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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/5016/2025

ANIL KUMAR AKARNIA
S/O- LATE SHRI SOHAN LAL, PRESENTLY SERVING AS COMMANDANT
(PERS AND ADMN) AND POSTED AT HQ EASTERN COMMAND, ITBPF,
RTTC, BNSL BUILDING, DHARAPUR, P.O. AZARA, GUWAHATI, ASSAM-
781017.

VERSUS

THE UNION OF INDIA AND 6 ORS
REPRESENTED BY THE SECRETARY, MINISTRY OF HOME AFFAIRS,
GOVERNMENT OF INDIA, NEW DELHI-110003.

2:THE DIRECTOR GENERAL
DIRECTORATE GENERAL
INDO TIBETAN BORDER POLICE FORCE
CGO COMPLEX
LODHI ROAD
NEW DELHI-110003.

3:THE INSPECTOR GENERAL
CENTRAL FRONTIER
INDO TIBETAN BORDER POLICE FORCE
KANHASAIYA
P.O. KOKTA
BHOPAL (MP).

4:THE DEPUTY INSPECTOR GENERAL (PERS AND ADMN)

HQ EASTERN COMMAND
ITBPF
RTTC
BSNL BUILDING

DHARAPUR
P.O. KAMRUP
GAUHATI
ASSAM
PIN- 781017.

5:THE COURT OF ENQUIRY
REPRESENTED BY ITS PRESIDING OFFICER
SHRI ANIL KUMAR PHOOL
DIG
CIJW
SCHOOL
ITBPF.

6:MUKESH KUMAR DHASMANA
COMMANDANT
44TH BN
ITBPF
BELGAUM
KARNATAKA-590017.

7:AMIT KUMAR MISHRA
DY. COMMANDANT
44TH BN. ITBPF
BELGAUM
KARNATAKA-590017. (MEMBER-II OF TEH COURT OF ENQUIRY)

Advocate for the Petitioner : MR. K P PATHAK, MS T WAPANGLA,MR. R DEKA,S
BORPUJARI

Advocate for the Respondent : DY.S.G.I., MS. B SARMA (C.G.C)

BEFORE
HONOURABLE MR. JUSTICE MANISH CHOUDHURY

ORDER

Date : 29.08.2025

Heard Mr. K.P. Pathak, learned counsel for the petitioner and Ms. P. Sharma, learned Central Government Counsel for the respondent nos. 1 – 5.

2. The petitioner is presently serving as a Commandant in the Indo-Tibetan

Border Police Force and during the period from 02.08.2019 to 30.05.2023, the petitioner was posted in 44th Battalion ITBP.

3. By an Order dated 10.10.2023 [Annexure-4], a Court of Inquiry consisting of three officials was constituted to inquire into the alleged irregularities and discrepancies noticed by Internal Audit Team of the Directorate General, ITBP during Special Audit of 44th Battalion ITBP. It is stated that the Court of Inquiry submitted a report and based on the report of the Court of Inquiry, an Office Order dated 22.07.2025 [Annexure-9] has been passed initiating disciplinary action against 15 nos. of officials who were posted in the 44th Battalion ITBP during the reference period. The petitioner is amongst those 15 officials. Subsequent to the Office Order dated 22.07.2025, the respondent no. 4 issued an Office Memorandum dated 24.07.2025 [Annexure-10] whereby recovery of an amount of Rs. 9,20,707/- has been directed from the petitioner.

4. It has been submitted on behalf of the petitioner that the constitution of the Court of Inquiry was illegal as one of the members of the Court of Inquiry, that is, the respondent no. 7 was junior in rank to the petitioner and the Court of Inquiry was instituted at the behest of the petitioner's successor, that is, the respondent no. 6. It is further contended that by the Office Order dated 22.07.2027 [Annexure-9] only disciplinary proceeding has been initiated. Yet without conclusion of the disciplinary proceeding, the Office Memorandum dated 24.07.2025 [Annexure-10] has been passed directing recovery of an amount from the petitioner. It is further submitted that the disciplinary proceeding has been initiated without due compliance of the mandate contained in Rule 177 of the Indo-Tibetan Border Police [ITBP] Rules, 1994

framed under the ITBPF Indo-Tibetan Border Police Force Act, 1992. The petitioner has submitted that copies of the proceedings of the Court of Inquiry have never been furnished to the petitioner. The petitioner has also alleged mala fide actions against the respondent nos. 6 & 7.

5. Issue notice returnable in 4 [four] weeks.

6. As Ms. Sharma, learned Central Government Counsel has appeared and accepted notice on behalf of the respondent nos. 1 – 5, issuance of formal notice to the said respondents is dispensed with. However, extra copies of the writ petition along with annexures is to be furnished to Ms. Sharma within 2 [two] working days from today.

7. The petitioner shall take steps for service of notice upon the respondent nos. 6 & 7 by registered post with A/D within 2 [two] working days from today.

8. Rule 177 of the ITBP Rules, 1994 has provided that a person subject to the Act against whom the Court of Inquiry has given an opinion or who is being tried by: a Force Court on a charge relating to matter investigated by the Court of Inquiry, shall be entitled to copies of the proceedings of the Court of Inquiries unless the Director General orders otherwise.

9. Having regard to the manner in which the Order of recovery has been made vide Office Memorandum dated 24.07.2025 [Annexure-10], it is ordered, in the interim, that operation of the Office Memorandum dated 24.07.2025 shall remain suspended till the returnable date. The respondent authorities shall

comply to the mandate contained in ITBP Rules, 1994, more particularly, Rule 177 in the meantime.

JUDGE

Comparing Assistant