



2026:DHC:6453-DB



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

Date of decision: 6th August, 2026

CNR No. DLHC010357432026

**+ W.P.(C) 11112/2026 & CM APPL. 51363/2026 – EXMP.
FROM FILING CERTIFIED COPIES**

DHANOOP

S/o Late Chandran
R/o Vill- Vandazhi-1 PO Ayalur
PS Mngalamdam, Teh Alathur,
Palakkad, Kerala

...PETITIONER

Through: Mr. Mahboob Alam Inayati and Mr. T.M. Subhani,
Advocates.

Versus

1. UNION OF INDIA

Secretary Ministry of Home Affairs
North Block, Central Secretariat
New Delhi - 110001
Email: incharge.lit@gov.in

...RESPONDENT NO.1

2. DIRECTOR GENERAL, BSF

Block No. 10, CGO Complex,
Lodhi Road, New Delhi - 110003
Through Standing Counsel

...RESPONDENT NO.2

Through: Mr. Amish Tandon, SPC with Ms. Aanchal, Advocate and
Mr. Kamaldeep, GP and HC Jitendra Kumar Mishra, BSF.

CORAM:

HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE

HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT (ORAL)



NITIN WASUDEO SAMBRE, J.

1. The present writ petition under Article 226 of the Constitution of India, 1950, has been filed by the petitioner, a Constable (GD) with the respondent-Border Security Force (hereinafter referred to as 'BSF') recruited in the year 2015 seeking the quashing of the order of dismissal dated 1st June, 2024, passed by the Commandant 174 Battalion, BSF, Naugam, Kupwara (Jammu & Kashmir), and the order confirming the order of dismissal dated 22nd May, 2026, passed by the Appellate Authority.

2. The facts necessary for deciding the present petition are that,
(a) on 23rd March 2015, the petitioner was enrolled with the respondent-BSF as a Constable (GD).

(b) At the point of time, when the petitioner was posted in Kashmir, he proceeded on leave on 16th November, 2023 until 17th December, 2023, and was required to report back for joining on 18th December, 2023.

(c) The petitioner claimed that his brother suffered from a serious ailment on 18th December, 2023, which prompted him to delay rejoining date.

(d) The aforesaid cause resulted in the issuance of the dismissal order dated 1st June, 2024, which was subsequently confirmed in appeal by the Appellate Authority *vide* order dated 22nd May, 2026, which is also impugned in the present petition.

3. Amongst other grounds raised in support of the prayer for setting aside the orders impugned dated 1st June, 2024 and 22nd May, 2026, is that, the petitioner lost his father in the year 1996, and his mother in 2021. His elder brother, who is married, is staying without his family



as his wife deserted him. He would urge that his brother suffered from abdominal distension, and the same further resulted in the development of a Urinary Tract Infection (UTI), affecting his kidney and liver. According to the learned counsel for the petitioner, it was for the purpose of taking care of his ailing brother, the latter had overstayed.

4. He would urge that the fact that he has to attend his ailing brother was duly informed to the respondents-employer on 19th March 2024, when the departmental representative visited his place of residence for the physical verification of the condition of petitioner, assuming petitioner's ill health is not permitting him to join duty.

5. He would further urge that the ailment of his brother continued thereafter, and the petitioner was left with no other option as compulsive circumstances were created, which prompted him to overstay, to take care of his ailing brother.

6. As such, he would urge that, having regard to the family background, viz., the elder brother of the petitioner was living alone and there was no other member to take care of him, there existed a genuine cause as to why the petitioner had overstayed. In such an eventuality, he would urge that the order of dismissal warrants interference.

7. The counsel for the petitioner would further urge that, having put into more than 9 years of service, the respondent ought to have been sensitive and punishment imposed is disproportionate, having regard to the nature and causes cited hereinabove.

8. As against above, learned counsel for the respondents states that, having noticed that the petitioner had overstayed after 18th December, 2023, he was served with the notices on 11th January, 2024, 15th



January, 2024, 27th January, 2024, and on 6th May, 2024, to all of which the petitioner chose not to respond.

9. According to learned counsel for the respondents, the cause of ailment of brother as cited is not genuine, particularly, in the communication dated 19th March, 2024, the petitioner claimed that he himself was ailing and not in good health, which had prompted him to overstay. The counsel would further urge that the petitioner, thereafter, *vide* communication dated 19th March, 2024 had undertaken that, he shall report for duty on 30th April, 2024, which was never honoured.

10. According to counsel for respondents, thereafter, an opportunity was given to the petitioner to report to the nearest BSF Station to get himself treated for his ailment, which also he had not honoured. As such, it is urged that, for unreasonable cause the petitioner had overstayed, as he had no intention to discharge his duty in a difficult terrain like Kashmir.

11. It is urged that, in the matter of the working of Central Armed Police Forces, amongst other duties, the BSF is given the duty of securing and guarding the border.

12. If the petitioner's overstay is condoned, the same will promote indiscipline in the force. As such, it is urged that there is no question of having any humanitarian approach in the matter of such an undisciplined conduct of the petitioner, and this petition deserves to be dismissed.

13. Having considered the aforesaid submissions, it can be noticed from the record that the impugned order of dismissal is dated 1st June, 2024.



14. The said order, in categorical terms, speaks of the past conduct of the petitioner that he had proceeded on leave on 16th November, 2023, and though the leave expired on 17th December, 2023, he was to join on 18th December, 2023.

15. The fact remains that thereafter, the petitioner overstayed and never communicated anything in writing to its employer, as to the cause for his overstaying.

16. Paragraph 8 of the impugned order records that during the physical verification of his health condition conducted by the respondents, the petitioner informed the respondents that he was indisposed.

17. The communication dated 19th March, 2024 speaks that when the representative of respondent no. 2 visited the petitioner on 19th March, 2024, he told about his circumstances and filed an application of even date to regularize his leave till 30th April, 2024 but did not join his duties despite respondent's direction dated 10th April, 2024.

18. There is no *iota* of evidence on record to infer that the petitioner was having any ailment that prompted him to overstay, as was claimed by him in the communication dated 19th March, 2024. The copy of the said communication addressed by the petitioner dated 19th March, 2024 reads as follows:-



सेवा में

ANNEXURE-8

सीमान कम्पैन्ट महोदय,
174 वीं बटालियन, सीएसओबल,
टेक मुख्यालय, नौगाव, जम्मू काश्मीर

विषय: ड्यूटी से अनुपस्थित रहने के संबंध में।

महोदय, सविनय निवेदन है कि मैं जे 151500183 CR चमूष सी जी कम्पनी, 174 वीं बटालियन में कार्यरत हूँ। मेरी अर्ज इस प्रकार है कि मैं दिनांक 18.12.2023 तक 30 दिनों अर्जात अवकाश आया था। मुझे शारीरिक समस्या होने के कारण आज तक ड्यूटी से अनुपस्थित रहा। मेरा ईलाज के बाद 30 अप्रैल 2024 तक वापस ड्यूटी में उपस्थित होना है।

अतः महोदय से विनम्र निवेदन है कि दिनांक 30.04.24 तक मेरा ड्यूटी नियमित करने का काम करें।

आप की महान कृपा होगी।

इस पत्र के साथ मेरा पहचान पत्र एवं हेल्थ कार्ड जमा नहीं कर सके हैं जो मेरा वाकस में है। (सीमान मुख्यालय में है) इसके अलावा मेरे पास जे आयुमान कार्ड जमा कर रहा हूँ।

दिनांक: 19.03.2024
Vandhy, Palakkad,

जे 151500183 आदेशक
नाम चमूष सी
जी कम्पनी, 174 वीं बटाल
सीएसओबल

19. It is reflected from the record, particularly from paragraph 7 of the order impugned dated 22.05.2026, that the respondent even offered to extend the medical facilities to the petitioner *qua* his ailment, provided that he reports to the nearest BSF station for the same.

20. Apart from above, the petitioner has taken recourse to the cause of ailment of his brother, to justify that in the absence of there being



any other family member in the family, as he had lost his father and mother, and his brother's wife has severed the marital relationship, he was required to overstay. The said fact was never brought to the notice of the respondents by the petitioner. Even if, the aforesaid contentions of the petitioner are accepted, the record, particularly, *Annexure-6*, would depict that the petitioner's brother was undergoing some treatment, and he was hospitalized around 18th December 2023, and was discharged on 1st January 2024. The other document, *i.e.*, *Annexure-7*, speaks of admission of petitioner's brother on 18th August, 2025, and discharge on 22nd August 2025. As such, it can be noticed that for almost more than eight months, the petitioner had not reported for duty. The cause cited, that he was attending his brother appears to be far away from the truth.

21. The respondents-BSF, in such an eventuality, being a Central Armed Police Force, which is entrusted with the duty of securing and protecting the border of the nation, cannot go slow or in a liberal manner *qua* the claim of the petitioner, that his overstay should have been pardoned or he should have been allowed to resume his services.

22. This Court finds force in the submission of respondent that, if such a relief, as prayed by the petitioner is granted, the same will amount to promoting indiscipline in a disciplined force.

23. In this background, we are of the view that the order of the dismissal passed by the respondents-BSF cannot be said to be disproportionate or unjustified. The writ petition, as such, lacks merit, is dismissed.

24. Pending application(s), if any, also stands disposed of accordingly.



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25. Judgment be uploaded on the website of this Court, *forthwith*.

**NITIN WASUDEO SAMBRE
(JUDGE)**

**AMIT SHARMA
(JUDGE)**

AUGUST 06, 2026/sn/ah