



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

109

CWP-7249-2025 (O&M)

Date of decision: 18.03.2025

Jai Narayan

...Petitioner

VERSUS

Union of India and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Sube S. Kaushik, Advocate for the petitioner(s).

VINOD S. BHARDWAJ, J. (Oral)

1. Challenge in the present petition is to the order dated 10.10.2023, whereby the claim of the petitioner for release of his provident fund for a period of 05 years 03 months for the service rendered by him as Constable with respondent-BSF w.e.f. 21.08.1965 to 28.11.1970, has been rejected.

2. Learned counsel appearing on behalf of the petitioner contends that the petitioner was recruited in the Punjab Armed Police 50th Battalion on 21.08.1965 and he was initially getting a pay of Rs.115/- per month. 50th Battalion of the Punjab Armed Police was later merged with 31st Battalion of the Border Security Force on 01.04.1968, hence, the petitioner become a Constable in the 31st Battalion, Border Security Force. It is submitted that the petitioner had an unblemished service record, however, on 07.05.1969 when the petitioner alongwith two other officials was put on an observation



post duty at *Kikar* Observation Post to guard the Indo Pak Border, he confronted three people, who under suspicious circumstances, had entered Indian territory from Pakistan side. On being fired upon by them, the petitioner opened fire in self defence and retaliation, killing one of them on spot while the other two escaped.

3. On account of the mysterious circumstances surrounding the said incident, an FIR bearing No.87 dated 07.05.1969 under Sections 302/34 and 201 of IPC was registered against the petitioner at Police Station Mamdot. The petitioner and accompanying officials were later acquitted in the said FIR by the Additional Sessions Judge, Ferozpur vide judgment dated 28.11.1970. It is submitted that the petitioner was entitled to reinstatement in service after acquittal but till date no one from the BSF offered reinstatement to him. It is contended that a representation was eventually submitted by the petitioner on 08.10.2020 followed by a reminder on 22.06.2021 for release of outstanding salary and the amount of deposited provident fund. In response to the representation of the petitioner, the respondent-BSF sent a reply dated 05.07.2021 wherein it was averred as under:-

“On the afore-mentioned subject, it is intimated to you that as the record is more than approximately 50 years old, few documents regarding giving you the outstanding salary amount and P.F. amount deposited are not available in the Battalion.

A) *Details/ proof of receiving the salary for the last month upto the month you received the salary.*



- B) *Photostat copy of that Order, vide which Order you were dismissed from service from this Battalion.*
- C) *Details of amount deducted as P.F.*
- D) *Your letter dated NIL 2015 (Photo copy attached), which has been received in this Battalion through Administration Directorate, New Delhi vide letter No. 646-48 dated 08th June 2015 (Photostat copy annexed), in which you have written that after getting discharge in the case, the orders were issued for joining duty, Photostat copy of that Order and you have mentioned in your letter dated 05.02.2015 (Photostat copy attached) that you have received the Orders to join the duty, Photostat copy of the said Order be submitted.*
- E) *Photostat copy of the first page of Pass Book of Bank, in which the details could be seen clearly/ Photostat copy of the PAN Card.*

4. *Hence, you are requested to forward the aforementioned documents immediately to this Battalion, so that the regarding payment of the outstanding amount and the amount deducted as P.F., record can be examined for further action.”*

4. Despite the petitioner responding to the said letter, no decision was taken, hence, the petitioner approached this Court vide CWP-14908-2023 titled as ‘Jai Narayan Vs. Union of India and others’ for seeking



release of the Provident Fund. The said writ petition was disposed of by this Court vide order dated 17.07.2023, on the statement of Senior Panel Counsel for the respondent-UOI that the competent authority would look into the grievance of the petitioner and redress the same within a period of 03 months.

5. In compliance thereto the dated 10.10.2023 has been passed, which is impugned herein. The operative part of the order reads thus:-

“Whereas, application dated Nil 2015 submitted by Shri Jas Narayan (Petitioner) S/o Parbhati Ram VPO-Julana, Tehsil Julana, Distt-Jind (Haryana) which was received by 31 Bn BSF on 16.06.2015 through FHQ BSF, Adm Dte (RR Cell) New Delhi L/No.GRC/Misc/675-77/BSF/2015/646-48 dated 08.06.2015. Petitioner has mentioned in his application that his BSF Regt Number was 65310116 and also mentioned that "in the year 1969. I involved in criminal case as offence committed U/S 302, after being acquitted in the case, we were ordered for duty, but I did not join duty and further requested for payment of outstanding Fund subscribed by him and to release pension in his favour.

2. *Whereas, on receipt of the petitioner's application after lapse of about 46 years, service record and related documents of the petitioner ascertained thoroughly in old record of 31 Bn BSF but neither his service record nor any related records ie. criminal/disciplinary case files for the year 1969-1970 or pay*



roll etc found in old record. Thereafter, on checking of weeded out record, it is found that all the documents pertaining to the year 1969-1970 have already been weeded out by 31 Br/ BSF accordance with GFR 284. Appendix-13 and instruction laid down in Chapter-7 under heading record management in BSF Manual Vol-II Office Procedure.

3. *Whereas, at this belated stage after lapse of approx. 50 years as of now) 31 Bn BSF is not in a position even to identify Whether petitioner even served in 31 Bn BSF or otherwise as his regimental number or any other documents supporting to this effect not found available. Hence, petitioner was asked to submit his service details/particulars vide 31 Bn BSF L/No.23-24 dated 13.01.2016 (copy enclosed).*

4. *Whereas, in reply, an application dated 05.02.2016 alongwith copy of Judgment dated 28.11.1970 passed by the Court of Shri Pritpal Singh Additional Session Judge, Ferozepur (Punjab), received from the Petitioner in which it was mentioned that he was appointed as Constable in PAP 503n on 26.08.1965 and thereafter PAP 50 Bn was embodied as on BSF w.e.f 01.04.1968 and he had served in BSF up to 07.05.1969. Petitioner has also mentioned in his letter that "when I had received orders from the Battalion to report for duty, my health had suddenly taken a turn for the worse. Due to illness for a long time, I could not join the duty".*



5. *Whereas, further, Mr. Pawan S/o Jai Narayan had submitted an application dated 15.07.2020, addressed to Director General, BSF New Delhi which was received through FHQ BSF (Adm Dte- RR Cell), New Delhi L/No. 1209 dated 14 Aug 2020 seeking benefits of past service, pensionary benefits and entitled amount of provident fund without supporting any proof of service matter. Due to non-availability of records in respect of petitioner being approx. 46 years old case, he had been informed in details about the procedure/criteria which is followed by the department for disposing such type of cases and about granting of pensionary benefits vide 31 Bn BSF L/No.Estt/ 31 Bn/ Pension/2020/2207-08 dated 17 Oct 2020, with info to FHQ BSF, (Adm Dte_RR Cell) New Delhi.*

6. *Whereas, Petitioner submitted an application dated 08.10.2020, addressed to Director General, BSF New Delhi which was received through FHQ BSF (Adm Dte-RR Cell), New Delhi L/No. 1664 dated 20 Oct 2020. on the same issues without supporting any proof of the service matter. In this regard FHQ BSF, Adm Dte (RR Cell-Pension) New Delhi with copy to the petitioner had been informed about the action taken on the matter vide 31 Bn BSF L/No. Estt/318n/Pension/2021/107-08 dated 03.02.2021.*

7. *Whereas, Petitioner submitted an application dated 01.04.2021, addressed to Director General, BSF New Delhi*



which was received through FHQ BSF (Adm Dte-RR Cell), New Delhi L/No.1773-77 dated 16 April 2021 on the same issues without supporting any proof of the service matter. Petitioner was replied and asked to submit following details/documents in order to track his past service owing to his case being more than 50 years old/not available in 31 Bn BSF vide 31 Bn BSF L/No.820-21 dated 5th July 2021 with info to FHQ BSF, Adm. Dte (RR Cell) New Delhi:

- i. Details/proof of salary receiving for the last month, up to the month salary received by him.*
 - ii. Photo copy of that order vide which he was dismissed from service from 31 Battalion BSF.*
 - iii. Details of the amount deducted in Provident Fund.*
 - iv. Photo copy of that order vide which he was ordered to join duty and given instructions to join duty as he has mentioned in his earlier letters dated Nil 2015 and letter dated 05.02.2016.*
 - v. Copy of first page of Bank pass book and PAN card.*
- 8. Whereas, Petitioner submitted a letter dated 22.06.2021, addressed to Director General, BSF CGO Complex Lodhi Road, New Delhi about outstanding salary for 02 years and provident fund amount for 05 years & 03 months which was received through Adm Dte (RR Cell) L/No. 1813 dated 05.07.2021 with direction to dispose off the matter by sending*



reply to the petitioner with info to their HQrs. In compliance to the letter above, FHQ Adm Dte (RR Cell) New Delhi was replied vide 31 Bn BSF L/No.854-55 dated 19 July 2021 with info to the petitioner that necessary documents/orders which were sought vide L/No.820-21 dated 05.07.2021 be provided to 31 Bn BSF immediately for necessary action.

9. *Whereas, Petitioner submitted a letter dated 04.02.2022, addressed to Hon'ble Prime Minister, Govt of India with info to Director General, BSF CGO Complex Lodhi Road, New Delhi and Hon'ble President of India, about release of outstanding amount of provident fund and for starting pension in favour of him, which was received through Adm Dte (RR Cell) L/No.368-73 dated 16.02.2022 with direction to dispose of the matter by sending the reply to the petitioner with info to their HQrs. In compliance to letter above, FHQ Adm Dte (RR Cell) New Delhi has been replied vide 31 Bn BSF L/No.274-75 dated 31 March 2022 with info to the petitioner that necessary documents/orders sought vide 31 Bn BSF L/No.820-21 dated 05.07.2021 be provided to 31 Bn BSF immediately for necessary action.*

10. *Whereas, copy of Petitioner letter dated 04.02.2022 also received through FHQ Adm Dte (Pension Cell) L/No. 1519-22 dated 01.04.2022 with direction to dispose of the matter by sending reply to the petitioner with info to their Hars. In*



compliance to the FHQ letter ibid, reply sent to Petitioner by 31 Bn BSF vide L/No.7915-16 dated 23 April 2022 and he was again informed in detail about the procedure/criteria which is followed by the department for disposing such type of cases and about granting pension & pensionary benefits and he was also requested to provide documents/orders which were sought by 31 Bn BSF vide L/No.820-21 dated 05.07.2021 immediately so that grievances could be examined for prompt resolution of the matter, with info to FHQ, Adm Dte (Pension Cell), FHQ Adm Dte (RR Cell) and PAD BSF New Delhi.

11. Whereas, in the instant matter, when documents/orders as asked by 31 Bn BSF vide their L/No.820-21 dtd 05.07.2021 not received by 31 Bn BSF after lapse of approx. 10 months, then a reminder was issued to petitioner vide 31 Bn BSF L/No.459-62 dated 30.05.2022 with info to FHQ, Adm Dte (Pension Cell), FHQ Adm Dte (RR Cell) and PAD BSF New Delhi.

12. Whereas, subsequently, in reply of 31 Bn BSF L/No.820-21 did 05.07.2021, Petitioner has submitted the following vide his letter dated 04.07.2022 that:

- i) Rs. 750/- was received by him as salary on 01.11.1969, proof is not available with him.*
- ii) Copy of dismissal order not available with him.*
- iii) At that time Rs.30 deducted in provident funds (No proof)*
- iv) Copy of joining orders/letters issued to him after*



acquittal from offend not available with him.

- v) *Copy of first page Bank pass book and PAN card enclosed.*

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15. *Whereas, Shri Jai Narayan (Petitioner) in the last 45 years has never approached 31 Bn BSF or made correspondence for his outstanding service benefits or other official actions after getting acquitted by the Hon'ble Session Court, Ferozepur (Punjab). This rather seems of ill plan of the petitioner to remain quiet for 45 years without corresponding to any of the competent authority of the Force and seek a claim at an appropriate stage suitable to him. There is not a single correspondence, information from Sh. Jai Narayan (Petitioner) received in 31 BN BSF for the last 45 years. Even service documents including service record of the Petitioner cannot be made available as being weeded out under existing standing orders. That the petitioner approached the competent authority in the year 1970 after getting judgment, his service record would have been kept served for essential action. Since, year 2015, petitioner has given numerous representations with Director general BSF CGC Complex Lodhi Raod New Delhi as well as Hon'ble Prime Minister Government of India, Hon'ble President of India and commandant 31 BN BSF about release of outstanding amount of provident fund and for starting*



pension in his favour. He was replied time and again to provide solid/strong evidence in sport of his claim in order to consider his request tracking his past service, but in spite of repeated request correspondence, he could not provide the same except the following: -

- i) Rs. 750 was received by him as salary on 01.11.1969 proof is not available with him.*
- ii) Copy of dismissal order not available with him.*
- iii). At that time rupees 30 deducted in provident funds no proof.*
- iv) copy of joining orders/letters issued to him after acquittal from offence not available with him.*

16. However, pursuant to the Court Order dated 17.07.2023, deep search of old records again was carried out by 31 Bn BSF to find out any of the related record in proof of service rendered by Sh. Jai Narayan (Petitioner) with respondents/BSF, drawal of any pay and allowances, any disciplinary proceedings constituted against him etc, but nothing found during the search of old records pertaining to the year 1969-1970, may be as a result that all the documents pertaining to the year 1969-1970 had already been weeded out by 31 Bn BSF in accordance with GFR 284, Appendix- 13 and instructions laid down in Chapter-7 under heading record management in BSF Manual Vol-II Office Procedure.



17. *Whereas this order is passed in respectful compliance of the Hon'ble court order dated 17.07.2023 past in CWP No 14908 of 2023 filed by Jai Narayan Vs Union of India and Ors before High Court Punjab and Haryana at Chandigarh."*

6. It is evident from a perusal of the above that the respondents have stated that there was a gap of 45 years before the petitioner submitted any request for release of his service benefits. It was apprised that the record having been weeded-out under the standing orders, hence, there is no material available with the respondents to carry out the verification of the claim of the petitioner including details of his PF account or other aspects including the punishment, if any, imposed during his service period or any disciplinary order passed against him.

7. Undisputedly, the first application was submitted by the petitioner for release of his service benefits after a gap of nearly 45 years and moreso when the record has already been weeded out, the claim of the petitioner involving financial implications cannot be verified. A mere sympathetic consideration of a claim is not sufficient to fasten a financial liability and to direct payment of any money, since the entire record and entitlement of any claimant is required to be verified. In the absence of verification of the claim, as made, which is nothing more than an oral assertion, any direction creating financial liability cannot be safely issued.

8. The present writ petition has been filed after a period of 50 years, the same being highly delayed is dismissed on the grounds of delay and laches, since no satisfactory explanation has been put forth by the



learned counsel for the petitioner as to why the petitioner did not take recourse to his remedy within a reasonable time and did not submit any application to the competent authority for re-instatement or release of his service benefits immediately after his order of acquittal was passed by the Additional Session Judge, Ferozepur.

9. The instant writ petition is accordingly dismissed on ground of delay and laches.

(VINOD S. BHARDWAJ)
JUDGE

18.03.2025

Mangal Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No