



IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

RESERVED ON: 30.06.2026

DELIVERED ON: 15.07.2026

PRESENT:

THE HON'BLE MR. JUSTICE REETO BROTO KUMAR MITRA

WPA 14474 OF 2025

AMARDEEP SINGH JOHAL

- VERSUS -

THE UNION OF INDIA AND ORS.

Appearance:

Mr. Subhabrata. Datta, Ld. Adv.

Mr. Debashis Sarkar, Ld. Adv.

..... for the Applicant/Petitioner

Mr. Kalyan Kumar Chakraborty, Ld. Adv.

Mr. Sukanta Ghosh, Ld. Adv.

... for the UOI.

**Reetobroto Kumar Mitra, J.:**

1. This writ petition has been filed challenging the supersession of the petitioner to the rank of Deputy Inspector General (hereinafter DIG) in the Border Security Force (hereinafter the Force) to which he is entitled.
2. The petitioner had joined the Force as an Assistant Commandant (Direct Entry) on February 15, 1993. Presently, he is serving as a Commandant (Administration), Sector Headquarters, Border Security Force, Kolkata since May, 2023. Sometime in December 1995, while returning from leave to the Paloura Camp at Jammu, the petitioner met with a severe road accident. On account of the injury sustained in the accident, his medical category was downgraded to S1 H1 A2 (L) P1 E1. This medical condition is continuing at present.
3. Over a period of time, the petitioner was considered by the Departmental Promotion Committee (hereinafter the DPC) and was promoted to various ranks and is presently posted as a Commandant.
4. The petitioner had applied for promotion to the rank of DIG, which was, however, denied to him on the ground that he did not have the medical condition for such post. However, a vacancy was kept reserved for the petitioner. The petitioner had thereafter applied to the Director General, Border Security Force to express his grievance, which was, however,



turned down. It was turned down on the ground that his request had already been addressed by a letter dated December 16, 2024, issued by the Director General of the Border Security Force.

5. It is in this conspectus of facts that the present writ petition has been filed.
6. Mr. Subhabrata Datta, learned advocate appearing for the petitioner, has raised the following issues:-
 - a. The petitioner had been granted promotion on earlier occasions by the concerned DPC, from Assistant Commandant to Deputy Commandant and thereafter to Second-in-Command to the Commandant, and finally sometime in 2012 to the post of Commandant.
 - b. If the petitioner was medically unfit, the earlier promotions, all considered by the duly constituted DPCs, could not have been given.
 - c. The petitioner had, during his entire tenure, even after 1995 when he suffered the accident, served in hard areas, conducted anti-insurgency operations, as well as performed his duty in the extremist areas during the Naxalite movement.



d. The accident suffered by the petitioner has also been categorised on August 13, 2008, as an injury sustained by him “attributable to bona fide government duty”. Thus, the petitioner is entitled to be considered for promotion to the rank of Deputy Inspector General as he has met all qualifications and fulfilled all criteria pertaining to promotion to the post of Deputy Inspector General.

e. The petitioner has placed reliance on two decisions:-

- i. 2018 SCC OnLine Del 12909, Venkatesh v. Union of India & Ors.
- ii. 2024 SCC OnLine Del 6586, Jagmohan Chaudhary v. Union of India & Ors.

7. Mr. Kalyan Kumar Chakraborty, learned advocate appearing for the respondent, has refuted the argument of the petitioner in the following manner:

- i. Merely because earlier DPCs had considered the petitioner's eligibility for promotion does not mean that the present DPC is bound to consider the petitioner's case for promotion as well.



- ii. The petitioner does not qualify on medical parameters to be promoted to the post of DIG due to his medical deficiency.
- iii. He placed reliance on the Instruction for Medical Examination and Classification of Personnel Serving in the CPMFs, Clause 4.14.b, which is applicable to officers/men who are wounded/injured during field firings/accidental firings/explosion of mines or other explosive devices, and due to accidents while on active government duty in India or abroad. If any of these incidents maim an officer, various categories have been provided which will not be considered as a limitation thereby disabling an Officer from being considered for promotion. Of these conditions, S1 H1 A2 (L)P1 E1, the exact condition of the petitioner, is also included. However, the petitioner does not meet any of those conditions laid down in Clause B, as his accident took place while he was on leave and was returning to his posting site at Jammu. Thus, the petitioner cannot claim relaxation in the SHAPE I medical category, on account whereof his candidature has been rejected.
8. I have heard the learned advocates for the parties and considered the decisions relied upon by them; I have also gone through the documents placed before me.
9. The issue is on a short conspectus both in law and on facts.



10. The petitioner admittedly is an officer of worth and repute. He has rendered more than 33 years of service not just in normal areas but in hard areas as well, which include Jammu and Kashmir and Naxalite areas. There is not a single adverse comment on the petitioner's performance or service record in the entire tenure of his service. The petitioner's service record is impeccable; the only issue which has restrained the DPC from conferring the petitioner the rank of DIG is his apparent medical condition, which is admittedly not in consonance with the required medical category, that is, **SHAPE I**. However, his medical condition does fall within the relaxed benchmark parameters, set forth for promotion of an Officer.
11. The second issue which requires consideration is how and on what basis the DPC rejected the candidature of the petitioner, when on earlier occasions and on the very same medical condition as the petitioner is presently situated, he had been granted promotion.
12. Adverting to the first issue, even after his accident, the petitioner was found fit, having served in hard areas as well as in normal areas in the Force. The petitioner has commanded the forces in all these areas for the last 33 years. There has never been any complaint regarding his inability to command the Force on account of his medical condition or deficiency thereof. It would be safe to assume that the petitioner is medically



conditioned to lead the forces in whatever areas he has been posted, including hard areas.

13. It is true that the petitioner's case has been kept in abeyance on the ground that he does not have the requisite medical fitness. However, there is no deliberation as to why his present medical condition can be a deterrent in any manner for the petitioner to discharge his duty as a DIG, though the very same medical condition was considered acceptable for the authorities, thereby permitting him to discharge his duties as a Commandant. The procedure adopted by the present DPC is questionable, even if it were to be assumed that the DPC did not act arbitrarily but acts on requisite parameters, discharging its duties with utmost care and diligence.
14. This particular DPC has taken a stand which is at variance with the earlier DPCs who had found the petitioner fit to discharge his duties as Deputy Commandant, Second-in-Command to the Commandant, and Commandant. There is no deliberation on record to show that the post of DIG requires any enhanced requirements which a person in the rank of Commandant is not required to have. Clearly, the medical condition of the petitioner has not changed since 1995 and since being promoted to the posts of Deputy Commandant and Commandant.
15. In furtherance to the aforesaid, it cannot be glossed over that the petitioner has, even after the accident in 1995, served the BSF in hard



areas. If the petitioner is in a position to serve in hard areas even after his accident and has also been in a position to discharge his duties in the various ranks held by him at various base camps, there are no findings from the DPC as to why and to what extent the petitioner's physical condition affects him adversely while discharging his duties as a DIG. The DPC is also silent on the issue as to why the petitioner's present medical condition of SHA(L)P E, which is a relaxed condition for promotion, was completely ignored. The petitioner's medical condition is not one which is beyond the relaxed parameters set forth for promotion.

16. I do not find any reason for the exception taken by the DPC. In fact, strangely enough, even after his application for promotion to the rank of DIG had been deferred, a post of DIG has been kept vacant and reserved for the petitioner.
17. It would be pertinent to mention here that the petitioner, at the time of his promotion from the post of Deputy Commandant to Second-in-Command, was held by the court of inquiry to have sustained injuries attributable to bona fide government duty. "Bona fide government duty" has no definition but is the closest cousin that one could relate to while deciphering this meaning to "active government duty".
18. The second issue is that the present DPC has not considered the case of the petitioner in the light of the earlier decisions of the DPC and has also



not disclosed as to what parameters were taken into account by the DPC while deferring the claim of the petitioner to be promoted to the rank of DIG. The present DPC has merely deferred the promotion of the petitioner. It was only after the petitioner's representation of July 10, 2024, that the Director General, Border Security Force, informed the petitioner on October 9, 2024, that he had been considered for promotion to the rank of DIG but had been deferred. No reason was attributed as to why his application for promotion was deferred, though he was informed that a vacancy was reserved for him.

19. There is, therefore, no ostensible ground as to why the petitioner's application has been deferred and as to why he was not considered for promotion to the rank of DIG.
20. The decisions relied upon by the petitioner are clear and unequivocal. In Venkatesh (supra), the Hon'ble High Court of Delhi has held in no uncertain terms that active duty has to be read as an "administrative generis" with the circumstances mentioned in Clause 4.17B. However, a member of the Paramilitary Force (in that case, CRPF) does not cease to be on active duty merely because he is not actually in the line of firing or dealing with mines or other explosive devices. It was held that even in a peace station, when members of the Paramilitary Force are engaged in activities forming part of their duty and suffer an accident, that accident cannot be characterized as not having been incurred while on active duty.



Thus, even an accident suffered during a regular drill which reduces the medical category of an incumbent from SHAPE I to SHAPE II would be construed as an injury sustained on “active duty”.

21. The other decision relied upon by the petitioner, Jagmohan (supra) of the Hon’ble High Court of Delhi, is also on similar lines and held in no unequivocal terms that the accidental injury suffered by way of an active duty could be extended to a bona fide government duty as well.
22. Even bereft of a finding as to whether the accident occurred while on active or bona fide government duty, this much is clear that the petitioner has had an unscathed career and has discharged his duty at every level at different assignments with distinction. The application to consider the petitioner to be promoted to the rank of DIG has not been rejected. It has merely been deferred by the DPC. If indeed the petitioner is eligible, the deferment itself is a denial of his right. The petitioner ought to have been informed as to why and for what reasons his application for promotion to the post of DIG had been deferred. If he was indeed ineligible, it ought to have been rejected. On the other hand, if there was any deficiency which could have been redressed, an opportunity ought to have been given to the petitioner. The consideration of the DPC is bald and uncertain and disclosed no reasons as to why the application of the petitioner was deferred.



23. It is only by way of the report filed in this case by the respondent Nos. 1 and 2 that it has come to the forefront that the petitioner was deferred due to his medical condition, which was obtained not on account of any active government duty but attributable to a bona fide government duty. Since it was not categorized as a condition emanating from injury sustained in active government duty, the relaxation as envisaged in Clause 4.14.b could not be extended to him. In fact, it has also been revealed that further deliberations of the committee on December 10, 2024, and September 25, 2025, have held that the medical downgrading of the petitioner was such that it could not be certified as attributable to active duty as per the applicable guidelines.
24. The present medical condition of the petitioner, as aforesaid, has continued since 1995. This condition has not deterred the previous DPCs from promoting the petitioner from the post of Assistant Commandant, to which he had joined, to the present post of Commandant. There is no further medical downgrading of the petitioner, which raises the question as to why the present condition, which has been sustained since 1995, would suddenly become an impediment to promote the petitioner to the post of DIG. There is no deliberation, nor has any such deliberation been disclosed in the report or the document relied upon by the respondent authorities.
25. In view of the aforesaid discussions, the following conclusions are evident:-



- a. The petitioner has been serving as an officer of the Force for over 33 years in various places, including hard areas, on behalf of the Border Security Force.
- b. The petitioner's accident in 1995 has not disabled the petitioner in any manner from discharging his duty as an officer of the BSF.
- c. The downgrading of his medical status after the accident in 1995 has also not been an impediment for the petitioner to be promoted on three previous occasions, presently to the rank of Commandant. Whether on bona fide government duty or active government duty, the petitioner has sustained injury from the accident which has left the petitioner medically downgraded.
- d. Admittedly, the petitioner is not in SHAPE I. Hence could not have been considered for promotion. If he could not have been considered for such promotion, the other DPCs which deliberated and permitted him to be promoted from Deputy Commandant to the various posts till his present post as Commandant ought not to have given the promotion. He is in SHA(2)LPE condition which is a permissible condition, upon relaxation, for promotion.
- e. Having been granted promotions by earlier DPCs, there was no deliberation by the present DPC as to why a person in this medical



category who has already received three promotions cannot be considered for a fourth.

f. The petitioner has had an impeccable career without any taint on his record.

26. In view of these findings, it would be appropriate to direct the DPC to hold a review Departmental Promotion Committee meeting within a period of 8 weeks to consider the case of the petitioner for promotion to the post of DIG by giving him appropriate relaxation under Regulation 4.14.b, subject to the petitioner meeting all other eligibility criteria for promotion to the rank of DIG. His promotion shall take effect from December 29, 2023.

27. He will, however, be granted retrospective seniority with notional pay fixation and will be entitled to the actual pay to the post of DIG from the date he assumes charge of the post. He will also be entitled to get the benefit of senior time scale with effect from the date he becomes entitled to be promoted to the post of DIG. The entire exercise should be completed within a period of 12 weeks from date.

28. The writ petition is accordingly allowed to the aforesaid extent.

29. There shall, however, be no order as to costs.



REPORTABLE



2026:CHC-AS:1047

30. Urgent photostat certified copy of this judgment, if applied for, shall be granted to the parties as expeditiously as possible, upon compliance of all formalities.

(Reetobroto Kumar Mitra, J.)