

(2025) 05 OHC CK 1195

In the Orissa High Court

Case No : Writ Appeal No. 3171 Of 2024

Sarangadhar Panigrahi

APPELLANT

Vs

State Of Odisha And Others Vs

RESPONDENT

Date of Decision : 15-05-2025

Acts Referred:

Constitution of India, 1950 — Article 32, 226, 227
Indian Penal Code, 1860 — Section 376

Citation : (2025) 05 OHC CK 1195

Hon'ble Judges : Harish Tandon, CJ;B.P. Routray, J

Bench : Division Bench

Advocate : D.N. Pattnaik, A. Dash

Final Decision : Dismissed

Judgement

Harish Tandon, CJ.

1. The instant appeal is at the behest of a delinquent officer assailing the judgment dated 16th July, 2024 passed by the single Bench allowing W.P.(C) No.6339 of 2020 and dismissing W.P.(C) No.317 of 2020.

2. The aforementioned writ petitions were filed by the appellant challenging the disciplinary proceedings initiated on the basis of diverged charges which culminated into an order of imposing a penalty of a black mark. So far as W.P.(C) No.6339 of 2020 is concerned, the same originated on the basis of a charge leveled against the appellant on failure to arrest the accused namely, Trigat Kharsel in a dowry harassment case and facilitated the said accused to escape from the police station on the night of 22nd/23rd June, 2011. The additional charge was also framed against the appellant on failure to take any action against the Constable Manoj Hota, who allegedly misbehaved with the victim.

3. W.P.(C) No.317 of 2020 ensued from another order of punishment of two black marks in relation to the charges pertaining to failure to take appropriate steps as required in law to be adhered to by an investigating officer.

4. The aforementioned charges are succinctly jotted down which would be elaborately discussed in the latter portion of this judgment for the simple reason that in respect of the punishment imposed upon the appellant in relation to a dowry harassment case, the single Bench interfered with the quantum of the punishment on the premise of violation of principles of natural justice and disproportionate to the charge thereby shocking the conscience of the Court. The State has not assailed the said order by filing an independent appeal nor has filed any cross objection in the instant appeal as both the writ petitions were disposed of by a common judgment. For the reason aforesaid, we do not delve to go into the nitty-gritty of the observations made in respect of those charges and confine our scrutiny to the findings returned by the single Bench in respect of the other charges which were held by the authorities to have been proved and the penalty of two black marks were imposed which has been held by the single Bench to be proper and in consonance with law.

5. In order to bring clarity in pursuit of ascertaining the legality and the correctness in the finding of the single Bench, a prelude to initiation of a disciplinary proceeding is required to be adumbrated. The charge-sheet dated 31st May, 2013 was issued to the appellant alleging that during the investigation of Titilagarh P.S. Case No.104 of 2011, the appellant miserably failed to arrest the accused namely, Duryodhana Behera, nor informed the SDJM, Titilagarh or the High Court on his involvement in a rape case. The said charge-sheet further proceeds that the appellant did not take any steps to seize the apparel of the accused nor conducted the medical examinations of both the accused and the victim, which tantamount to a gross misconduct and negligence in discharge of the solemn duty cast upon the investigating officer during investigation. Such dereliction on the part of the appellant facilitates the said accused to be enlarged on bail. After service of the charge-sheet, further time was sought by the appellant to respond by offering his explanation to the said charges with an additional prayer for supply of the necessary documents including the base report of one Shri D.K.Purohit. Subsequently, the explanation was submitted on 12th July, 2013, which was not found satisfactory and the inquiry was directed to commence against the appellant. Another representation was made on 13th September, 2013 for supply of the said base report which was duly responded to by the higher officials with categorical instruction to supply the copy of the same to the appellant. The base report dated 12th September, 2012 was supplied to the appellant, but the insistence was made for supply of a base report dated 6th September, 2012. The written defence was submitted after receiving the base report dated 12th September, 2012 taking a multiple defences with the prayer to drop such charges against the appellant. The competent authority did not find such written defence satisfactory and the guilt of the appellant to the aforementioned charges was upheld vide order dated 23rd September, 2018. The said order was communicated to a higher authority who concurred with the finding of the inquiry officer and issued a second show-cause notice as to why the report of the inquiry officer be not accepted. Subsequently, the punishment

by imposing two black marks was issued against the appellant. Though the further representation was made, but ultimately the writ petition came to be filed, which is dismissed by the single Bench.

6. The counsel for the appellant has vociferously submitted that the charge-sheet was submitted without supplying the base report and, thus, there is an apparent violation of the principles of natural justice. It is further submitted that at the time of lodging FIR, the victim did not disclose any element to constituting a rape under Section 376 of the Indian Penal Code (IPC) which would be revealed from her statement that she voluntarily eloped with the accused having developed a romantic relationship. It is arduously submitted that the victim was major at the time of commission of the offence and capable of giving consent for a physical relationship. It is vehemently submitted that the appellant has taken all reasonable care as required by a responsible investigator contemplated under the relevant provision of the Code of Criminal Procedure (Cr.P.C.) and, therefore, cannot be punished for a misconduct which on the face of it has not been committed. It is thus submitted that after the investigation was shifted to another officer, subsequently Section 376 of the IPC was included, but the accused was exonerated of committing any offence under the said charging Section by the sessions Court. In order to impress upon the Court, it is submitted that the appellant had been awarded two hundred different rewards as a best officer having an unblemished service career and, therefore, it is inconceivable that the appellant would commit any misconduct in discharge of the duties.

7. On the other hand, the State-respondents have refuted the contention of the appellant to the extent of violation of principles of natural justice. According to the learned Additional Standing Counsel for the State, the appellant was given ample opportunity to defend the disciplinary proceeding and the authority did not find such explanation to be satisfactory and imposed the punishment of two black marks which cannot be said to be irrational and/or unreasonable. It is further submitted that the documents, which are irrelevant and not considered by the authority in the process of arriving at the guilty to the charges, if not supplied, shall not vitiate the disciplinary proceeding nor would come within the purview of the violation of principles of natural justice. It is arduously submitted that the writ Court should not interfere into the punishment nor should act as an appellate Court to re-appreciate the evidence, but must confine its scrutiny to the violation of the principles of natural justice or statutory Rules applicable in this regard. It is thus submitted that there is no infirmity and/or illegality in the judgment of the single Bench in refusing to interfere with the punishment imposed upon the appellant and, therefore, the appeal warrants dismissal.

8. On the conspectus of the facts and submissions so advanced, it would be apposite to recapitulate the scope and jurisdiction of the writ Court exercising power under Article 226 of the Constitution of India in relation to a disciplinary proceeding and the punishment imposed by the competent authority on the perceived misconduct against the delinquent. The three Judge Bench of the

Supreme Court in case of *State of Andhra Pradesh v. S. Sree Rama Rao*, AIR 1963 SC 1723 succinctly held that the power under Article 226 of the Constitution of India cannot be infused with the power bestowed upon the appellate authority or the appellate Court and the safeguard is to be made in particular to a disciplinary/departmental inquiry conducted by the authorities against his officer for misconduct. The writ Court exercises such jurisdiction emanating from Article 226 of the Constitution of India in the limited sphere where the natural justice is manifestly violated in the following:

"7. There is no warrant for the view expressed by the High Court that in considering whether a public officer is guilty of the misconduct charged against him, the rule followed in criminal trials that an offence is not established unless proved by evidence beyond reasonable doubt to the satisfaction of the Court, must be applied, and if that rule be not applied, the High Court in a petition under Article 226 of the Constitution is competent to declare the order of the authorities holding a departmental enquiry invalid. The High Court is not constituted in a proceeding under Article 226 of the Constitution a Court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence. The High Court may undoubtedly interfere where the departmental authorities have held the proceedings against the delinquent in manner inconsistent with the rules of natural justice or in violation of the statutory rules prescribing the mode of enquiry or where the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by allowing themselves to be influenced by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could ever have arrived at that conclusion, or on similar grounds. But the departmental authorities are, if the enquiry is otherwise properly held, the sole judges of facts and if there be some legal evidence on which their findings can be based, the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before the High Court in a proceeding for a writ under Article 226 of the Constitution."

9. The apex Court in the above noted decision though restricted the interference with the department/disciplinary proceeding on the violation of principles of natural justice, but was further conscious that if in pursuit of finding the delinquent guilty of misconduct, the authority proceeded on the basis of some evidence, the interference must be avoided. However, in another judgment of the apex Court rendered in *Union of India v. H.C. Goel*, AIR 1964 SC 364, the apex

Court highlighted the concept of perversity in arriving at the conclusion provided the same is apparent on the face of the record. It expanded the horizon of the interference concerning the departmental proceeding where the conclusion reached by the disciplinary authority suffers from patent error on the face of the record or such authority proceeded on the basis of a notion uncorroborated by any evidence.

10. The constitution Bench of the apex Court in *State of Orissa v. Bidyabhusan Mohapatra*, AIR 1963 SC 779 unequivocally held that the power of the disciplinary authority in imposing punishment against the delinquent officer should not ordinarily be opened to scrutiny on the gravity of this stabulous misconduct. It was held that if the inquiry officer or the disciplinary authority arrived at the finding on the basis of the evidence or the material placed before it in establishing the charges of misconduct, it does not invite an interference by the writ Court simplicitor on the basis that some of the findings offends the principles of natural justice.

11. However, in *Union of India v. Upendra Singh*, (1994) 3 SCC 357, the apex Court held that though the High Court exercising jurisdiction under Article 226 of Constitution of India is not bound by the technical rules as followed in United Kingdom for issuance of the prerogative writs, yet the basic principles keeping in mind the broad aspect thereof in regulating the exercise thereof should ordinarily be ensured.

12. Notwithstanding the basic principles adhered by the English Courts in issuance of the prerogative writs, the Courts of our country have uniformly adopted a restraint in exercise of powers under Article 226 of the Constitution of India within the limited compass and not to be blended with the powers inhered into an appellate Court; more precisely, the writ Court should not act as an appellate Court to go deep in re-appreciating the evidence or reappraisal of an evidence which is within the domain of the disciplinary authority and such apparent line of distinction should not be blurred. The apex Court in case of *B.C. Chaturvedi v. Union of India*, (1995) 6 SCC 749 promoted the aforesaid aspect in the following:

"12. Judicial review is not an appeal from a decision but a review of the manner in which the decision is made. Power of judicial review is meant to ensure that the individual receives fair treatment and not to ensure that the conclusion which the authority reaches is necessarily correct in the eye of the court. When an inquiry is conducted on charges of misconduct by a public servant, the Court/Tribunal is concerned to determine whether the inquiry was held by a competent officer or whether rules of natural justice are complied with. Whether the findings or conclusions are based on some evidence, the authority entrusted with the power to hold inquiry has jurisdiction, power and authority to reach a finding of fact or conclusion. But that finding must be based on some evidence. Neither the technical rules of Evidence Act nor of proof of fact or evidence as defined therein, apply to disciplinary proceeding. When the authority accepts that evidence and

conclusion receives support therefrom, the disciplinary authority is entitled to hold that the delinquent officer is guilty of the charge. The Court/Tribunal in its power of judicial review does not act as appellate authority to reappraise the evidence and to arrive at its own independent findings on the evidence. The Court/Tribunal may interfere where the authority held the proceedings against the delinquent officer in a manner inconsistent with the rules of natural justice or in violation of statutory rules prescribing the mode of inquiry or where the conclusion or finding reached by the disciplinary authority is based on no evidence. If the conclusion or finding be such as no reasonable person would have ever reached, the Court/Tribunal may interfere with the conclusion or the finding, and mould the relief so as to make it appropriate to the facts of each case."

13. The aforesaid principles of law is reinstated and reiterated in a subsequent decision rendered by the apex Court in *Rae Bareilly Kshetriya Gramin Bank v. Bhola Nath Singh*, (1997) 3 SCC 657 in the following:

"6. Under these circumstances, the question arises whether the High Court would be correct in law to appreciate the evidence and the manner in which the evidence was examined and to record a finding in that behalf. Judicial review is not akin to adjudication of the case on merits as an appellate authority. The High Court, in the proceedings under Article 226 does not act as an appellate authority but exercises within the limits of judicial review to correct errors of law or procedural errors leading to manifest injustice or violation of principles of natural justice. In this case, no such errors were pointed out nor any finding in that behalf was recorded by the High Court. On the other hand, the High Court examined the evidence as if it is a court of first appeal and reversed the finding of fact recorded by the enquiry officer and accepted by disciplinary authority. Under these circumstances, the question of examining the evidence, as was done by the High Court, as a first appellate court, is wholly illegal and cannot be sustained."

14. In *State Bank of India v. Ram Lal Bhaskar*, (2011) 10 SCC 249, the apex Court while reiterating the principles of law enunciated from the reports as relied hereinabove, unequivocally held that it is not proper on the part of the writ Court to go into the nuances of the evidence and upon re-appreciating the same interfered with the decision of the disciplinary authority that such view is not acceptable. It is highlighted that the moment the conclusion is arrived by the disciplinary authority on the basis of some evidence, the High Court under Article 226 of the Constitution of India should not substitute itself into the position of a disciplinary authority and arrive at the conclusion that the decision is unacceptable in the following:

"12. This Court has held in *State of A.P. v. S. Sree Rama Rao* [AIR 1963 SC 1723] : (AIR pp. 1726-27, para 7)

"7. ... The High Court is not constituted in a proceeding under Article 226 of the

Constitution a court of appeal over the decision of the authorities holding a departmental enquiry against a public servant: it is concerned to determine whether the enquiry is held by an authority competent in that behalf, and according to the procedure prescribed in that behalf, and whether the rules of natural justice are not violated. Where there is some evidence, which the authority entrusted with the duty to hold the enquiry has accepted and which evidence may reasonably support the conclusion that the delinquent officer is guilty of the charge, it is not the function of the High Court in a petition for a writ under Article 226 to review the evidence and to arrive at an independent finding on the evidence."

13. Thus, in a proceeding under Article 226 of the Constitution, the High Court does not sit as an appellate authority over the findings of the disciplinary authority and so long as the findings of the disciplinary authority are supported by some evidence the High Court does not reappreciate the evidence and come to a different and independent finding on the evidence. This position of law has been reiterated in several decisions by this Court which we need not refer to, and yet by the impugned judgment the High Court has reappreciated the evidence and arrived at the conclusion that the findings recorded by the enquiry officer are not substantiated by any material on record and the allegations levelled against Respondent 1 do not constitute any misconduct and that Respondent 1 was not guilty of any misconduct."

15. The apex Court in case of *Union of India v. P. Gunasekaran*, AIR 2015 SC 545 exhaustively called out the principles relating to interference in a matter pertaining to a disciplinary proceeding and the scope and jurisdiction to be exercised in this regard in the following:

"13. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, re-appreciating even the evidence before the enquiry officer. The finding on Charge No. 1 was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Article 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:

- a. the enquiry is held by a competent authority;
- b. the enquiry is held according to the procedure prescribed in that behalf;
- c. there is violation of the principles of natural justice in conducting the proceedings;
- d. the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case; e. the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;

- f. the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;
- g. the disciplinary authority had erroneously failed to admit the admissible and material evidence;
- h. the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;
- i. the finding of fact is based on no evidence. Under Article 226/227 of the Constitution of India, the High Court shall not:
 - (i). re-appreciate the evidence;
 - (ii). interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;
 - (iii). go into the adequacy of the evidence;
 - (iv). go into the reliability of the evidence;
 - (v). interfere, if there be some legal evidence on which findings can be based.
 - (vi). correct the error of fact however grave it may appear to be;
 - (vii). go into the proportionality of punishment unless it shocks its conscience."

16. The law enunciated by the apex Court in the earlier reports is reiterated in a subsequent decision rendered by the apex Court in *United Bank of India v. Biswanath Bhattacharjee*, (2022) 13 SCC 329 that the writ Court should not act as an appellate Court nor should re-appreciate the evidence delving deep into it in order to find out whether the conclusion of the disciplinary authority is proper. It is further held that though the rule of evidence or adherence to the provisions of the Evidence Act does not in stricto sensu applies to a domestic tribunal, yet the scrutiny of the writ Court should be limited to the extent of fairness and the reasonableness. The adequacy or inadequacy of the evidence or its reliability cannot be a ground for interference provided that the conclusion so arrived withstand on the parameters of the wednesbury principle.

"19. Other decisions have ruled that being a proceeding before a domestic tribunal, strict rules of evidence, or adherence to the provisions of the Evidence Act, 1872 are inessential. However, the procedure has to be fair and reasonable, and the charged employee has to be given reasonable opportunity to defend himself (ref : *Bank of India v. Degala Suryanarayana* [*Bank of India v. Degala Suryanarayana*, (1999) 5 SCC 762 : 1999 SCC (L&S) 1036] a decision followed later in *Punjab & Sind Bank v. Daya Singh* [*Punjab & Sind Bank v. Daya Singh*, (2010) 11 SCC 233 : (2010) 2 SCC (L&S) 758]). In *Moni Shankar v. Union of India* [*Moni Shankar v. Union of India*, (2008) 3 SCC 484 : (2008) 1 SCC (L&S) 819] this Court outlined what judicial review entails in respect of orders made by the disciplinary authorities : (*Moni Shankar case* [*Moni Shankar v. Union of India*, (2008) 3 SCC 484 : (2008) 1 SCC (L&S) 819] , SCC p. 492, para 17)

"17. The departmental proceeding is a quasi-judicial one. Although the provisions of the Evidence Act are not applicable in the said proceeding, principles of natural justice are required to be complied with. The courts exercising power of judicial review are entitled to consider as to whether while inferring commission of misconduct on the part of a delinquent officer relevant piece of evidence has been taken into consideration and irrelevant facts have been excluded therefrom. Inference on facts must be based on evidence which meet the requirements of legal principles. The Tribunal was, thus, entitled to arrive at its own conclusion on the premise that the evidence adduced by the Department, even if it is taken on its face value to be correct in its entirety, meet the requirements of burden of proof, namely, preponderance of probability. If on such evidence, the test of the doctrine of proportionality has not been satisfied, the Tribunal was within its domain to interfere.

20. This Court struck a similar note, in *State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya* [*State Bank of Bikaner & Jaipur v. Nemi Chand Nalwaya*, (2011) 4 SCC 584 : (2011) 1 SCC (L&S) 721] , where it was observed that : (SCC p. 587, para 7)

"7. ... If the enquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, courts will not interfere with findings of fact recorded in departmental enquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or finding, on the material on record."

17. In a recent decision rendered in the *State Bank of India v. K.S. Vishwanath*, (2022) 15 SCC 190, the apex Court upon taking into consideration the earlier decision touching upon the point of interference by the writ court in a departmental proceeding adopted the ratio as laid down therein that the writ Court should not act as an appellate Court nor to re-appreciate the evidence.

18. What emanates from the ratio laid down in the catena of decisions referred hereinbefore that the writ Court exercises the powers under Article 226 of the Constitution of India in relation to a departmental proceeding within the limited contour and does not act as an appellate Court in its ordinary sense. The inquiry officer or a disciplinary authority is not strictly guided by the provisions of the Evidence Act, but should act in a reasonable manner eradicating the sense in the mind of a delinquent that he had not been provided an adequate opportunity to defend the charges. The re-appreciation and/or reappraisal of the evidence by the writ Court under Article 226 of the Constitution of India should be guarded against and the moment the writ Court found that the conclusion of the disciplinary authority is based upon some evidence, the interference should be avoided.

19. However, the writ Court is not denuded of its power to interfere in a departmental proceeding, if the finding of the authority is found to be perverse i.e., based on no evidence or on the test of reasonableness. The power of the writ court is not brindled in the event the finding is such that no reasonable man is expected to take on the basis of the same. The writ Court can interfere and quash the departmental proceeding provided such proceeding is initiated or continued in blatant violation of the statutory rules applicable in this regard. There should be a strict adherence to the principles of natural justice and the decision of the disciplinary authority must pass the muster of fairness, transparency and the reasonability test.

20. The aforesaid principles are mere illustrative and not exhausted as there may be a situation where the interference becomes inevitable in securing the ends of justice. The aforesaid principles become stricter before the appellate Court against the order of the single Bench. The appellate Court should not interfere with the order of the single Bench as it found that though the facts invite two plausible views out of which one having adopted by the single Bench, but the other was equally applicable. The appellate Court should refuse to interfere with the order of the single Bench if out of two plausible views, one has been adopted.

21. Based upon the broad principles as discussed hereinabove, the single Bench has categorically held that the contention of the appellant that the base report dated 6th September, 2012 does not form the foundational basis for initiating the proceedings against the appellant, but upon the base report dated 12th September, 2012 which was duly supplied to the appellant with the opportunity to give explanation. The authorities clearly found that despite the victim having disclosed the elements relating to a commission of an offence under Section 376 of the IPC, yet the appellant did not incorporate the same which was subsequently incorporated after the investigation was transferred to another investigating officer. The fact finding authority further held that the medical examination of the accused and the victim in order to corroborate the statement of the victim girl on the commission of an offence was not done properly which was an ardent duty of the investigating officer.

22. Mere exoneration of an accused to be charged under the aforesaid charging Section in absence of any proof does not exonerate the appellant from the charge of dereliction in discharge of the duties. Since the authorities have relied on the evidence and there are sufficient prima facie materials available on the record, such finding does not warrant any interference under Article 226 of the Constitution of India.

23. So far as the proportionality of the penalty imposed upon the appellant is concerned, the law is well settled that the Court should not lightly interfere with the quantum of the punishment imposed by the disciplinary authority except on the ground of perversity or irrationality manifest on the face of it. The Court may interfere, if the punishment is disproportionate to the misconduct and striking at the conscience of the Court. The reliance can aptly be made to a decision of the

apex Court in case of Union of India v. Constable Sunil Kumar, (2023) 3 SCC 622 wherein it is held:

"11. Even otherwise, the Division Bench of the High Court has materially erred in interfering with the order of penalty of dismissal passed on proved charges and misconduct of indiscipline and insubordination and giving threats to the superior of dire consequences on the ground that the same is disproportionate to the gravity of the wrong. In Surinder Kumar [CRPF v. Surinder Kumar, (2011) 10 SCC 244 : (2012) 1 SCC (L&S) 398] while considering the power of judicial review of the High Court in interfering with the punishment of dismissal, it is observed and held by this Court after considering the earlier decision in Union of India v. R.K. Sharma [Union of India v. R.K. Sharma, (2001) 9 SCC 592 : 2002 SCC (Cri) 767] that in exercise of powers of judicial review interfering with the punishment of dismissal on the ground that it was disproportionate, the punishment should not be merely disproportionate but should be strikingly disproportionate. As observed and held that only in an extreme case, where on the face of it there is perversity or irrationality, there can be judicial review under Articles 226 or 227 or under Article 32 of the Constitution.

12. Applying the law laid down by this Court in the aforesaid decision(s) to the facts of the case on hand, it cannot be said that the punishment of dismissal can be said to be strikingly disproportionate warranting the interference of the High Court in exercise of powers under Article 226 of the Constitution of India. In the facts and circumstances of the case and on the charges and misconduct of indiscipline and insubordination proved, the CRPF being a disciplined force, the order of penalty of dismissal was justified and it cannot be said to be disproportionate and/or strikingly disproportionate to the gravity of the wrong. Under the circumstances also, the Division Bench of the High Court has committed a very serious error in interfering with the order of penalty of dismissal imposed and ordering reinstatement of the respondent."

24. We would be failing in our duty in not recording a discordant which we perceived in course of a hearing and from the judgment rendered by the single Bench that so far as the interference with the other charges leveled against the appellant is concerned, the single Bench has in fact interfered with it, both upon re-appreciating the evidence as well as on the ground of disproportionality. Since the State did not challenge the same by filing a counter appeal or a cross-objection, we do not intend to make any comment thereupon.

25. In view of the discussions made hereinabove, the appeal sans merit and is accordingly dismissed. No order to costs.

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