

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Rai Chattopadhyay

WPA 30535 of 2017

Ramesh Chandra Gaur

Vs.

Union of India & Ors.

For the Petitioner

: Mr. Surajit Samanta
: Ms. Sohini Samanta
: Ms. Anindita Roy,
: Mr. Biswajit Samanta

For the respondents

: Mr. Siddhartha Lahiri

Judgment on

: 16.06.2026

Uploaded on

: 16.06.2026

Rai Chattopadhyay, J. :-

- 1.** The petitioner is an erstwhile DIT (IRTA No. 18429671) of M&C Ftr. attached with SHQ, Kolkata, BSF. In the instant writ petition, the petitioner has challenged an order of the Special Secretary (IS) of Ministry of Home Affairs (Police-II Division) of Government of India dated November 13, 2017.
- 2.** The petitioner was tried by the General Security Force Court (in short "GSFC") for committing five offences under Section 40 and 46 of the BSF Act, 1968. The GSFC after appraisal of evidence on record, found him "not guilty" of I and II charges and "guilty" of III, IV and V charges and sentenced him to be "dismissed from service" on July 08, 2016. The findings and sentence of the GSFC were confirmed by the DG, BSF on November 09, 2016.
- 3.** In a writ petition earlier filed by the present petitioner challenging the punishment awarded by GSFC and praying for reinstatement in service with all consequential benefits,

the Court directed the respondent as above to consider petitioner's prayer upon granting him opportunity of hearing, assisted by an advocate. Such hearing was allowed and the resultant order is that, impugned in the writ petition, that is, dated November 13, 2017.

4. Before going into the decision of the authority in the said impugned order as well as the reasons therefor, it is necessary to discuss in a nutshell the factual background of the case which is as follows.
5. The petitioner was issued a charge sheet dated March 01, 2016 and on March 03, 2016 it was directed that the petitioner was to be tried by General Security Force Court. The charges against the writ petitioner inter alia were as follows: -

First Charge BSF Act, 1968 Sec 46	Committing a civil offence, that is to say, criminal misconduct by abusing his position as a public servant, obtained for himself pecuniary advantage, an offence specified in Sect 13(1)(d) of the Prevention of Corruption Act, 1988, punishable under Section 13(2) of the said Act.
Second Charge BSF Act, 1968 Sec 46	Committing a civil offence, that is to say, criminal misconduct by abusing his position as a public servant, obtained for himself pecuniary advantage, an offence specified in Sect 13(1)(d) of the Prevention of Corruption Act, 1988, punishable under Section 13(2) of the said Act.
Third Charge BSF Act, 1968 Sec 40	An act prejudicial to good order and discipline of the force
Fourth Charge BSF Act, 1968 Sec 40	An act prejudicial to good order and discipline of the force
Fifth Charge BSF Act, 1968 Sec 40	An act prejudicial to good order and discipline of the force

6. The respondent authority has alleged that during September to November, 2013, while discharging duties of Deputy Inspector General, SHQ, BSF, Krishnanagar the petitioner obtained Rs. 80 thousand in two installments that is, Rs. 50 thousand from Madhu Ghosh and Rs. 30 thousand from H.C. Sk. Jamaluddin of 12th Battalion BSF, as pecuniary advantage in lieu of eight cattles which were handed over to Madhu Ghosh out of 25 cattles seized on September 30, 2013. It has further been alleged that, during November, 2013, in the same capacity, the petitioner received Rs. 50 thousand through Head Constable Sk. Jamaluddin of 12th Battalion BSF as pecuniary advantage in lieu of releasing 10 cattles along with two Bolero pick up vehicles which were seized on November 13, 2013 led by the said Sk. Jamaluddin.
7. The other allegations against the writ petitioner was that, on September 30, 2013, in the same capacity, the petitioner had unauthorizedly directed ASI (GD) Ved Prakash of SHQ BSF, Krishnanagar the party COMDR, to hand over eight cattles to Madhu Ghosh out of 25 cattles seized on September 30, 2013; also that, during July to September, 2013, the petitioner in the same capacity made deal without authority with Habil Shaikh for paying Rs. 2 thousand per vehicle per month for plying of total 10 vehicles in border area for transportation of cattles meant to be smuggled to Bangladesh and received Rs. 20 thousand for the same purpose as the first installments. Lastly, it has been alleged and charged against the writ petitioner that, during May, 2013 to November, 2013, the petitioner retained Head Constable Sk. Jamaluddin of 12th Battalion BSF at SHQ BSF, Krishnanagar, without any authority or authorization, till November 15, 2013 despite the 12th Battalion BSF moved alone from South Bengal frontier to Kashmir frontier in the month of June, 2013.
8. From March 18, 2016 to July 08, 2016 trial was held against the petitioner before the GSFC on the charges framed vide the charge sheet dated March 01, 2016. The objections raised by the petitioner before the GSFC regarding its jurisdiction as well as non-maintainability of the charges framed against him stood rejected by the said Court. The GSFC after completion of the proceeding, recorded its finding that the petitioner was

“not guilty” on the first two charges under Section 46 of the BSF Act, 1968 and that the petitioner was “guilty” on the rest three general offences/charges under Section 40 of the said Act. Hence, a sentence of dismissal from service was issued against the writ petitioner on July 08, 2016.

9. The petitioner is aggrieved that, a copy of the GSFC proceeding/trial has never been provided to him though the trial was completed. Therefore, the petitioner has stated that there has been gross violation of Rule 129 of the BSF Rules, 1969 due to such inaction by the respondent authority. Rule 129 of the BSF Rules, 1969 speaks about ‘Right of person tried to copies of proceedings’, that every person tried by a Security Force Court should be entitled to obtain on demand a copy thereof, including the proceedings upon revision if any time after confirmation of the finding and sentence. Therefore, the petitioner filed a pre-confirmation petition dated July 14, 2016 with request for a copy of the GSFC proceedings. However, allegedly without responding to his requests and by rejecting the pre-confirmation petition filed by the present petitioner the Director General of BSF confirmed the findings and sentence of the GSFC vide order dated November 09, 2016, though allegedly without assigning any reason therefor. Hence, it has been alleged that the order of the Director General, BSF of confirmation of the finding and sentence of the GSFC is an unreasoned and arbitrary one. The petitioner was served with the copy of the proceeding and order on November 25, 2016. The order of dismissal of service of the writ petitioner was promulgated on the same date that is, November 25, 2016 resulting into striking of name of the petitioner from the role of BSF.
10. In the impugned order, the respondent authority has attributed the reasons for upholding the findings and sentence of GSFC in the manner as quoted below: -

“SHQ BSF Kolkata has written that charges in the charge sheet were prepared in accordance with the provisions of BSF Rules 53 & 54. Moreover, the petitioner has not specified as to how the charge sheet do not confirm to Rules 53 and 54 of BSF Rules and how it was in violation of service jurisprudence. Further, in this case before trial of petitioner by GSFC, SCOI and 02 addl SCsOI were conducted. On the

basis of evidence recorded in the SCsOI, disciplinary proceedings were initiated against the petitioner by preparing preliminary charges. After hearing of charges against him under BSF Rule 45 B, ROE was ordered to be prepared. After recording of ROE, on the basis of evidence available in the said ROE proceedings, the charge sheet was prepared against the petitioner. Furthermore, the copies of said SCsOI and ROE proceedings were provided to petitioner on his request for preparation of his defence and none of the documents relevant to the disciplinary proceedings has been denied to him. Hence, the contentions raised by the petitioner above are false, baseless and misconceived.

The perusal of GSFC trial proceedings reveals that the objections about jurisdiction of the GSFC (Exhibit-'L') and to the charges (Exhibit-'N') were raised by the petitioner during GSFC trial. The Court gave opportunity to prosecution and defence to make submission/arguments and thereafter, it considered the same in the light of legal provisions and rejected being devoid of merit. The Court announced its decision in the open Court in the presence of petitioner and prosecution and vivid record of same was made on pages 05 to 08 of trial proceedings. Thus, the contentions raised by the petitioner are baseless and without any substance.

SHQ BSF Kolkata has written that the petitioner has not specified as to how the findings of GSFC suffer from malice in law and fact as alleged by him. The particulars of each charge are different, hence it is wrong to state that mere acquittal of one charge will result in automatic acquittal of other charges as contended by the petitioner. Further, the GSFC has recorded brief reasons for its findings on each charge wherein evidence of relevant witnesses have been duly discussed. Besides that, in his summing up, the law officer has discussed the whole evidence recorded during the GSFC trial. Hence, the contentions raised by the petitioner are baseless and without any substance.

The perusal of GSFC trial proceedings reveals that before deciding the quantum of punishment, the Court has taken on record the previous convictions, character and rewards etc. of petitioner (Exhibit – 'ZZZ') through a witness. The offences u/s 40 of which he is convicted carry punishment up to seven year's imprisonment. However, keeping in view the past record of petitioner, facts and circumstances of case and nature of offences, the Court has taken a lenient view and awarded punishment of dismissal from service only which is lesser than the maximum punishment awardable for the said offences. The punishment awarded to the petitioner is legal and very much commensurate with the gravity of the offences committed by him."

11. The respondent, in the impugned order has further held that records have revealed about the petitioner having been

granted ample opportunity to defend himself during the course of trial. Considering all as extracted above, the respondent in the said impugned order has turned down the petitioner's request for revival of the dismissal order.

- 12.** Mr. Surajit Samanta, learned counsel has represented the writ petitioner. He has argued on various points. It is stated that the trial conducted by the GSFC was a sham and pre-meditated exercise. He submits that, on due perusal of the mode and manner of the proceeding before the GSFC and awarding sentence of dismissal after alleged finding of guilt of the petitioner having been recorded by that Court, the allegation of the petitioner as above would be duly substantiated. He submits that the petitioner has all along been deprived of natural justice as respondent has violated the principles of natural justice by not affording fair and transparent opportunity to the petitioner to defend his cause upon receipt of copy of the proceeding duly. He says that, discharging the petitioner for the first two charges as above and holding him guilty for the rest of the charges is a farce, in so far as the rest of the charges would only be dependent on the result of the enquiry in the first two charges. He submits that the charges No. III, IV and V are general in nature whereas the specific charges against the writ petitioner could not have been proved in the trial.
- 13.** Mr. Samanta has further submitted that the proceeding itself is mala fide, malicious and unsustainable in so far as evidently the evidence on record not accepted for the first two charges of specific offence under Section 46 of the BSF Act are seen to have been accepted for holding the petitioner as guilty on the next three general offences/charges under Section 40 of the said Act. According to the petitioner, his guilt having been proved only for the charges general in nature the punishment granted against him is disproportionately rigorous. Mr. Samanta has submitted that the doctrine of disproportionality as part of the concept of judicial review is to ensure that even an aspect which is otherwise within the exclusive province of the GSFC, if the decision of the same even as to sentence is an outrageous defiance of all logic then the sentence would not be immune from correction. It is the

specific allegation of the petitioner that he has been denied justice at all stages; the pre-trial stage, trial stage as well as pre-confirmation stage. Allegedly also, neither reply of the petitioner to the charge sheet nor his plea in the pre-confirmation petition has been considered by the respondent authority in its proper perspective. Therefore, considering the entire service record and achievements therein of the writ petitioner and the misconduct for which petitioner's guilt is said to have been proved in trial, the punishment or dismissal from service tantamount to a severe disproportionate disposition by the respondent authority. Mr. Samanta, learned advocate for the petitioner has relied on the following judgments: -

- i. ***Ranjit Thakur versus Union of India and Others*** reported in **(1987) 4 SCC 611**

Judicial review primarily examines the legality and fairness of the decision-making process rather than the decision itself. Although the determination of punishment falls within the discretion of a court-martial, the sentence must be proportionate to the offence and the offender and must not be vindictive or excessively harsh. A punishment that is so disproportionate as to shock the conscience may indicate bias and warrant judicial intervention. Under the doctrine of proportionality, courts may review and correct sentences that are irrational, perverse, or constitute an outrageous defiance of logic.

- ii. ***State of M.P. and Others versus Hazarilal*** reported in **(2008) 3 SCC 273**

The doctrine of proportionality has evolved as a more refined standard of judicial review, replacing the traditional *Wednesbury* principle of unreasonableness. It requires that administrative and disciplinary decisions maintain a reasonable balance between the misconduct and the punishment imposed. Authorities exercising statutory discretionary powers must consider all relevant facts, circumstances, and mitigating factors before determining a penalty.

- iii. ***The Managing Director, State Bank of Hyderabad and Another versus P. Kata Rao*** reported in **(2008) 15 SCC 657**

The scope of judicial review over findings of fact recorded in departmental enquiries is limited, and superior courts generally refrain from re-appreciating evidence. Courts also ordinarily do not interfere with the quantum of punishment imposed by the disciplinary authority unless it is arbitrary or disproportionate. An acquittal in a criminal case does not automatically bar the initiation or continuation of departmental proceedings against the employee.

- iv. ***Union of India versus B.N. Jha*** reported in **(2003) 4 SCC 531**

The disciplinary authority is legally required to independently assess the materials on record before deciding whether disciplinary action should be initiated. Such a decision must be based on the authority's own application of mind and discretion. A higher authority with no statutory role in the disciplinary process cannot direct or influence this decision.

- v. ***Roop Singh Negi versus Punjab National Bank and Others*** reported in **2009 (2) SCC 570**

Since orders of the disciplinary and appellate authorities entail serious civil consequences, they must be supported by clear and reasoned findings. The guilt of the delinquent employee must be established through evidence placed on record and not on mere suspicion or conjecture. Although the strict provisions of the Evidence Act are not applicable to departmental proceedings, conclusions must nevertheless be based on legally admissible and reliable material. Compliance with the principles of natural justice remains mandatory to ensure fairness and validity of the decision-making process.

14. Apart from the above, the following two Delhi High court decisions have also been relied on by Mr. Samanta, namely,

- i. ***G. M. Gouzaming Kuki @ G.M. Kuki versus UOI and Others*** reported in **(2015) SCC OnLine Del 13950**

The doctrine of proportionality is an important ground of judicial review used to assess the legality and fairness of administrative or executive actions. It requires that the punishment imposed bears a reasonable relationship to the gravity of the misconduct proved. Courts may intervene where the penalty is excessive, disproportionate, or grossly disproportionate to the offence committed.

- ii. ***Amar Singh Bhati versus Union of India (UOI) and Others*** reported in **2002 SCC OnLine Del 1139**

The findings and sentence of the GSFC, as well as their confirmation by the competent authorities, were vitiated by the absence of recorded reasons and were based solely on an alleged extra-judicial confession. Recording reasons is an essential requirement of quasi-judicial decision-making, as it promotes transparency, fairness, and accountability while minimizing arbitrariness. This obligation applies to administrative authorities exercising quasi-judicial powers. Although reasons need not be as detailed as a judicial judgment, they must adequately disclose the basis of the decision.

15. The respondent authority is represented by Mr. Siddhartha Lahiri, learned advocate. The respondent has contended that in accordance with the provisions of the statute and due to proof of guilt of the offence of the petitioner in a duly constituted proceeding before the GSFC, the respondent authority is empowered pursuant to the provisions of the statute itself to impose a sentence of dismissal of service of the petitioner. It is also submitted that so far as the proceeding conducted before the GSFC is concerned, the same has been done in due compliance with the provisions and formalities provided in the law. Also that the petitioner has

been provided with the copy of the proceeding order and sentence, hence, according to the respondent, petitioner's grievance as to non-receipt of any copy of the proceeding is only baseless.

16. It is further submitted that on proof of a misconduct/offence under Section 40 of the BSF Act since the statute is said to have empowered the respondent authority to grant any punishment including a sentence for dismissal of service, the respondent challenges the petitioner's argument of disproportionality of the sentence, for the said reason. It is stated that, it is only in terms of the statute and commensurate to the offence/misconduct proved against the petitioner in a duly constituted GSFC, the punishment of dismissal has been granted against him. It has been submitted that power of judicial review is meant to ensure that the individual receives fair treatment and not to adjudicate or ensure that the conclusion which the authority has reached to, is necessarily correct in the eye of the Court. That the Force Court is empowered and competent as the sole judge of facts. The Appellate Authority has coextensive power to re-appreciate the evidence or nature of punishment. According to the respondent, both have discharged their respective statutory duties directly in terms of law and there can be found no impropriety in the same. In such an event, the order and sentence of the GSFC which has been affirmed subsequently by the Director General of BSF for dismissal of service of the present petitioner needs no interference by this Court. In this regard, Mr. Samanta has relied on the judgement of the Supreme Court in ***Union of India and Others versus Subrata Nath*** reported in **2022 SCC Online SC 1617**.
17. Similarly, another case of Supreme Court has been referred to by Mr. Lahiri in ***Union of India versus P. Gunasekaran*** reported in **2015 2 SCC 610**. The Supreme Court has observed that, High Court may not act an Appellate Authority in a disciplinary proceeding; that there is no scope for recognition of evidence or interference with the conclusion in enquiry, in case the same has been conducted in accordance with law. That, in judicial review in a disciplinary proceeding, the Constitutional Court may only enquire about the

competency of the authority holding the enquiry or the procedure adopted by the same if was in accordance with law and principles of natural justice were not violated by the authority. Fairness, non-arbitrariness, reasonableness of the proceeding are tests before the Court for sustaining the final decision of a disciplinary authority.

18. To the allegation of the petitioner that order of his dismissal as well as confirmation of the same by the Director General of BSF has been a non-speaking and unreasoned one, therefore, arbitrary in nature is replied by the respondent with aid of another Supreme Court verdict in ***Union of India and Another Vs. Dinesh Kumar, (2010) 3 SCC 161***. In the said judgment, the Court was deciding the appeals on the question whether the Summary Security Force Court (SSFC) is required to give reasons in support of its verdict and whether the Appellate Authority under Section 117(2) is required to give reasons while considering the correctness, legality or propriety of the order passed. The Court has relied on a Constitution Bench decision in ***S.N. Mukherjee Vs. Union of India, (1990) 4 SCC 594*** that the reasons would not be required to be given by the SSFC under Rule 149 or by the Appellate Authority under Section 117(2) of the Act.
19. In ***S.N. Mukherjee (Supra)*** at Paragraph 44, the Court has recorded while considering provisions of the Army Act and Rules that ***“at the stage of recording of findings and sentence, the Court Martial is not required to record its reasons”***. In the said judgment, the Supreme Court has further held that: -

“Except in cases where the requirement has been dispensed with expressly or by necessary implication, an administrative authority exercising judicial or quasi-judicial functions must record the reasons for its decision.”

The Court was of the view that such reasons, if recorded, would enable the higher courts like the Supreme Court and the High Courts to effectively exercise the appellate or supervisory power. It also expressed (at SCC p. 612, para 35) that the requirement of recording reasons would necessarily

“(i) guarantee consideration by the authority;

(ii) introduce clarity in the decisions; and

(iii) minimise chances of arbitrariness in decision-making".

This Court also further held that the reasons need not be as elaborate, as in the decision of a court of law and that the extent and nature of the reasons would depend on particular facts and circumstances."

20. Lastly, Mr. Lahiri, learned advocate has relied on a Delhi High Court judgment **R.K. Sharma versus Union of India and Others** reported in **2024 SCC OnLine Del 9727** which takes into its realm the well-defined proposition of law that the Writ Court may not act as Appeal Court particularly in case of an impugned order passed by a fact finding authority.
21. At the outset, it is necessary to bear in mind the settled principles governing judicial review of proceedings conducted under the Border Security Force Act, 1968. A Security Force Court constituted under the Act is a specialised statutory adjudicatory forum entrusted with the maintenance of discipline within a uniformed force, charged with safeguarding the security of the nation. The Constitutional power of judicial review exercised under Article 226 of the Constitution over findings and sentence recorded by a GSFC is therefore not appellate in nature. The doctrine of institutional competence recognises that questions relating to discipline, operational integrity and standards of conduct within the Armed and Paramilitary Forces fall primarily within the domain of the competent statutory authorities constituted under the relevant enactment. The doctrine of limited judicial review in matters arising from Court Martial and Security Force Court proceedings stands consistently recognised by judicial precedents. The Writ Court does not sit in appeal over the findings recorded by the Force Court. It neither reassesses nor re-appreciates evidence for arriving at an independent conclusion on facts. Interference is warranted only where there is demonstrable lack of jurisdiction, violation of mandatory statutory provisions, breach of principles of natural justice, patent perversity, manifest arbitrariness, mala fides or an error apparent on the face of the record. Unless such exceptional circumstances are established, findings recorded by the competent fact-finding authority are entitled to judicial deference.

- 22.** The primary fact-finding authority in this case is the GSFC and its finding is the genesis of dispute. The question is if the said primary fact-finding authority has adopted due procedure under the law in an unbiased and transparent manner or not. The GSFC, after recording evidence, considering the defence of the petitioner and evaluating the entire materials placed before it, returned findings of “not guilty” in respect of Charge Nos. I and II and findings of “guilty” in respect of Charge Nos. III, IV and V. Such findings are findings of fact rendered by the authority statutorily empowered to appreciate oral and documentary evidence. This Court cannot substitute its own opinion merely because another view may also be possible on the evidence available.
- 23.** The petitioner has not been able to demonstrate any jurisdictional error in the constitution of the GSFC or in the conduct of the trial. The records disclose that prior to commencement of the trial, Staff Court of Inquiry and additional Staff Court of Inquiry proceedings were conducted. Thereafter, hearing of charge under Rule 45B of the Border Security Force Rules, 1969 was undertaken and Record of Evidence was prepared. The charge-sheet was thereafter framed on the basis of materials emerging from such proceedings. The impugned order further records that copies of the relevant proceeding were made available to the petitioner for preparation of his defence. Objections relating to jurisdiction and maintainability of the charges were specifically raised before the GSFC, considered and rejected by a reasoned determination during the course of trial itself. This Court does not find any violation of the statutory framework contained in the Border Security Force Act, 1968 and the Border Security Force Rules, 1969.
- 24.** The petitioner has sought to contend that the proceedings stood vitiated on account of alleged violation of Rule 129 of the Border Security Force Rules, 1969. Such contention also does not merit acceptance. Rule 129 confers a right upon a person tried by a Security Force Court to obtain copies of the proceedings after confirmation of the findings and sentence. Even assuming that there was some delay in supply of the

proceedings, the petitioner has failed to demonstrate any prejudice caused thereby. The doctrine of prejudice is now firmly embedded in administrative and disciplinary jurisprudence. Every procedural irregularity does not ipso facto vitiate the proceedings unless failure of justice is shown to have resulted therefrom. In the present case, no material prejudice affecting the defence of the petitioner has been established.

- 25.** The petitioner has further argued that once Charge Nos. I and II under Section 46 of the Act failed, the remaining charges under Section 40 of the Act necessarily had to fail. This submission proceeds on an erroneous understanding of the nature of the charges framed against the petitioner. The doctrine of severability of charges clearly applies in the facts of the case. A plain reading of the charge-sheet reveals that Charge Nos. III, IV and V were independent charges alleging acts prejudicial to good order and discipline under Section 40 of the Border Security Force Act, 1968. The ingredients required to establish offences under Section 40 are distinct from those necessary to prove offences under Section 46 read with the Prevention of Corruption Act. Failure to establish the specific ingredients constituting criminal misconduct under Section 46 does not automatically result in failure of charges relating to conduct prejudicial to good order and discipline. Each charge has to be assessed on its own evidence and according to its own statutory ingredients. The GSFC appears to have adopted precisely such an approach only. The fact that the Court acquitted the petitioner of Charge Nos. I and II itself demonstrates independent application of mind to the evidence. Had the proceeding been predetermined or mechanical, as alleged by the petitioner, there would have been no occasion for recording acquittal on two charges while simultaneously convicting him on the remaining three. The acquittal on some charges and conviction on others is in fact indicative of careful appreciation of evidence charge-wise and not of arbitrariness.
- 26.** The petitioner has further contended that evidence not accepted for proving the charges under Section 46 of the said

Act was relied upon for sustaining the charges under Section 40 thereunder. The submission is misconceived. The same factual matrix may legitimately give rise to different legal consequences depending upon the ingredients of the offences alleged. Failure to prove criminal misconduct involving pecuniary advantage beyond the level required for the offence under Section 46 of the BSF Act, does not preclude the Force Court from considering whether the underlying conduct nevertheless constituted behaviour prejudicial to good order and discipline under Section 40 of the said Act. Such an exercise is legally permissible and cannot be termed contradictory. The Court further finds that the impugned order contains cogent reasons for rejecting the petitioner's contentions. The authority has specifically recorded that the GSFC had discussed the evidence relevant to each charge and that the Law Officer had summarised the entire evidence during the course of trial. The authority further recorded that the petitioner had not demonstrated how the findings suffered from any legal infirmity. This Court finds no arbitrariness in such reasoning.

27. The contention regarding absence of reasons in the findings and confirmation proceedings is equally untenable. Proceedings before Security Force Courts stand on a distinct statutory footing. The law laid down by the Constitution Bench in **S.N. Mukherjee (supra)** and subsequently reiterated in **Dinesh Kumar (supra)** recognises that recording of elaborate reasons at every stage of Security Force Court proceeding is not a statutory requirement where such requirement stands excluded expressly or by necessary implication. In any event, the impugned order presently under challenge furnishes adequate reasons while dealing with the petitioner's objections. Therefore, the ratio of **Amar Singh Bhati (supra)** relied upon by the petitioner is distinguishable on facts and affords no assistance to him. Equally inapplicable are the decisions relied upon by the petitioner in **Roop Singh Negi (supra)**, **B.N. Jha (supra)** and other service jurisprudence cases. Those decisions arose in materially different factual and statutory settings concerning departmental proceedings in civil services. The present case

concerns adjudication by a GSFC constituted under a special enactment governing a disciplined force. The procedural architecture, statutory objectives and judicial standards applicable to Security Force Court proceedings are fundamentally different. Consequently, the said authorities do not advance the petitioner's case.

- 28.** So far as the doctrine of proportionality is concerned, there can be no quarrel with the proposition that in exceptional cases the Constitutional Court may interfere where the punishment imposed is outrageously disproportionate or shocks the conscience of the Court. However, the doctrine is not an invitation for substitution of judicial opinion in place of the assessment of the Force trial court. The proportionality test in matters concerning members of disciplined forces must necessarily be applied bearing in mind the heightened standards of integrity, discipline and accountability expected from such personnel. Section 40 of the Border Security Force Act itself prescribes serious consequences for acts prejudicial to good order and discipline. The findings recorded against the petitioner concern misuse of official position, unauthorised conduct in relation to seized cattle and retention of personnel without authority. Such acts strike at the discipline and integrity of the Force. Once the misconduct stood established before the competent statutory forum, the disciplinary authority was entitled to consider the impact of such conduct on institutional discipline. Still, the authority in exercise of its discretion did not grant the highest punishment as enumerated in section 40 of the Act but resorted to the hierarchical lesser punishment as categorized in section 48 of the statute. Therefore, it is not an exceptional case of that nature where a writ court can interfere due to the punishment being wholly outside the statutory framework or gross procedural illegality, mala fide or arbitrariness, or that the punishment being so outrageously disproportionate that it shocks the conscience of the Court, all these being the criteria for interference by this Court in an order and sentence of GSFC.

29. The impugned order specifically records that before awarding sentence, the GSFC considered the previous convictions, character, rewards and service particulars of the petitioner. It further records that the offences under Section 40 of the Act carried punishment extending up to imprisonment and that after considering the entire circumstances, the Court awarded dismissal from service. Thus, the relevant factors were taken into account while determining punishment. The decision-making process therefore stands protected by the doctrine of informed discretion. This Court is unable to hold that dismissal from service, in the facts of the present case, is so outrageously disproportionate as to shock the conscience of the Court. The doctrine of proportionality does not permit interference merely because a lesser punishment could also have been imposed. Judicial review is concerned with the legality of the decision-making process and not with substitution of the Court's subjective view regarding the appropriate penalty. The punishment awarded cannot be characterised as irrational, perverse or manifestly excessive.
30. The judgments in ***Ranjit Thakur (supra)***, ***Hazarilal (supra)*** and ***G.M. Gouzaming Kuki (supra)*** relied upon by the petitioner are distinguishable. The principles relating to proportionality laid down therein are unexceptionable. However, those authorities do not lay down that every dismissal from service in a disciplinary proceeding is liable to be interfered with. Interference is warranted only where the punishment is shockingly disproportionate. Such exceptional circumstances are absent in the present case. On the contrary, the principles laid down in ***Subrata Nath (supra)***, ***P. Gunasekaran (supra)*** and ***R.K. Sharma (supra)*** reinforce the limited nature of judicial review in disciplinary and Security Force Court matters. The Court is concerned only with examining the legality, fairness and procedural regularity of the process and not with re-appreciation of evidence or reassessment of punishment.
31. Having examined the records and the impugned order in the light of the aforesaid doctrinal principles, this Court finds no procedural irregularity, no breach of natural justice, no

jurisdictional defect, no patent illegality, no mala fides and no manifest arbitrariness warranting interference under Article 226 of the Constitution. The findings recorded by the GSFC are findings of fact rendered by the competent authority upon appreciation of evidence. Reappraisal thereof is impermissible within the scope of judicial review. For all the aforesaid reasons, this Court finds that the respondent authority was justified in affirming the findings and sentence recorded by the GSFC. The challenge by the petitioner consequently fails. The impugned order dated November 13, 2017 does not suffer from any infirmity requiring interference by this Court.

- 32.** For all the reasons as discussed above, the present writ petition being WPA No. 30535 of 2017 is dismissed. Application/s if any, stand/s disposed of.
- 33.** Urgent certified copy of this judgment, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Rai Chattopadhyay, J.)