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

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Date of decision: 25th July, 2025

+ **W.P.(C) 8098/2017**

MADHU

.....Petitioner

Through: Mr. Abhinav Bhardwaj, Advocate.

versus

UNION OF INDIA & ORS

.....Respondents

Through: Ms. Pratima N. Lakra, CGSC, Ms. Shailendra Kumar Mishra, Mr. Chandan Prajapati, Mr. Jitendra Kumar Mishra (BSF officer)

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE SAURABH BANERJEE

JUDGMENT (ORAL)

1. By way of the present writ petition, the petitioner seeks reinstatement in service, as also quashing of the impugned order dated 11.04.2016 passed by the Inspector General Frontier Head Quarter, Border Security Force (hereinafter referred to as "**BSF**"), Punjab, whereby the order dated 20.03.2015 of Deputy Inspector General Subsidiary Training Centre, BSF, Khadka Camp, dismissing the petitioner was affirmed, and the petitioner's representation for reinstatement was rejected.

2. Succinctly put, the petitioner is a permanent resident of Village Dayalpur, P.O.-Mursan, District-Hathras, U.P. After completing the requisite formalities, the petitioner was appointed as a Constable (Woman)



in BSF *vide* appointment order dated 19.11.2014. Following her appointment, she was sent to STC, Kharkan, Punjab for basic recruit training.

3. During the course of training, the petitioner got sick and was admitted in STC BSF Hospital for medical treatment on 05.12.2014, whereafter, she applied, and was granted, four days earned leave by the competent authority with effect from 08.12.2014 to 11.12.2014. As such, the petitioner was required to rejoin services after expiry of the said four days. However, the petitioner failed to do so. In view of the petitioner's overstay of her leave, the STC, Kharkan sent three communications dated 26.12.2014, 05.01.2015 and 12.01.2015 to the petitioner at her permanent address at Village-Dayalpur, P.O.-Mursan, District-Hathras as given by her at the time of her recruitment, asking her to report back to duty as soon as possible with all the documents pertaining to delay. However, the petitioner neither presented herself nor made any correspondence in this regard.

4. The petitioner being absent for more than thirty days, a Disciplinary Enquiry Committee was set up under *Section 62* of the Border Security Act 1968¹. Accordingly, a Show Cause Notice dated 16.02.2015 was issued to the petitioner, asking her the reasons for her overstaying and present her defence, if any, within a period of thirty days of receipt thereof. Despite having received the same, the petitioner again failed to respond thereto. Resultantly, the petitioner, *vide* order dated 20.03.2015 of the Deputy Inspector General Subsidiary Training Centre, was dismissed from service and her entire period of absence from 12.12.2014 to 20.03.2015 was

¹Hereinafter referred as "*the BSF Act*"



declared as “DIES NON”. Thereafter, the petitioner on 28.01.2016, filed a representation for reinstatement, which was rejected by the Inspector General Frontier Head Quarter, Border Security Force *vide* the impugned order dated 11.04.2016.

5. Mr. Abhinav Bhardwaj, learned Counsel for the petitioner submitted that after falling ill during the course of training, the petitioner applied for leave giving her matrimonial address @ Village-Ladam, Post Mandeka, District- Agra, Uttar Pradesh, and was granted earned leave of four days.

6. Mr. Bhardwaj then submitted that the petitioner *vide* letter dated 02.01.2015 sought further extension of leave on account of her ailing health. In fact, upon consulting with a gynaecologist, the petitioner came to know that she had conceived a child and was therefore advised complete bed rest, as a result of which, the petitioner was unable to rejoin her duty.

7. Moreover, Mr. Bhardwaj submitted that the concerned respondent erroneously sent all the correspondences at the petitioner’s parent’s address in Hathras, instead of her matrimonial address in Agra, where the petitioner was then residing, as also conveyed to the concerned respondent in her leave application. He also submitted that the petitioner’s parents, being uneducated, were unable to forward the letters to her and under such circumstances, the petitioner has suffered prejudice due to respondent’s failure to send the correspondence letters at the correct address. In any event, it is his case that the petitioner did not receive any of the three communications.

8. Refuting the aforesaid contention, Ms. Pratima N. Lakra, learned counsel for the respondents submitted that the petitioner was rightly



dismissed from service on account of her overstaying leave without any intimation to concerned authority. Moreover, the respondents sent numerous communications to the petitioner's address as mentioned in her Enrolment Form, directing her to report back to her duties, however, the petitioner neither presented herself nor made any attempts to communicate with the respondents as to the reason of her overstaying leave which in turns amounts to indiscipline and is against the expected norms of the force and therefore, the respondents have rightly dismissed the petitioner.

9. This Court has heard the submissions advanced by the learned counsel for the parties and have examined the documents placed on records, along with the case laws cited.

10. At the outset, it is an undisputed fact that since the petitioner, *admittedly*, gave her parents address in Hathras in the Enrolment Form, that was to be taken as her address for correspondences for all purposes. It is also an admitted fact that even while applying for leave later on, although the petitioner gave her matrimonial address in Agra, she never communicated/ asked for change of her earlier address. Thus, merely giving an alternate address from what was already there in her records, could not in any manner alter the existing position and the respondents cannot be expected to proceed as per what the petitioner wanted/ wished to communicate. Even today, it is not the case of the petitioner that she had made any effort to bring it to the notice of the respondents qua change/ alteration of her already given earlier address in the records.

11. Furthermore, there is also no denial that the petitioner did not receive any of the three communications dated 26.12.2014, 05.01.2015 and



12.01.2015 sent at her parents' address in Hathras. In any event, the respondents have been able to show sufficient material that the communications were indeed sent, and even received, at the address of the petitioner at Hathras. *Admittedly*, despite the overstay period having lapsed, there was no whisper of any kind *qua* the same from the side of petitioner. This utter neglect on the part of the petitioner led to her wilful absence.

12. As such, the contentions of the petitioner that since she was not residing at the Hathras address, as she was at Agra address, and even otherwise, it was inhabited by her illiterate parents, she never received any of the said communications and thus ought to be taken back in service falls flat. More so, since the petitioner cannot be given the benefit of her own wrong/ unfounded assumption that merely mentioning her matrimonial home address in the leave application would *ipso facto* require the respondents to treat it as her correspondence address.

13. Lastly, the alleged letter of 02.01.2015, purportedly written by the petitioner is shrouded in mystery since the same is without any proof of any kind. Be that as it may, the contents thereof in any manner cannot come to her aid, *especially*, since she never asked for extension of her leave therein as well. The same, in itself, can never form the basis of her absence without leave and that too beyond the sanctioned period.

14. On the other hand, the respondents like any Armed Force, has been diligent and meticulous all throughout, be it sending letters, and then constituting a Disciplinary Enquiry Committee, and finally issuing a Show Cause Notice dated 16.02.2015 to the petitioner.

15. The Hon'ble Supreme Court, while dealing with similar



circumstances in *State of Punjab v. Mohinder Singh*², wherein a constable in Punjab Armed Police, was dismissed from service for remaining absent from duty for five-and-a-half months without any sanctioned leave or prior intimation, held as under:-

“5. The conduct of the respondent who is a member of a disciplined force in remaining absent from duty for five-and-a-half months without sanctioned leave or prior intimation is reprehensible.

....

8. We do not agree with the High Court that a single act of remaining absent without leave would not amount to gravest act of misconduct. This would depend upon the fact situation of each case. In the present case we find that the respondent remained absent without leave for quite a long period. The explanation rendered by him did not find favour either with the enquiry officer or the punishing authority. The finding of facts were not disturbed in the departmental appeal/revision. This finding was also not disturbed in the suit. The only ground for setting aside the orders impugned in the suit is that a single act of remaining absent from duty without sanctioned leave did not merit an order of dismissal from service. We find from the record that the respondent had remained absent from duty without sanctioned leave on 15 different occasions. Although no major punishment was awarded to him but he was ordered to be censured once. In our view, the respondent being member of a disciplined force could not be permitted to remain absent without taking leave and that too for such a long period. He cannot be retained in service. The order impugned before us is set aside and the suit is ordered to be dismissed.”

[Emphasis supplied]

16. Before parting, we cannot miss out on the fact that the petitioner, once having joined one of the coveted Armed Forces like the BSF, who is entrusted with the duty of safeguarding the Nation, was duty bound to maintain utmost care, caution, discipline and alertness, *especially*, whence

²(2005) 12 SCC 182



it was involving her own absence. Nobody like the petitioner can afford to be casual, lethargic or relaxed in the Armed Forces like the BSF, and that too when it is a case of overstaying without permission and with silent correspondence, and which may lead to jeopardizing the national security. Such acts, being unpardonable, cannot be condoned.

17. For the aforesaid reasons, we agree with the finding of the Concerned Authority dismissing the petitioner on taking into consideration the factual circumstances as it were, and after citing her “*continued illegal absence is contrary to the expected norms and is detrimental to the force discipline, which make her further retention in the Force as undesirable*”.

18. In view of the aforesaid facts and circumstances, wherein the petitioner has continuously failed to uphold the high standard of discipline as required in the Armed Forces like the BSF, there are no valid grounds warranting interference by this Court.

19. Even otherwise, in the catena of judgments by the Hon’ble Supreme Court of India as also various High Courts wherein it has been repeatedly held that the actions/ decisions/ acts of the Armed Forces are to be interfered with lightly and with circumspection. Though the same is squarely applicable to the facts of the present case as well, however, in view of the aforesaid findings rendered by us, we need not to dwell into the same.

20. Accordingly, the present writ petition is dismissed leaving the parties to bear their own respective costs.

SUBRAMONIUM PRASAD, J

JULY 25, 2025/NA

SAURABH BANERJEE, J