

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 1634 OF 2020
IN
WRIT PETITION NO. 1828 OF 2007**

Sanjay Maruti Kamble	}	Applicant/ Petitioner
versus		
The Commandant-Central Industrial Security Force and Ors.	} } }	Respondents

Ms. Rekha Musale i/b. Ms. Sangita S. Survase for the applicant.

Ms. Poornima Awasthi with Mr. Mohamedali M. Chunawala i/b. Mr. A. A. Ansari for the respondent (UoI).

**CORAM: DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE : JANUARY 14, 2022

P.C.:

1. This is an application for recall of the order dated January 24, 2020, whereby the applicant's writ petition (WP No.1828/2007) was dismissed for non-prosecution.
2. While hearing the application for recall, we have examined the merits of the writ petition.
3. It appears that the petitioner, a member of the Central Industrial Security Force, was proceeded against in a

disciplinary proceeding primarily on the charge that he had beaten up a Checking Officer, ASI/EXE Madan Singh Kumre with lathi at about 0707 hrs. of October 31, 2004 causing injury to the latter. The inquiry officer, who was appointed to inquire into the charges, returned a finding of guilt against the petitioner. Such finding was returned on the basis of the statement of the said Madan Singh Kumre of he having been beaten up by the petitioner with a lathi. There were other witnesses who supported the prosecution case. Following acceptance of the inquiry officer's report, the petitioner was removed from service. Challenging the order of removal, the petitioner unsuccessfully preferred an appeal as well as a revision. Aggrieved by rejection of the appeal and the revision, Writ Petition No. 1828 of 2007 was instituted challenging the order of removal as well as the appellate and revisional orders.

4. The grounds at paragraph 8 of the writ petition reveal the petitioner's grievances in respect of non-supply of all documents relied on by the prosecution as well as not making available the medical officer, who had certified that the said Madan Singh Kumre had been inflicted injury by lathi, for cross-examination by the petitioner. There is, however, no clear, direct and positive pleading that the said Madan Singh Kumre did not depose before the inquiry officer of being beaten up by the petitioner or that there was absence of evidence of any other witness corroborating the statement of the said Madan Singh Kumre. The grounds of challenge, thus, appear to us to be irrelevant.

5. Having regard to the facts and circumstances that we have noted above, it seems that no case has been set up by the applicant in the writ petition for interference. Having regard thereto, recalling the order dated January 24, 2020 dismissing Writ Petition No. 1828 of 2007 for non-prosecution would serve no fruitful purpose.

6. The application for recall, thus, stands dismissed. There shall be no order as to costs.

SALUNKE
J V

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(M. S. KARNIK, J.)

(CHIEF JUSTICE)