



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

% Judgment reserved on: 15.04.2026
Judgment delivered on: 19.06.2026
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+ **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 Mr. Satyaarth Sinha, Mr. Ajinkya Dhalwade, Mr. Sanchit Kumar, Advocates.

For the Respondents : Mr. Jaswinder Singh, Advocate, Mr. Ankit Dhahiya Deputy Cmdt. and Mr. Paramveer Singh Deputy Cmdt. (Law) in person.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

V. KAMESWAR RAO, J.

1. This petition has been filed by the petitioner primarily challenging the order dated 22.04.2025 (impugned order) passed by respondents whereby the petitioner who was on probation on being appointed as Assistant Commandant (General Duty) with the Border Security Force (BSF) after qualifying the Limited Departmental Competitive Examination (LDCE) has been reverted to the post of Inspector (General Duty), BSF. The impugned order passed by the respondents reads as under:-



“//ORDER//

Whereas, No. 113100103 Inspr/GD Ashish Chandra Tripathi was appointed as AC(GD) on officiating basis, in BSF through LDCE 2017-18 as per details given below

S N o.	Roll No.	Regt No./Rank and Name	Appointment Order No. vide which appointed to the rank of AC (AC/LDCE)	Date of charge of assumpti on as AC/GD (AC/LD CE)
1.	1170021655	113100103 Inspr/ GD Ashish Tripathi Chandra Allotted IRLA No.12143849	FHQ BSF Pers Dte Recruitment Sec) L/No.A-6/Pers- Rectt /BSF/AC / (LDCE) 2017- 18/2021/ 2083- 2170 dated 22.04.2021 FHQ BSF Pers Dte Recruitment Section) L/ No.A-6/ Pers-Rectt /BSF/ AC/(LDCE) 2017- 18/2021 /2083- 6177-34dated 11.08.2021	14.06.20 21

2. Whereas, A Departmental Confirmation Committee (DCC) met on 30.01.2025 at HQ DG BSF to consider the cases of Direct entry/LDCE Group-A officers to assess their suitability for declaration of successful completion of probation period in the BSF as per DoP&T OM No.28020/3/2018-Estt-(C) dated 11.03.2019, and other instructions/guidelines while assessing above mentioned officers.

3. Whereas, Departmental Confirmation Committee assessed above officer as "Not Yet Fit" due to reasons as noted below and recommended for reverting him to the post or grade from which officer was promoted (appointed as AC/LDCE) in light of MHA (Police-II Division) letter No. F.No.45024/01/2008/Pers-II dated 09 Sept 2014 and DoP&T letter No. 28020/3/2018-Estt(C) dated 11



March 2019.

S No.	Name & IRLA of the Officer	Date of the appointment	Assessment made by DCC
1.	Shri Ashish Chnadra Tripathi, AC/LDCE IRLA 12143849 35 Bn BSF	14.06.2021	NOT YET FIT (i)Adverse SMPAR 09.07.22 to 08.01.23, 09.01.23 to 08.07.23 and 09.07.23 to 08.01.24 (ii)Recommended to revert him to the post or grade from which he was promoted.

4. Whereas, officer have been adversely reported in the SMPAR for the period 09.07.2022 to 08.01.2023 quote "officer was found to be arrogant, non-receptive, highly egoistic and lacked adequate interest in the administrative affairs of the company, and

5. Whereas, in spite of repeated counselling officer failed to improve his casual conduct and professional competency, he was again found to be arrogant towards his subordinates while dealing with their grievances and was advised by unit commandant vide letter No. 12057 dated 12.12.2022, and

6. Whereas, his performance during the period 09.07.2022 to 08.01.2023 was graded as "Poor" by the Reviewing officer as well as by the accepting authority, and

7. Whereas, he was again found blameworthy for disobedience, of lawful command given by his unit commandant by refusing to receive the movement order for proceeding on duty in May 2023, and

8. Where, the DCC, based on his performance during the probation period and the relevant records has found him "NOT YET FIT" for confirmation in the rank of, Assistant Commandant.

9. Whereas, MHA vide UO A-12011/52/2024/Pers-IV (CF-3723512) dated a 24.03.2025 has accepted/approved the recommendations of the Departmental Confirmation Committee (DCC) held on 30.01.2025, at HQ DG BSF, New Delhi to revert above Asstt. Commandants/GD (LDCE) to the post/grade from which he was promoted (appointed as AC/LDCE) with immediate effect, due to non-completion of his probation period satisfactorily under the relevant rules.

10. Accordingly, on the basis of recommendations of DCC and approval of the MHA, Shri Asliisli Chandra Tripathi, AC/LDCE (IRLA No. 12143849) of 35 Bn BSF is hereby reverted to the post



/grade from which he was promoted (appointed as AC/LDCE), due to non-completion of his o probation period satisfactory under the relevant rules.

11. This order is issued in compliance of Ministry of Home Affairs UO A- 12011/52/2024/Pers-IV (CF-3723512) dated 24.03.2025.

*SD/-
Shekhar Gupta
DIG (Pers)
22 April 2025”*

2. One of the submissions made by Mr. Abhay Kumar Bhargava, learned counsel for the petitioner is that the reversion of the petitioner is contrary to the Office Memorandum (‘OM’) dated 24.11.2022, which according to him, *inter alia*, stipulates that probation report for the whole period of probation need to be considered by a Board for determining whether the probationer concerned is fit to be in service/post.

3. According to him, the respondents have decided against the petitioner without considering the complete record; and also his representation dated 04.02.2025 *qua* the gradings in the Six Monthly Performance Assessment Report (‘SMPAR’) for the period 09.07.2023 to 08.01.2024, which gradings were communicated only on 06.01.2025 in which the petitioner was granted one month time to make representation. Hence, in that sense, the respondents without awaiting the representation of the petitioner based on the gradings of the above period has reverted the petitioner vide decision of the Departmental Confirmation Committee (‘DCC’) dated 30.01.2025.

4. The above reveals, the respondents have acted hurriedly and reverted the petitioner to the post of Inspector (GD).

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.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

JUNE 19, 2026/M