

19.09.2024
Item No.165
Monthly List
Ct. No.26
CHC
(dismissed)

MAT 1505 of 2023

Hazer Biswas
Vs.
The Union of India & Ors.

Mr. Ramkrishna Bhattacharyya, Advocate
Mr. Kaushik Choudhury, Advocate
...for the appellant

1. Appeal is directed against the judgment and order dated June 20, 2023 passed in WPA 18232 of 2003.
2. By the impugned judgment and order, learned Single Judge dismissed the writ petition challenging the order dated October 23, 2003 by the Director General, Border Security Force.
3. Learned advocate appearing for the appellant submits that, disciplinary proceeding was initiated as against the appellant. He submits that, on the selfsame ground two disciplinary proceedings were initiated. Moreover, appellant was attached to one unit while Commandant of another unit decided the articles of charges.
4. None appears for the respondents.
5. We find from the records that, both the issues as raised before us were raised before learned Single Judge. Learned Single Judge, in paragraph 24 noted that Rule 46 of the Border Security Force Rules, 1969 and returned a finding that, since, the

appellant was attached to another unit to remove any allegation of unfairness, so that the proceeding do not stand vitiated on such ground.

6. So far as the other ground with regard to second enquiry is concerned, learned Single Judge recorded that, such issue was no longer *re integra*. Learned Single Judge noted that, co-ordinate Bench decided such issue and held that, there was no irregularity in holding a fresh enquiry as the appellant was reinstated without prejudice to the rights of the parties meaning thereby reserving right to proceed afresh.
7. No other ground is canvassed before us.
8. We find from the records that, learned Single Judge rightly held that, the appellant did not suffer any prejudice with the disciplinary proceeding being conducted as he was attached to a different unit. Moreover, there was no impediment in initiating a fresh departmental proceeding as against him.
9. In such circumstances, we find no merit in the present appeal.
10. MAT 1505 of 2023 is **dismissed** without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)