

**IN THE HIGH COURT OF JAMMU & KASHMIR AND
LADAKH AT SRINAGAR**

Reserved on: 26.09.2026

Pronounced on: 30.09.2026

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*Whether the operative part
or full judgment is
pronounced: **Full***

WP(C) No.2936/2024

KHURSHEED AHMAD KHAN

...PETITIONER(S)/ APPELLANT(S)

Through: - Mr. Ateeb Kanth, Advocate.

Vs.

UNION OF INDIA & ORS.

...RESPONDENT(S)

*Through: - Mr. T. M. Shamsi, DSGI, with
Mr. Faizan Ali, CGC.*

CORAM: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

1) The petitioner has filed this petition for quashing the order dated 16.06.2023 passed by respondent No.5, whereby voluntary retirement of the petitioner from service has been accepted and the petitioner has been struck of the strength of the Unit with effect from 16th June, 2023 (AN).

2) The petitioner, a devout religious person, was initially permitted to maintain a neatly trimmed beard in terms of order dated 6th January, 2018. However, this permission was revoked with immediate effect by an order dated June 16,

2023. According to the petitioner, this sudden revocation prompted him to apply for voluntary retirement. Remarkably, his application was accepted on June 16, 2023, the very day it was submitted.

3) The petitioner thereafter submitted a representation to respondents, whereby he sought to withdraw his request for voluntary retirement and in terms of order dated, 5th July, 2023, the said application for withdrawal of the voluntary retirement was rejected and he was directed to take pension and not to resume duties. The petitioner further submits that he again approached the respondents with a request that the permission granted to the petitioner for keeping the beard was cancelled due to vindictiveness, and the petitioner was compelled to seek voluntary retirement, but that application was yet again rejected. Thereafter the petitioner made a formal representation with the Director General of BSF on 19.07.2024 but the said representation was not considered by the respondents and his pension was fixed forcibly without his consent.

4) The petitioner assails the impugned order dated 16.06.2023 on the ground that he was compelled to seek voluntary retirement on the same day his permission to maintain a beard was revoked with immediate effect. The

vindictiveness of Respondent No. 5 is manifest from the fact that the petitioner's voluntary retirement application was accepted on the very day of its submission. Furthermore, when the petitioner submitted an application to withdraw his retirement request the following day (17.06.2023), but it was rejected. The petitioner asserts that the respondents passed the impugned order in outright violation of statutory rules, rendering it legally unsustainable.

5) The respondents have filed their response stating therein that the impugned order dated 16th June, 2023, was passed by the Commandant 50 BN BSF, Praharinagar, Tura (Meghalaya) whereby the voluntary retirement of the petitioner was accepted by the respondents on the explicit consent of the petitioner. Therefore, the cause of action, if any, has accrued to the petitioner beyond the territorial jurisdiction of this Court. It is stated that the petitioner was enrolled in the BSF as a Constable on 16.03.1998 and was placed under low medical category on 26th June, 2018, which became permanent on 4th March, 2022. It is stated that the petitioner has 13 bad entries to his credit under various sections of the BSF Act including AWL, OSL, Intoxication, falsifying official records, neglecting to obey general/local orders, failing to appear at a time and place

fixed for parade. It is further stated that pursuant to the request made by him, the petitioner was allowed to keep beard but duly trimmed, neat and tidy in terms of order dated 6th January, 2018. It is stated that after the Zero Parade, the petitioner conveyed his desire to proceed on voluntary retirement immediately and submitted an application to that effect. The petitioner was subsequently heard by the Commandant, as his appointing authority in presence of the Adjt, the SM and in the hearing of the Battalion Subordinate Officer, the petitioner was pointedly asked if his decision was made under some duress or any other compulsion, which he expressly denied. The whole proceedings have been duly recorded in the concerned register. The petitioner had clearly cited his mother's illness and his own inability to endure difficult service conditions given his medical status and weak body, to be the reasons behind preferring retirement and while considering his physical and mental state, past service record and the recent conduct as also his insistence on accepting his request, the competent authority being satisfied that the curtailment of the period of notice of three months will not cause any administrative inconvenience, relaxed the requirement of notice of three months and accepted the voluntary retirement of the petitioner with immediate effect. It is also

stated that on 16th June, 2023, the petitioner was found to be utterly shabbily dressed with long free-flowing beard which was not only violative of the order dated 6th January, 2018, but also not in consonance with the directions of the Hon'ble Supreme Court in the case titled "**Md. Zubair vs. Union of India**" and in order to maintain discipline and decorum of the Force, the permission to keep beard was revoked in terms of order dated 16.06.2023. The petitioner had even refused to trim his beard. It is the stand of the respondents that all rules and regulations were followed before accepting the voluntary retirement of the petitioner.

6) Heard and perused the record.

7) The respondents have raised a preliminary objection with regard to lack of territorial jurisdiction of this Court to entertain the instant writ petition. It is evident from the record that the application was submitted by the petitioner to the respondents for voluntary retirement at a place which is situated beyond the territorial jurisdiction of this Court and the order impugned in this petition was also passed at Tura Meghalaya which is also beyond the territorial jurisdiction of this Court, as such, this Court is of the considered view that no cause of action has accrued within the territorial jurisdiction of this court and this court does

not have the territorial jurisdiction to entertain the present petition and adjudicate the same.

8) Learned counsel for the petitioner contended that since the Inspector General, BSF, Kashmir, has been arrayed as a party, this Court possesses territorial jurisdiction to entertain the writ petition. However, a perusal of the record reveals that the Inspector General, BSF, Kashmir, has no nexus with the controversy at hand. Indeed, the material respondent arrayed in the present petition is the Inspector General, BSF, Shillong.

9) The petitioner's contention that the Director General, BSF, New Delhi, is subject to the jurisdiction of any High Court across India is equally unmeritorious. Under Article 226 of the Constitution, territorial jurisdiction is contingent upon the cause of action, wholly or in part, arising within the local limits of the concerned High Court.

10) As already mentioned above, no cause of action has accrued to the petitioner within the territorial jurisdiction of this Court, and this Court lacks the territorial jurisdiction to entertain the present writ petition.

11) In **Rajesh Kumar Tomar Versus Union of India & Ors.**, JKJ ONLINE 6983616, the co-ordinate Bench has held as under:

“16.From the aforesaid judgments of the Hon'ble Supreme Court, the following propositions can be culled out on the issue of territorial jurisdiction of the High Court under Article 226 of the Constitution:

(i) That there is two fold limitations on the power of the High Court to issue writs under Article 226 of the Constitution;

(a) The power is to be exercised throughout the territories in relation to which the High Court exercises jurisdiction i.e. the writs issued by the Courts cannot run beyond the territories subject to its jurisdiction

(b) A person or authority to whom the High Court is empowered to issue such writs must be within those territories which clearly implies that they must be amenable to its jurisdiction either by residence or location within those territories.

(This was the position of law till the Constitutional (Fifteenth Amendment) Act, 1963 whereby the concept of cause of action was introduced by adding clause (2) to Article 226 of the Constitution).

(ii) that the High Court was also conferred the jurisdiction in relation to the territories within which;

(a) cause of action, wholly or in part arises; and

(b) even a fraction of cause of action is a part of cause of action and is sufficient enough to vest the jurisdiction in the High Court, provided it arises within the territories in relation to which the High Court exercises its jurisdiction;

(iii) cause of action or part thereof or fraction of cause of action must be one which is material, integral or essential part of the lis.

17. In the light of the aforesaid propositions of law when the instant case is examined, it becomes evident that the facts pleaded in the writ petition do not indicate or demonstrate that the cause of action or part thereof or even a fraction of cause of action which is integral or material to the lis between the parties has arisen within the territorial jurisdiction of this Court. The allegations which are being enquired

into by the respondents pertain to the period when the petitioner was posted as Commandant 11th Bn under Sector HQ Gangtok of Eastern Frontier. The acts or omissions alleged against the petitioners have been committed outside the territorial jurisdiction of this Court. The Court of Inquiry, Record of Evidence and the order convening the General Force Court etc., have been passed by the authorities not located anywhere in Jammu and Kashmir. Simply because the petitioner is posted in Jammu and Kashmir and has been informed of the action envisaged against him in the UT of Jammu and Kashmir is not sufficient to vest the jurisdiction in this Court to entertain the petition. The communications issued to the petitioners informing him about the action initiated against him sent to his address in Jammu and Kashmir do not, by any stretch of reasoning, constitute integral part of cause of action sufficient enough to clothe this Court with the territorial jurisdiction to entertain this petition.”

12) In “Zahoor Ahmad Baba v. Union of India & Ors. 2012 (3) JKJ 119[HC], it has been held that only the Court having territorial jurisdiction over the place where the dismissal order was made can entertain the writ petition challenging such dismissal order. It was further held that the mere fact that the petitioner had received copy of the impugned order at Ganderbal within the jurisdiction of this Court does not confer jurisdiction upon this Court to entertain and deal with the petition.

13) A similar view has been taken by the Coordinate Bench of this Court in **Shahnawaz Ahmad v. Union of India & Ors., JKJ ONLINE 84560.**

14) Further a Division Bench of this Court in the of **Tirath Ram vs. Union of India and Ors., JKJ Online 89042**, has, in para 7, observed that the cause of action or part thereof or even a fraction thereof must be relatable to the lis and must form material, integral or essential part thereof and once the cause of action or part thereof has not accrued within the territorial jurisdiction of the Court, the Court lacks jurisdiction to adjudicate the petition.

15) In view of the above, this Court is of the considered view that this Court lacks territorial jurisdiction to adjudicate the petition at hand and, accordingly, the same is dismissed, leaving the petitioner free to approach the jurisdictional Court for redressal of his grievances.

(Rajnish Oswal)
Judge

Srinagar,
30.09.2026

"Bhat Altaf-Secretary"

Whether the **judgment** is reportable: **YES**