

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7156 OF 2018

Prabhakar R.

....Petitioner

Versus

Director General, Central Industrial
Security Force & ors.

...Respondents

Mr. S. V. Marne, for the Petitioner.

Mr. Neel Helekar, a/w Mr. A. A. Garge, for Respondent nos.1
to 4.

CORAM: B. R. GAVAI &
N. J. JAMADAR, JJ

DATED: 30th January, 2019

PC:-

1. The Petitioner has challenged the order passed by the Appellate Authority vide which the punishment as imposed by the disciplinary authority of compulsory retirement from service with full pensionary and terminal benefits, has been upheld.

2. Mr. Marne, the learned Counsel for the Petitioner submits that the Petitioner was found guilty for two unconnected incidents. The first one is that, on the date of incident, when the Petitioner was on sick leave, at around 6.00 pm., when he came out of the barrack he was found in an inebriated condition and had altercation with the security guard. The second one is that on the date of incident,

around of 8.00 pm., when, according to the Petitioner, there was no occasion he was taken for medical examination. However, he did not co-operate with the medical examination.

3. Mr. Helekar, the learned Counsel for the Respondent submits that both Disciplinary Authority as well as Appellate Authority have considered the matter from correct perspective, and passed the impugned order, vide which the Appellate Authority confirmed the penalty of compulsory retirement as imposed by the Disciplinary Authority.

4. The scope of interference in departmental proceedings is very limited. The High Court while exercising writ jurisdiction under Article 226 of the Constitution of India, cannot sit as the Appellate Court to examine whether the evidence has been properly appreciated or not. The only ground of challenge that would be available is, whether the principles of natural justice are utterly disregarded by the Authorities and whether they have acted irrationally and in arbitrary manner. Admittedly, none of these grounds are raised in the petition.

5. We are also of the view that the contention of the Petitioner that the Petitioner has been found guilty of two unconnected incidents is not correct. If the Petitioner was found in an inebriated condition at 6 pm., then the

authorities of the Respondent were not unjustified in requiring him to undergo the medical examination within two hours of the said incident. The non-cooperation of the Petitioner speaks volumes. We are of the considered view, as a matter of fact, a lenient view has been taken against the Petitioner, wherein no stigmatic termination has been ordered. On the contrary, the punishment imposed is of compulsory retirement with all terminal and pensionary benefits.

6. Merely because on an earlier occasion, when the Petitioner was found to be involved in similar incident, penalty of fine was imposed, can not be a ground for insisting that even on the second incident, the same punishment should be imposed. In a disciplined force, the members of the force are expected to act with requisite discipline. We do not find any error is committed by the Appellate Authority in passing the order impugned.

7. The petition is, therefore, rejected.

[N. J. JAMADAR, J.]

[B. R. GAVAI, J.]