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Item No. 29 & 30
07.05.2026
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**FMA 3558 of 2015
(MAT 1395 of 2015)
with
CAN 1 of 2016 (Old No. 147 of 2016)
with
CAN 2 of 2024**

**Sahadev Patra
-Vs.-
Union of India & Ors.**

**with
WPA 14677 of 2006**

*Mrs. Pampa Dey (Dhabal),
Ms. S. Banerjee,*

...for the appellant.

*Mr. Swapan Kumar Nandi,
Ms. B. Bhattacharyya,*

...for the UOI.

Dictated by Arijit Banerjee, J:-

Affidavit of service filed in court today be kept with the records.

Under challenge in this appeal is a judgment and order dated July 22, 2015, passed by a learned Single Judge of this Court dismissing the appellant's writ petition being WP 14677 (W) of 2006.

The appellant/writ petitioner is a member of Central Industrial Security Force (CISF). In the year 2005 a charge sheet was issued against the appellant. The charge was in essence that the appellant left his duty post without leave or prior permission of the competent authority and remained absent from his duty post. Further, he picked up a fight with

a head constable (at that time the petitioner was a constable) and had physical exchange of blows with the other person.

The Enquiry Officer filed a report holding the appellant guilty of the charges. The Disciplinary Authority imposed on the appellant the penalty of removal from service. Upon the matter being carried out to the Appellate Authority, the penalty was reduced to compulsory retirement from service with admissible pensionary benefits. The appellant went for review of the order of the Appellate Authority. By an order dated January 16, 2006, the Reviewing Authority further reduced the punishment to that of reduction of pay by seven stages with a further direction that the appellant would not earn increments of pay during the period of reduction and the same would have the effect of postponing his future increments of pay. The appellant was reinstated in service.

Challenging the order of the Reviewing Authority, the appellant approached the learned Single Judge in the present round of litigation. After recording the arguments advanced on behalf of the respective parties, the learned Judge dismissed the writ petition with the following observations:-

“The charge proved is that the petitioner had left his post during his duty hours. It appears from the materials on record that the petitioner himself lodged a diary with the police station to the effect that there was heated exchange between him and the person he is alleged to have assaulted. Materials also reveal that there were eye witnesses to the incident of assault whereby, as it appears from the impugned order, the person assaulted had retaliated and his protestation otherwise on having fallen down from the Morcha disbelieved. Though the other person found to have retaliated was given the punishment of compulsory retirement but the petitioner found to have

left his post and himself having asserted that there was heated exchange between him and the other person, given the reduced punishment of reduction of pay and postponement of increments. As such, this Court does not find any of the contentions raised by Mr. Mahapatra to have substance requiring interference in this matter.

The writ petition is without merit and the same is accordingly dismissed”.

Being aggrieved, the writ petitioner is before us by way of this appeal.

We have heard learned Advocates for the parties at some length.

CISF is a highly disciplined force. The fact finding authorities have come to a conclusion that the appellant was absent from his duty post without having obtained leave or prior permission of the competent authority. This is a serious enough dereliction of duty particularly in a terrorism prone area.

The appellant says that the head constable whom he is alleged to have assaulted, has stated in his evidence that the appellant never assaulted him. The head constable has stated in his evidence that he sustained injuries as a result of falling down. Learned Advocate for the appellant says that when the allegation of assault has been denied by the so-called victim, there could be no reason to find the petitioner guilty of the charges and, therefore, no reason to impose any punishment on him.

We have gone through the orders of the Appellate Authority and the Reviewing Authority. All the points sought to be urged by the appellant have been dealt with in detail

and rejected by them. It has been found that the appellant was absent from his duty post without having obtained leave or prior permission of the competent authority. It has also been held that the head constable/alleged victim turned hostile as a witness to save himself as well as the appellant since that head constable was also an accused party.

It is well settled that the High Court while exercising jurisdiction under Article 226 of the Constitution of India is not so much concerned with the merits of a decision. The High Court would see if the decision making process is in order. Factual findings of the authorities are seldom interfered with by the Writ Court unless of course there is perversity in such finding.

In the present case, we do not find the findings of the authorities to be perverse. There were eye-witnesses to the incident who clearly deposed against the appellant. The Writ Court cannot sit in appeal over a decision of a statutory authority. In our view, the learned Single Judge rightly declined to interfere in the exercise of writ jurisdiction.

We are of the considered view that the judgment and order under appeal does not warrant interference.

Hence, The appeal is dismissed along with the connected application.

Urgent Photostat certified copy of this order, if applied for, be given to the learned Advocates of the parties on usual undertakings.

(Apurba Sinha Ray, J.) (Arijit Banerjee, J.)