



2025:DHC:7552-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 12971/2025 & CM APPL. 53065/2025, CM APPL.
53066/2025

SHAMBHU KUMAR NO 70020266

.....Petitioner

Through: Mr. U.S. Maurya, Adv.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Piyush Beriwal, Adv. with
Mr Devender Singh Officer (DC) (Jag) ITBP
for R-1 to 3

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

ORDER (ORAL)

27.08.2025

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C. HARI SHANKAR, J.

1. The petitioner joined the Indo Tibetan Border Police¹ as Constable (Safai Karmi) on 23 August 2007.

2. As per the policy of the ITBP, Constables, after completing 3 years and 55 days qualifying service, could apply for change of cadre, via a departmental test. On 4 January 2015, the petitioner was declared as having qualified in the said test for change of his cadre

¹ ITBP



from Constable (Safai Karmi) to Constable (General Duty).

3. This switch of cadre is alternatively referred to as “remusteration”.

4. During training after resmusteration on 22 June 2015, the petitioner suffered “Horizontal Tear Lateral Mensues & Complete ACL Tear Right Knee” – basically, a tear in his knee ligaments.

5. On 12 September 2015, a Court of Inquiry² was constituted to ascertain the cause of injury. The COI confirmed that the injury was sustained during training.

6. On 25 April 2016, a Medical Board was constituted in 33rd Bn which recommended petitioner to be in “LMC³ A3L(T-24) due to complete ACL tear of right knee and P2 (T-24) due to Chronic hepatitis B w.e.f. 25.04.2016”.

7. On 22 September 2016 another Special Medical Board opined that petitioner had suffered "LMC A2L (T-24) for ACL tear and lateral meniscus tear of the right knee" with 6% disability.

8. The training of the petitioner was, in the circumstances, discontinued, and he was sent back to his concerned Battalion.

9. *Vide* the following Office Memorandum⁴ dated 30 October

² “COI” hereinafter

³ Low Medical Category

⁴ “OM” hereinafter



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2018, 36 recruits, including the petitioner, were declared unfit for training and, consequently, for induction into the ITBP:

“Office Headquarter ITBP
Ministry of Home Affairs Government of India
2nd floor, Block – 2, CGO Complex
Lodi Road, Delhi

Date- 30-10-2018

Office Memorandum

Please note that Directorate General (Training) has sent its Inter Office Note No. 1388 dated 14.09.18 under which the medical board has completed the medical examination of the personnel declared unfit for basic training on medical grounds from 20.08.2018 to 25.08.18 in 45th Battalion Madurai ITBP and sent the medical board proceedings to this office.

S.N	REGT NO / RANK / NAME	UNIT	MEDICAL BOARD OPINION FOR TRAINING	REMARK
1 – 18	xx xx xx	xx xx xx	xx xx xx	
19	070020266 CT/CD Shambu Kumar	33 rd Bn	Unfit for basic training	
20 – 36	xx xx xx	xx xx xx	xx xx xx	

2. In above context, the medical board proceedings of the above mentioned recruits of you Coprs, after observation by the Director (Medical), are being sent in 01 copy (original) to your office for further action

Enclosed:- As above

(Sd:- xx xx xx)
Deputy director (Medical)

10. The petitioner, thereupon, requested that he may be reverted



back to his initial post of Safai Karmi due to his medical condition. On 4 January 2019, the said request was rejected on the ground that he has served more than 3 yrs in the cadre of Constable (GD) and was ineligible to go back to his former cadre of Constable (Safai Karmi).

11. In the meanwhile, the respondents issued Standing Order 01/2013 on 28 March 2013 on the subject “Disposal of Permanent Low Medical Category cases and Rehabilitation of Permanent LMC Personnel of ITBP Force”. Clause 6 of the Standing Order requires the Disability Rehabilitation Board⁵ to examine the physical and mental capabilities, aptitude, job requirements etc., and the health condition of the persons and thereafter make a recommendation as to whether the said individual can be rehabilitated within the force by assigning jobs mentioned in Clause 7 or whether he was entirely unfit for any kind of duty. The relevant clauses of the Standing Order may be reproduced thus:

“6. This Board will subject the person concerned to critical examination with a view to determine his physical/mental capability, aptitude, job requirement etc. and after assessing capability and health condition of the person, will recommend specifically that:-

(i) Whether, he/she can be rehabilitated within the Force by assigning the jobs mentioned in para 7 below as per his /her physical and mental health condition.

Or

(ii) The person is not fit for any kind of duty in the department (with specific reasons) therefore recommended to be invalidated out.

7. The various jobs which can be given to the persons required

⁵ “DRB” hereinafter



to be rehabilitated / recommended any of the tasks for him / her as specified below:-

a. Duties for OR

- i. Canteen (Dry / wet) / co-operative store / shop.
- ii. Control room duty / telephone operator/ telephone attendant
- iii. Office assistant
- iv. Attendant in recreation room
- v. Welfare center
- vi. School Bus duty
- vii. WT/signal dak runner
- viii. Temple priest
- ix. Store man / NCO
- x. Water tanker duty
- xi. Hygiene and sanitation NCO
- xii. LO duty
- xiii. Post office / Bank duty
- xiv. Duty in Officer's Mess /SOs Mess/ ORs Mess
- xv. Conductor duty in school Bus / other ITBP Buses
- xvi. Electrician duty after necessary training
- xvii. Gardener duty
- xviii. Sick report NCO
- xix. Line NCO
- xx. Hospital attendant to other sick person
- xxi. Dak / office runner
- xxii. Lineman
- xxiii. Company clerk duty
- xxiv. Any other job considered suitable for the individual not mentioned above.

b. Duties for SO

- i. Control room duty
- ii. Canteen SO
- iii. Welfare Centre SO
- iv. SO in QM Branch
- v. Admin SO at Transit Camps
- vi. Admn SO at Trg Centres
- vii. Computer and internet related jobs
- viii. Ops branch SO
- ix. Training SO
- x. LO with senior officers
- xi. Any other job consider suitable for the individual not mentioned above.

c. Duties for Officer



- i. Duties at BHQ /SHQ/ Ftr HQ/Force HQ etc
- ii. Adjutant /QM/ Training Officer / Admin Officer / MTO / Staff Officer depending on aptitude etc.
- iii. Any other job considered suitable for individual not mentioned above.”

12. The MHA, *vide* Office Memorandum dated 29 May 2019, directed the Commandant of the 33rd Bn to convene a DRB to consider the petitioner’s case for rehabilitation.

13. The petitioner submits that, thus far, no action has been taken on the aforesaid recommendation.

14. On 28 January 2023, petitioner was again placed before the Medical Board, followed by a Special Review Board on 3 June 2023. He was categorized in category “S1H1A3P3E1”, but was not examined by the DRB.

15. On 14 October 2023 petitioner was re-examined by the Referral Hospital, yet no action was taken by the respondents to hold the DRB to consider the petitioner’s case.

16. On 30 July 2025, the petitioner was issued a show cause notice, proposing his termination from service and giving him 30 days to file his defence.

17. The petitioner submitted his response to the show cause notice on 6 August 2025 but, apprehending that he would be terminated, he approached this Court by means of the present writ petition, seeking quashing of the show cause notice dated 30 July 2025 and directing



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the respondents to rehabilitate him as per Clause 7 of the Standing Order 01/2013.

18. Mr. Beriwal submits, on instructions, that the respondents have started the process for constitution of a Departmental Rehabilitation Board (DRB) to examine the petitioner's case, and that the DRB would proceed in terms of Standing Order 1/2013 dated 28 March 2013.

19. He, therefore, agrees to the impugned show cause notice being set aside, subject to the liberty to proceed in accordance with law after following the procedure envisaged in Clause 6 of Standing Order 1/2013.

20. Learned Counsel for the petitioner is agreeable to this course of action.

21. Reserving liberty with the respondent to do so, the impugned show cause notice dated 30 July 2025 is quashed and set aside. The respondent would consider the case of the petitioner, by convening a DRB, in terms of Standing Order 01/2013 and, on the basis of the findings of the DRB, proceed in accordance with law.

22. The writ petition stands allowed to the aforesaid extent.



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23. The right of the petitioner to re-approach the Court, should he continue to remain aggrieved, remains reserved.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

AUGUST 27, 2025

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