



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

% Judgment reserved on: 25.08.2026
Judgment delivered on: 01.09.2026
Judgment uploaded on: *As per Digital Signature~*

CNR No. DLHC010274572025

+ **W.P.(C) 5956/2025**

ASHISH CHANDRA TRIPATHI

.....Petitioner

versus

UNION OF INDIA & ANR.

.....Respondents

Advocates who appeared in this case

For the Petitioner : Mr. Abhay Kumar Bhargava, Mr. Vikrant Dabas and Mr. Samridh Trivedi, Advocate.

For the Respondents : Mr. Jaswinder Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

V. KAMESWAR RAO, J.

REVIEW PET. 340/2026

1. This review petition has been filed by the review petitioner/petitioner seeking review of order dated 19.06.2026 passed by this Court in the captioned writ petition whereby this Court had rejected the petition by stating in paragraphs 5 onwards as under:-



“5. Though this submission looks appealing on a first blush, but it is a fact that the respondents have since considered the representation dated 04.02.2025 of the petitioner against the gradings and rejected the same on 11.07.2025. In that sense, even assuming the respondents have convened the DCC on 30.01.2025 and reverted the petitioner to the post of Inspector/GD, BSF, the representation having been rejected, the reversion order cannot be faulted now. This we say so because the Court is within its right to consider the subsequent developments/facts, while deciding a writ petition.

6. We could have agreed with this submission of Mr.Bhargava, if the representation of the petitioner had not been decided as of today. In any case, if we were to accept the plea of Mr.Bhargava and set aside the order, still the respondents are not precluded to take a fresh decision as on 11.07.2025 when the petitioner’s representation was rejected. It means, the gradings in the SMPAR, have been upheld which became the basis for not confirming the petitioner on the post of Assistant Commandant.

7. It is also noted the representation against the gradings in SMPAR of 09.07.2022 to 08.01.2023 has also been considered and rejected by Additional Director General, HQ on 08.12.2023. Likewise, the representation on the SMPAR pertaining to the period 09.01.2023 to 08.07.2023 has been considered and rejected by Additional Director General (Eastern Command) BSF, Kolkata on 03.07.2024.

8. In fact, it is a matter of record that the petitioner has challenged the gradings in SMPARs in a separate writ petition, which is pending consideration, hence, in that sense, till such time, the said petition is decided and the gradings in SMPAR are set aside, the reversion of the petitioner to the post of Inspector (GD) cannot be interfered with.



9. Mr. Bhargava has relied upon the decision in the case of *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248, to contend that the administrative action having civil consequence must be just, fair and reasonable, cannot be contested. But the judgment has no applicability in the facts of this case and in view of our findings above.

10. Similarly, the judgments in the case of *Rattan Singh v. State of Himachal Pradesh*, (1997) 4 SCC 161, *All India Judges' Association v. Union of India*, (1993) 4 SCC 288, *State of Haryana v. Dev Raj*, LPA No.2077/2012, and *Deoraj v. State of Maharashtra & Ors*, 2004(4) SCC 697 are clearly distinguishable in view of the facts and in view of our above finding. Even the judgment in the case of *Dorab Cawasji Warden v. Coomi Sorab Warden & Ors*, 1990 AIR 86 relied upon, in support of the submission in respect of grant of interim injunction on an interlocutory application, has no applicability in view of the facts, issues raised and our above findings. Similarly, reliance has been placed on the judgment in the case of *Managing Director, ECIL, Hyderabad and Others v. B. Karunakar and Others*, (1993) 4 SCC 727 and *Nar Singh Pal v. Union of India and Others*, (2000) 3 SCC 588. We have seen these judgments. They have no applicability to the facts of the case and as such clearly distinguishable.

11. In view of our above discussion, this petition being devoid of merit, is dismissed.”

2. Suffice to state that the writ petition filed by the petitioner was with the following prayers:-

“a) Review, the judgment dated 19.06.2026 passed by this Hon’ble Court in W.P.(C) No. 5956 of 2025, in exercise of its jurisdiction under Section 114 read with Order XLVII Rule 1 of the Code of Civil Procedure, 1908, to the extent it proceeds on the erroneous factual



premise that the Petitioner's statutory representation against the adverse SMPAR for the assessment period 09.07.2022 to 08.01.2023 had been considered and rejected by the Additional Director General (Headquarters), Border Security Force, on 08.12.2023, which is contrary to the material already forming part of the judicial record;

b) Pass such other and further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

3. In effect, the petitioner has challenged his reversion from the post of Assistant Commandant to the post of Inspector in the Border Security Force ("BSF"). The primary ground averred by the petitioner as urged by the learned counsel for the petitioner was that the reversion is contrary to the office memorandum dated 24.11.2022, which according to him, *inter-alia* stipulated that probation report for the whole period of probation needs to be considered by a Board for determining whether the probationer concerned is fit to be in service/post.

4. The submission primarily was that Six Monthly Performance Assessment Report ("SMPAR") for the period from 09.07.2023 to 08.01.2024, had gradings which were communicated to the petitioner on 06.01.2025 against which the petitioner had made a representation, but the same having not been decided, the petitioner could not have been reverted. We dealt with that issue in paragraphs 5 and 6 of the order dated 19.06.2026 of which review has been sought.

5. This review petition has been filed by stating that even against the SMPAR grading for the period from 09.07.2022 to 08.01.2023, a



representation was made which has not been considered/decided by the competent authority i.e. Additional Director General (HQ). Hence, the reversion is bad.

6. Suffice to state, this plea has been answered by us in paragraph 7 of the order dated 19.06.2026. Even otherwise, we have considered the submission made by the learned counsel for the petitioner. In this regard, it is relevant to refer to page no.162 of the review petition, which contains a representation dated 30.08.2023 submitted by the petitioner in respect of SMPAR for the period 09.07.2022 to 08.01.2023, which representation was returned to the petitioner by the respondents vide letter dated 10.09.2023 calling upon the petitioner to submit the same to the competent authority as per SOP and instructions issued by the BSF.

7. It is stated by Mr. Jaswinder Singh, learned counsel for the respondents that no representation was ever made by the petitioner. This submission is contested by the counsel for the petitioner by stating that the petitioner did make a representation by drawing our attention to a communication sent by the petitioner seeking audience with the Director General of the BSF. On a specific query to the counsel for the petitioner, whether the representation so made pursuant to letter dated 10.09.2023 has been placed on record, the answer is in the negative. That apart on a specific query from the Court, whether the petitioner has challenged the SMPAR for the period from 09.07.2022 to 08.01.2023 in this petition or the connected petition being WP(C) No. 2862/2025, the answer is in the negative.

8. Assuming for a moment, the petitioner did make a representation and the same has not been disposed of, nothing precluded the petitioner from



challenging the SMPAR for the period from 09.07.2022 to 08.01.2023 before this Court. In any case, there is a finding of fact by us that the Additional Director General has decided his representation vide order dated 08.12.2023. We have not been shown that the order dated 08.12.2023 does not relate to SMPAR for the period from 09.07.2022 to 08.01.2023. It is a new plea, which is sought to be urged in the review petition and surely, in view of the aforesaid conclusion of ours and the fact that the petitioner has not been able to show us that pursuant to letter dated 10.09.2023, a representation was made by him in respect of SMPAR for the period 09.07.2022 to 08.01.2023, which has not been decided, the review petition is devoid of merits and the same is liable to be dismissed. We order accordingly.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

SEPTEMBER 01, 2026/sr