



2025:DHC:123-DB



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

Date of decision: 07.01.2025

+ W.P.(C) 45/2025 & CM APPL. 143-44/2025

EX CONST CREW DINESH KUMAR YADAVPetitioner

Through: Mr.S.S. Pandey & Mr.Roshan
Kumar, Advs.

versus

UNION OF INDIA AND ORS.Respondents

Through: Mr.Kushagra, SPC with Mr.JK
Mishra.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

NAVIN CHAWLA, J. (Oral)

1. This petition has been filed by the petitioner praying for the following reliefs:

“ (a) Issue a Writ of Certiorari calling for the records including the court of inquiry which was finalized illegally and used against the Petitioner to pass impugned order dated 21.05.2019 vide which Petitioner was discharged from service and the records based on which the appeal against such order of compulsory retirement filed by the Petitioner on was rejected vide order dated 17.10.2019 and thereafter quash all such orders including the court of inquiry.

(b) Issue a Writ of Mandamus by directing the Respondents to reinstate the Petitioner in service with all consequential benefits.”

2. The Impugned Order dated 21.05.2019 has been passed by the office of the Deputy Inspector General Dhubri Sector Border Security Force, Panbari, Dhubri (Assam), striking off the petitioner from the strength of the Water Wing BSF, Dhubri with effect from 21.05.2019,



inter alia observing as under:

“3. Under the provision of Rule-17 of BSF Rules - 1969, No.161618685 CT/Crew Dinesh Kumar Yadav of Water Wings BSF Dhubri was given an opportunity to show cause vide SHQ BSF Dhubri Letter No. Estt/DBI/SCN-WW-DBR/2019/67 dated 6th April 2019 against his proposed termination from service. His reply to the show cause notice vide letter No. Nil dated 13.05.2019 has been sympathetically considered by the undersigned and I am not satisfied with the explanation offered by him and considered his further retention in the force is undesirable. I, therefore, direct that No 161618685 CT/Crew Dinesh Kumar Yadav of Water Wing BSF Dhubri be terminated from his service under Rule 17 of BSF Rule - 1969 with immediate effect from 21 May 2019 (AN).”

3. The petitioner had submitted a representations dated 01.06.2019 and 24.06.2019 to the DG BSF, New Delhi, regarding reinstatement into the service. However the same was rejected *vide* Order dated 17.10.2019 by Inspector General, Frontier BSF, Guwahati.

4. The Impugned Orders having been passed at Dhubri, Assam and Guwahati, Assam, respectively, we enquired from the petitioner as to how he invoked the jurisdiction of this Court for entertaining the present petition. In response, the learned counsel for the petitioner submitted that as the Impugned Order places reliance on the Court of Inquiry that was conducted at Delhi and which had found that the Boat Handling Experience Certificate (ref. No 0018 of 30.05.2014) was issued to him by Dhana Laxmi Water Wing Mechanised Fishing Boat, Chinnamavari Street, Visakhapatnam, basis whereof the petitioner had



obtained appointment in the BSF, this Court would have the jurisdiction to entertain the present petition.

5. We do not find any merit in the submissions made. The petitioner for invoking the jurisdiction of this Court, in the writ petition has pleaded as under:

“23. That the Petitioner had a continuing cause of action to approach this Hon’ble Court because he not only the Inquiry was finalized in Delhi but even the received such decision to terminate him was issued from Delhi though the orders of dismissal was passed by the was of orders based on direction passed from the office of the Respondent No.2 in Delhi but even the entire process of selection has been carried out in Delhi. Therefore, the Petitioner have approached this Hon’ble Court by way of present Writ Petition.”

(Emphasis Supplied)

6. Apart from the fact that the Impugned Order dismissing the petitioner from service has not been issued at Delhi, it is trite law that “cause of action” means a bundle of facts which is necessary for the petitioner to prove in order to succeed in the proceedings. It does not completely depend upon a character of the relief prayed for by the petitioner. A small part of the cause of action arising within the territorial jurisdiction of a High Court may not be considered as a determinative factor compelling the High Court to decide the matter on its own merits. In such a case, the doctrine of *forum non conveniens* shall apply.

7. In the present case, before passing the Impugned Order, a Show



Cause Notice had been issued to the petitioner at Dhubri, Assam, and the reply of the petitioner to the same is stated to have been considered before passing the Impugned Order at Dhubri, Assam. The petitioner is aggrieved by the Impugned Order dated 21.05.2019, which had terminated his service. The said order, as noted hereinabove, has been passed at Dhubri, Assam. The petitioner then submitted a statutory petition's dated 01.06.2019 and 24.06.2019, which again was dismissed by Inspector General, Frontier BSF, Guwahati *vide* Order dated 17.10.2019.

8. Therefore, the major cause of action has arisen at Dhubri, Assam. Merely because the cause of inquiry was ordered at Delhi, it will not make this Court a *forum conveniens*.

9. Applying the principle of the doctrine of *forum non conveniens*, therefore, we are of the opinion that this Court would not be the appropriate/convenient Forum. Accordingly, we decline to entertain the present petition in exercise of the discretion vested in as under Article 226 of the Constitution of India.

10. The petition and the pending applications are dismissed while reserving the liberty of the petitioner to approach the jurisdictional High Court.

NAVIN CHAWLA, J

SHALINDER KAUR, J

JANUARY 7, 2025/rv/DG

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