



2025:DHC:9271-DB



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

+ W.P.(C) 6459/2024

LOKESH SINGH

.....Petitioner

Through: Mr. Soibal Gupta and Mr.
Suresh Kumar, Advs.

versus

UNION OF INDIA

.....Respondent

Through: Mr. Tanveer Ahmed Ansari,
CGSC.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

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16.10.2025

C.HARI SHANKAR, J.

1. Disciplinary proceedings, which commenced against the petitioner with the issuance of a chargesheet dated 24 July 2023, culminated, *via* the exercise of a Summary Security Force Court, in the awarding of a punishment, on the petitioner, of dismissal from service, *vide* order dated 3 August 2023.

2. The petitioner challenged the said decision by way of a statutory petition which was also dismissed by an order issued by the Assistant Commandant (Law) for and on behalf of the Director General, Border Security Force¹ on 2 April 2024.

3. Aggrieved thereby, the petitioner has instituted the present writ

¹ "BSF", hereinafter



petition before this Court.

4. We have heard Mr. Soibal Gupta, learned Counsel for the petitioner and Mr. Tanveer Ahmed Ansari, learned CGSC for the respondent.

5. The articles of charge in the charge-sheet issued to the petitioner read thus:

“CHARGE SHEET

The accused, No. 901733171 HC(GD) Lokesh Singh, ‘SP’
Coy of 61 Bn BSF, is charged with:

FIRST CHARGE

BSF Act, 1968

**AN ACT PREJUDICIAL TO GOOD
ORDER AND DISCIPLINE OF THE
FORCE**

Section- 40

in that he,

in the intervening night of 29th/30th Mar’
2023 at about 0129 hrs, while deployed for
2nd shift ACP duty at ACP Point No. 12 in
the area of responsibility of BOP North Agra
on Indo-Bangladesh border, facilitated
crossing of about 10 miscreants into Indian
territory, wherein the miscreants also
damaged the temporary fence in the
alignment of BP No. 289/10-S (GIN-147).

SECOND CHARGE

BSF Act, 1968

**AN OMISSION PREJUDICIAL TO
GOOD ORDER AND DISCIPLINE OF
THE FORCE**

Section -40

in that he,

on 29.03.2023 at about 1805 hrs, while
deployed for 2nd shift OP duty at OP Point



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No.1 in area of responsibility of BOP North Agra on Indo-Bangladesh border in the alignment of BP No. 288/MP (GIN-146), failed to react to foil the exfiltration of about 9-10 miscreants, which took place from his area of responsibility.

Place: Patiram, Atrai, Dakshin Dinajpur (WB)

Dated, the 24 July, 2023.”

6. Mr. Gupta, learned Counsel for the petitioner, restricts his challenge to one ground, which is also the sole ground taken by him in his written submissions filed in this matter. The ground urged by Mr. Gupta is that the proceedings were barred by Rule 42(a)² of the BSF Rules, 1969.

7. He further relies on the judgment of a Coordinate Division Bench of this Court in **Bhanu Pratap Singh v Union of India**³.

8. Having heard learned Counsel and perused the charge-sheet *vis-à-vis* the statutory provisions on which reliance is placed, we regret our inability to agree with the submissions of Mr. Gupta.

9. Rule 42(a) applies only where the allegation against the officer is of commission of an offence by him *along with* another person not subject to the act. The use of the words ‘*along with*’ is significant. It indicates meeting of minds and conspiracy.

² 42 . **Cases not to be tried by Security Force Court.** – Without prejudice to the provisions of sub-rule (1) of Rule 41, an offender may not be claimed for trial by a Security Force Court:—

(a) where the offence is committed by him along with any other person not subject to the Act whose identity is known; or

³ 2014 SCC OnLine Del 4768



10. We are of the opinion that this provision would not apply in the present case for two reasons.

11. Firstly, the allegations against the petitioner were of facilitating miscreants in crossing from Bangladesh to India and from India to Bangladesh and causing damage in the process. Facilitation, etymologically, refers to rendering the performance of an act easier. There need not be even knowledge, by the facilitator, of the person who actually performs the facilitated act, much less meeting of minds.

12. The articles of charge against the petitioner do not allege that the petitioner was acting *along with* the miscreants who had crossed the border.

13. Article 1 alleges that the petitioner facilitated the crossing of the miscreants from Bangladesh to India and Article 2 alleges that the petitioner failed to foil the crossing over of the miscreants from India to Bangladesh. Neither allegation, therefore, pertains to commission of an offence by the petitioner *along with* the miscreants.

14. The second reason why Rule 42(a) would not apply is because the provision envisages the commission *of one offence* by more than one persons, acting together. In the present case, the offence alleged against the miscreants is of infiltration from Bangladesh into India and exfiltration from India to Bangladesh. As against this, the allegation against the petitioner is of facilitating the said act and of not foiling the attempt of the miscreants.



15. Thus, the offences alleged to have been committed by the petitioner and by the miscreants are also qualitatively different. It is not a case of one offence being committed by more than one person acting in concert altogether. For this reason, too, therefore, Rule 42(a) would not apply.

16. Insofar as the decision in **Bhanu Pratap Singh** is concerned, that was a case in which there was a clear allegation of connivance in the act of smuggling between the persons concerned. In the present case, there is no allegation of connivance. In fact, the allegation against the petitioner essentially partakes of the character of dereliction of duty.

17. In that view of the matter, the decision in **Bhanu Pratap Singh** can also not help the petitioner. We, therefore, do not find this to be a fit case to interfere with the orders passed by the respondent.

18. To a query from the Bench, Mr. Gupta submits that he has no other submission to advance.

19. The writ petition is, accordingly, dismissed with no order as to costs.

C.HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

OCTOBER 16, 2025/gunn