

S/L 21
20.05.2026
Court No.18
SD

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

WPA 11201 of 2026

Ashok Merekar
Vs.
Union of India & Ors.

Mr. Kunaljit Bhattacharjee (VC)
Mr. Rohan Bavishi

...for the Petitioner.

Ms. Rashmi Bothra
Ms. Priti Jain

...for the Respondents.

1. Affidavit of service filed in Court today be kept with the records.
2. The petitioner was serving in the Border Security Force. He has been imposed punishment in a disciplinary proceeding on October 27, 2025. The petitioner was found guilty of five charges and awarded the sentence (i) to suffer rigorous imprisonment for one year and (ii) to be dismissed from the service.
3. The petitioner preferred a representation dated December 10, 2025 before the IG, BSF seeking for reinvestigation of his case and to withdraw his punishment. The same has been answered by the authority on March 13, 2026 intimating the petitioner the statutory provision for filing the appeal. The formal filing of the appeal by the petitioner has not been made till date.
4. There is a provision in the Boarder Security Forces Act for suspension of sentence and there is also a provision for preferring an appeal against the order of dismissal. The petitioner has not applied under any

of the aforesaid two provisions. The petitioner has approached the writ court at the very first instance praying for a direction of suspension of his sentence.

5. Submission of the petitioner is that the appeal, if filed, will take some time for consideration and disposal. If later on it is found that the impugned punishment was incorrect and the punishment is either modified or set aside, then in that case, the petitioner will be kept in prison for no apparent reason.

6. Submission of the petitioner that if the appeal is allowed, then he may not be required to undergo the imprisonment cannot be accepted by the Court.

7. Records reveal that there were five charges against the petitioner. He has been awarded punishment separately in respect of the said charges. The two punishments, i.e. to suffer rigorous imprisonment for one year, and to be dismissed from service, are distinctly separate from each other and awarded in respect of separate charges.

8. The Act prescribes separate provisions for suspension of imprisonment and for preferring statutory appeal against the order of dismissal.

9. The petitioner ought to have exhausted the statutory remedy before approaching the writ court. Moreover, it appears that the impugned order of penalty was passed on 27th October, 2025 and first representation from the petitioner was filed on 10th

December, 2025. The instant writ petition had been filed on 13th May, 2026. Had the petitioner been genuinely aggrieved by the order of penalty he ought to have taken prompt necessary steps immediately thereafter.

10. In view of the discussions made hereinabove, no relief can be granted to the petitioner in the instant case. The writ petition stands dismissed.

11. Dismissal of the writ petition, however, will not stand in the way of the petitioner to take steps in accordance with the statutory provisions of law.

12. Parties to act on the basis of the server copy of this order duly downloaded from the official *website* of this Court.

13. Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

(Amrita Sinha, J.)