

Form No. J. (2)  
(SKB)

**IN THE HIGH COURT AT CALCUTTA  
CIVIL APPELLATE JURISDICTION**

**Present :**

**The Hon'ble Justice:- Madhuresh Prasad  
And  
The Hon'ble Justice:- Prasenjit Biswas**

**F.M.A.1721 of 2016**

**Sushanta Ghosh**

**Versus**

**Union of India and others**

Mr. Probal Kr. Mukherjee, Sr. Adv.,  
Mr. Debashis Banerjee,  
Mr. Rakesh Jana

... for the appellant.

Ms. Chandreyi Alam,  
Ms. Runu Mukherjee

... for the Union of India.

Heard on: 06.05.2026 & 20.05.2026

Judgement on: 20.05.2026

**Madhuresh Prasad, J.**

1. Heard the learned counsel for the parties.
2. The writ petitioner/appellant, a constable in the Central Industrial Security Force (hereinafter referred to as 'CISF'), was visited with a penalty of dismissal from service pursuant to an enquiry. The

dismissal order dated 24.07.2013 awarding the punishment of “*removal from service*” with immediate effect and certain consequential orders were put to challenge by the writ petitioner/appellant in the writ proceeding, which was dismissed on 05.01.2016 by the learned Single Judge. The order of the learned Single Judge is the subject matter of the present intra court appeal.

3. Early in the morning on 15.10.2012, the writ petitioner’s/appellant’s wife was found to have committed suicide by hanging herself on the ceiling fan hook in the appellant’s official quarter. The appellant/petitioner was, thus, served with an article of charge alleging a gross misdemeanor unbecoming of a member of the Force. It was alleged that petitioner subjected his wife to cruelty and harassment, due to which his wife committed suicide.
4. The charge memo is dated 10.12.2012. The enquiry was thus initiated. The enquiry officer conducted the enquiry and submitted a report dated 21.06.2013 holding that the charge was proved beyond doubt.
5. The appellant/petitioner was afforded an opportunity of making his submissions against the enquiry report. Thereafter, the disciplinary authority has passed the order of punishment dated 24.07.2013 against the writ petitioner/appellant.
6. The learned Single Judge, while considering the appellant’s challenge to the findings of the enquiry officer and the punishment, was of the view that the allegations of abuse and torture on the wife by a member of the Force, leading to an unnatural death of the wife, constitutes a

gross misdemeanor. He found that such an act would render the appellant unfit for continuing to serve the Force. The learned Single Judge further recorded that there was enough material to render a finding regarding abusive behaviour of the petitioner/appellant against his wife, leading to her unnatural death, as a result of suicide. He found that the enquiry officer's findings were based on oral evidence, which was referred to in the enquiry report.

7. The disciplinary authority, thus, endorsed the findings of the enquiry officer leading to the punishment of removal from service. Having regard to the nature of service, learned Single Judge was of the view that the punishment cannot be said to be in any way excessive. The learned Single Judge, therefore, refused to interfere with the findings of the enquiry officer and the order of punishment.
8. The learned senior advocate appearing for the appellant/petitioner submitted that the findings of the enquiry officer are not based on any material adduced in the enquiry before the enquiry officer. He submits that the conclusions of the enquiry officer regarding the charge being proved is based on statements of the two CWs, i.e., CW-1 (the writ petitioner's father) and CW-3 (the writ petitioner's father-in-law). The statements of these two witnesses relied upon were marked as Exhibit 7 & 8 respectively. These statements are said to be the statements made by these two witnesses during the fact finding enquiry preceding the issuance of a charge memo. Those statements are of the pre charge memo period, and the same were not supported either by CW-1 or CW-3 in the enquiry.

9. Before the enquiry officer, the two CWs deposed that the statements were made under pressure and/or not in a proper state of mind, in close proximity to such a disturbing event. The two CWs neither supported the statements (Exhibit 7 and 8); nor did they support the charge before the enquiry officer. Therefore, it is a case of no material in support of the conclusions of the enquiry officer. The findings of the enquiry officer, therefore, are perverse. Such findings are vulnerable to interfere in exercise of judicial review under Article 226 of the Constitution of India.
10. The learned advocate for the Union of India, on the other hand, submits that the statements of CW-1 and CW-3 (Exhibits 7 & 8 respectively) forms a valid material for concluding the articles of charge to be proved by the enquiry officer. The two witnesses never stated that the statements were not made by them. The statements, therefore, are admitted statements of CW-1 and CW-3 which supports the conclusion of the enquiry officer. The sufficiency of the statement or veracity of the statement cannot be considered by the writ court in exercise of judicial review, as if it was sitting in appeal over the conclusion of the enquiry officer.
11. The law by now is well settled that the procedural prescription having followed, the writ court should normally refrain from interfering with the findings in a departmental proceedings. Judicial review under Article 226 of the Constitution of India is limited to a consideration regarding the decision making process and not the decision itself. Therefore, the learned Single Judge rightly refused to

interfere with the findings of the enquiry officer, affirmed by the disciplinary authority.

12. We have considered the rival submissions, and also gone through the records of the enquiry produced by the learned advocate for the Union of India today.
13. In so far as the conclusion of the enquiry officer is concerned, we find that the same is founded only on the statements of CW-1 and CW-3 in the enquiry.
14. CW-1 in his deposition before the enquiry officer stated about the marriage of the petitioner/appellant with the victim and, thereafter, stated that the victim was taken to the appellant's place of posting at Farakka in September, 2012. CW-1 received a telephone call from the victim on 14.10.2012 when he found some difference in her voice. On 15.10.2012 he got a message from his son at about 6.00 hrs. regarding the suicide committed by the victim. He thereafter rushed to Farakka. Neither any question was put to the CW-1 regarding the statement (Exhibit 7) allegedly given by him in the fact finding enquiry; nor he made any statement before the enquiry officer supporting the charge/allegation.
15. The victim's father (CW-3) was confronted with the statement dated 25.10.2012 (Exhibit-8), i.e. his statement recorded during the fact finding enquiry prior to issuance of the charge memo. The victim's father being confronted with the statement stated before the enquiry officer that he had lost his mental balance due to the untoward incident at the time of incident; and thus gave such a statement.

16. In his deposition, CW-3 did not even make a whisper regarding any mistreatment being meted out to the appellant's/petitioner's wife.
17. From the deposition of CW-1 and CW-3, we find that there is no statement whatsoever, leaving any scope for arriving at a conclusion that they supported the allegation of mistreatment/torture by the writ petitioner being inflicted upon his wife, based on which it can be said that the petitioner had any responsibility in the suicide committed by his wife.
18. The oral statement of these two witnesses did not support the charge. The oral statement of these two witnesses also did not support their statements recorded during the fact finding enquiry prior to issuance of the charge memo. The two statements (Exhibit-7 & 8), therefore, could not have been relied upon by the enquiry officer.
19. The enquiry officer, however, has proceeded to hold the charge proved by relying upon the statements of CW-1 and CW-3 (Exhibit 7 & 8), which were not supported by the two CWs. The findings of the enquiry officer, therefore, are without reference to any admissible material on record.
20. The findings of the enquiry officer are with reference to the two statements of the CW-1 and CW-3 recorded in the fact finding enquiry, which was not supported by the CWs. The same, therefore, were not admissible in the enquiry. We, therefore, find that inadmissible/extraneous material has been taken into consideration by the enquiry officer to arrive at a conclusion regarding the charges being proved.

21. From the deposition of CW-1 and CW-3 recorded before the enquiry officer no prudent person can arrive at a conclusion that they have supported the allegation levelled against the petitioner of having mistreated or tortured his wife, driving her to commit suicide. The findings of the enquiry officer are, therefore, also perverse.
22. The disciplinary authority, in the final order dated 24.07.2013 has recorded the sequence of events right from issuance of a charge memo till submission of the enquiry report. He, thereafter, proceeded to hold that the enquiry was conducted as per laid down procedure under the CISF Rules and, therefore, he agreed with the findings of the enquiry officer. As regards the statements of the two CWs in the enquiry before the enquiry officer, the disciplinary authority has recorded a finding, on surmises and conjectures that both CWs have consulted with each other and are trying to help the petitioner/constable to get away from the departmental action. Such finding of the disciplinary authority is not with reference to any material on record in the enquiry.
23. The finding of the disciplinary authority leading to infliction of the extreme punishment of removal from service, is, therefore, clearly unsustainable. Our findings above, are fortified by a decision of the Hon'ble Supreme Court of India in the case of ***Union of India and others Vs. P. Gunasekaran*** reported in ***(2015)2 SCC 610***, wherein the Apex Court laid down the contours for judicial review in respect of a departmental proceeding. The judgment lays down that the high

court cannot reappreciate evidence and interfere with the conclusions in the enquiry when the same is conducted in accordance with law.

24. The mandate of restraint however is subject to certain exceptions which also have been succinctly stated. The Apex Court held that where the authority has allowed itself to be influenced by irrelevant or extraneous considerations, relying upon inadmissible evidence and the conclusion on the very face of it is wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion, such finding would be within the scope of judicial review under Article 226 of the Constitution of India. The Apex Court also held that if the finding of fact is based on no evidence, the high court in exercise of judicial review, can interfere with such decision. Considering our findings above, the present case falls within the exceptions carved out in para 12 of the judgment in the case of **P. Gunasekaran (supra)**, as discussed above.
25. The order of punishment issued by the disciplinary authority is, therefore, unsustainable and is fit to be quashed. We, therefore, quash the order of the disciplinary authority dated 24.07.2013.
26. The order of the appellate authority dated 20.02.2014 is an order of affirmation of the order of the disciplinary authority which, we have found to be unsustainable. The revisional order dated 02.04.2015 has also affirmed the order of the disciplinary authority.
27. The order of the appellate authority dated 20.02.2014 and order of the revisional authority dated 02.04.2015, therefore, are also rendered unsustainable and must collapse. The two orders are also quashed.

28. As a result of quashing of the impugned orders, the appellant/petitioner would be entitled to all consequential benefits.

The order of the learned single Judge is set aside.

29. The appeal is, accordingly, allowed.

**(Madhuresh Prasad, J.)**

I agree.

**(Prasenjit Biswas, J.)**