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**(2003) 06 PAT CK 0034**  
**In the Patna High Court**  
**Case No : C.W.J.C. No. 5121 of 2003**

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| D.S. Prasad (Deosharan Prasad)  | Vs | APPELLANT  |
| Union of India (UOI) and Others |    | RESPONDENT |

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**Date of Decision :** 25-06-2003

**Acts Referred:**

**Citation :** (2003) 4 PLJR 644

**Hon'ble Judges :** Chandramauli Kr. Prasad, J

**Bench :** Single Bench

**Advocate :** Madan Mohan Prasad and Indradeo Prasad, for the Appellant; P.K. Shahi, for Union of India, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Chandramauli Kr. Prasad, J.—Petitioner was a Head Constable in the Central Industrial Security Force. A departmental proceeding was initiated against him on the allegation that he, assaulted another constable by small stick on his head resulting into injury on his head and was given six stitches in the hospital. The Inquiry Officer held the Petitioner guilty of the charge. The disciplinary authority by order dated 22.5.2002 (Annexure-5) imposed the punishment of reduction in the scale of pay by four stages. Aggrieved by the same, Petitioner preferred appeal. The appellate authority prima facie finding that the penalty imposed on the Petitioner by the disciplinary authority did not commensurate with the gravity of allegation and accordingly issued notice to the Petitioner and ultimately by order dated 9.10.2002 (Annexure-4) imposed the punishment of compulsory retirement from service. However, it was made clear that the Petitioner shall be entitled to the pensionary benefits. Petitioner thereafter preferred appeal and the Inspector General of the Central Industrial Security Force by order dated 20.3.2003 (Annexure-3) dismissed the same.

2. Aggrieved by the aforesaid orders, Petitioner has preferred this writ application and prays for quashing of the orders dated 21st/22nd May, 2002 (Annexure-5), 9th of October, 2002 (Annexure-4) and order dated 20th of March,

3. Mr. Madan Mohan Prasad appearing on behalf of the Petitioner submits that the finding recorded by the enquiry officer, the disciplinary authority and the appellate authority are erroneous and in that view of the matter the punishment imposed on the Petitioner is fit to be interfered with by this Court in exercise of its writ jurisdiction. It is well settled that this Court does not act as a court of appeal in relation to the finding recorded by the departmental authorities. It interferes with the same only when it is shown that the finding recorded by the authority is perverse, meaning thereby that the same has been rendered without consideration of the relevant material or on consideration of irrelevant material or a reasonable person duly instructed in law shall not come to the said conclusion. Here in the present case on appraisal of the material as also on consideration of the defence of the Petitioner the finding has been recorded and as such same cannot be said to be perverse calling for interference by this Court in exercise of its writ jurisdiction. In view of aforesaid the submission made by Mr. Prasad has no force.

4. Mr. Prasad then contends that the punishment of compulsory retirement is disproportionate to the gravity of the allegation. It is trite that what punishment a particular delinquent deserves is primarily the function of the authority and the court interferes with the same only when it is shown that the same is disproportionate to the gravity of allegation or in other words shocking to the conscience of the Court. Here in the present case Petitioner was Head Constable in Central Industrial Security Force. Allegation proved against him is that he had assaulted another constable by stick causing injury on his head which required six stitches. I am of the opinion that when a member of the force assaults another member of the force, punishment of compulsory retirement, which does not deprive him the pensionary benefit is not shocking to the conscience of the Court and as such no interference is called for.

5. I do not find any merit in the application and it is dismissed accordingly.