Mr. Gaurav Singh
Sengar, Adv.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

HON'BLE MR. JUSTICE AMIT MAHAJAN

J U D G M E N T (ORAL)

ANIL KSHETARPAL, J.:

1. Through the present Writ Petition, the Petitioner has invoked the jurisdiction of this Court under Article 226 of the Constitution of India, seeking quashing of the order dated 12.09.2019 whereby the Petitioner was dismissed from service, as well as the order dated 06.05.2020 [hereinafter collectively referred to as the 'Impugned Orders'] passed by the Appellate Authority dismissing the Petitioner's Appeal.

2. The Petitioner joined the 47th Battalion of Sashastra Seema Bal [hereinafter referred to as 'SSB'] on 30.07.2011 as Constable (GD). He remained posted there till 25.08.2016 and was thereafter



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transferred to the 64th Battalion, where he served up to 02.09.2017. Subsequently, the Petitioner was transferred to the Recruit Training Centre (RTC), Alwar, Rajasthan, which is close to his hometown.

3. The Petitioner was sanctioned five (05) days' casual leave with effect from 11.04.2019 to 16.04.2019 and was required to report back for duty thereafter. However, the Petitioner failed to resume duties upon expiry of the sanctioned leave. The Petitioner claims to have applied for extension of leave for a further period of forty-five (45) days through ordinary post; however, no reference to or consideration of such application is reflected in the official record.

4. Upon the Petitioner's failure to resume duty, communications dated 20.04.2019, 06.05.2019 and 21.05.2019 were issued by the Respondents directing him to report back for duty at the earliest. Despite issuance of the aforesaid notices at the address available in the service record, the Petitioner neither responded nor resumed service.

5. In view of the continued unauthorized absence, a Court of Inquiry was constituted on 30.05.2019, which submitted its report on 24.06.2019. Pursuant thereto, an apprehension roll was issued to the concerned police authorities for securing the presence of the Petitioner; however, he could neither be apprehended nor did he voluntarily surrender. Consequently, the Petitioner was declared a deserter on 22.07.2019.

6. Thereafter, a Show Cause Notice ('SCN') dated 29.07.2019 was issued directing the Petitioner to report for duty within fourteen (14) days from receipt thereof. As the Petitioner failed to comply, a second



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SCN dated 17.08.2019 was issued and also published on 25.08.2019 in the newspaper *Dainik Bhaskar*, granting him a further opportunity to resume duty within fifteen (15) days. Despite the same, the Petitioner did not resume service.

7. Accordingly, by the Impugned Order dated 12.09.2019, the Commandant, 25th Battalion, SSB, Ghitorni, New Delhi, in exercise of powers under Rule 21 read with Rule 18 of the SSB Rules, 2009, dismissed the Petitioner from service with immediate effect. The Appeal preferred by the Petitioner was rejected *vide* Impugned Order dated 06.05.2020, and the mercy petition submitted thereafter was returned on 19.11.2022. The record further indicates that a subsequent order dated 30.11.2022 was passed, rejecting the representation of the Petitioner.

8. Learned counsel appearing for the Petitioner submits that the Petitioner had applied for extension of leave for a period of forty-five (45) days, which, according to him, was unjustifiably declined by the Respondents. It is further contended that owing to domestic difficulties, the Petitioner could not resume duty and, therefore, the penalty of dismissal imposed upon him is grossly disproportionate to the alleged misconduct.

9. This Court has considered the submissions advanced on behalf of the Petitioner and examined the material placed on record.

10. It is well settled that in a disciplined force, unauthorized absence from duty is required to be viewed with utmost seriousness. Learned counsel for the Petitioner does not dispute the factum of



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absence. The explanation sought to be offered attributes such absence to personal and domestic circumstances, including matrimonial disputes arising from the Petitioner's second marriage and the subsequent divorce, as well as financial difficulties arising out of dealings with a property broker. However, this Court is of the considered opinion that such personal difficulties cannot justify prolonged unauthorized absence, particularly when the Petitioner failed to make any effective effort to report back for duty even after repeated communications and opportunities extended by the Respondents. The record clearly demonstrates that sufficient opportunities were afforded to the Petitioner to resume service before initiating disciplinary action.

11. The scope of judicial review in matters relating to disciplinary proceedings is limited. Interference is warranted only where the decision-making process suffers from procedural illegality, perversity, or violation of principles of natural justice. Learned counsel for the Petitioner has been unable to point out any procedural infirmity or illegality in the conduct of the Court of Inquiry or in the decision culminating in the Impugned Orders.

12. The contention that the punishment of dismissal is disproportionate is equally devoid of merit. The Petitioner remained continuously absent from duty with effect from 17.04.2019 and failed to respond even to statutory notices and publication issued calling upon him to resume service. In the circumstances, the penalty imposed cannot be said to be shockingly disproportionate so as to warrant interference under Article 226 of the Constitution of India.



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13. Accordingly, finding no merit in the present Writ Petition, the same is dismissed.

ANIL KSHETARPAL, J.

AMIT MAHAJAN, J.

APRIL 10, 2026

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