



2026:AHC:161774

HIGH COURT OF JUDICATURE AT ALLAHABAD
WRIT - A No. - 36421 of 2001

Devendra Misra

.....Petitioner(s)

Versus

Union Of India And Others

.....Respondent(s)

Counsel for Petitioner(s)	: Keshav Kumar Srivastava, Rajesh Yadav
Counsel for Respondent(s)	: A.S.G.I., Arvind Kumar Goswami, N.P.Shukla, S.C., S.N. Srivastava/Ssc

Court No. - 34
(Sl.No.19)

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Sri K.K. Tiwari, Advocate holding brief of Sri K.K. Srivastava, learned counsel for the petitioner and Sri Arvind Kumar Goswami, learned counsel for the respondents.

2. The instant writ petition has been filed by the petitioner seeking quashing of the order dated 18.05.2001 passed on the conclusion of the Summary Court Martial whereby the petitioner has been sentenced to six months imprisonment as well as dismissal from service on the proven and admitted guilt on the part of the petitioner.

3. The petitioner herein was working as Constable in Border Security Force (BSF) on 10.5.2001, when the Lance Naik Pawan Kumar of his platoon assigned him the operation duty at BOP Sawana, then the petitioner picked up his rifle, cocked and pointed towards said Lance Naik and threatened to kill him. Thereupon, the summary court martial was ordered wherein on 18.5.2001, the petitioner herein has pleaded guilty and claimed that he shall be awarded any punishment except dismissal from service and on the query by the Court Martial, whether he want to rely upon or examine any witness, then he categorically denied to avail any such opportunity. In such view of the matter, on the admitted guilt of the petitioner, the impugned order dated 18.05.2001 was passed whereby six months rigorous imprisonment was awarded to the petitioner along with dismissal from service. Thereupon, the instant writ petition has been filed by the petitioner. After the aforesaid order, the petitioner filed a

mercy petition before the Director General, BSF on 14.07.2001. The said mercy petition of the petitioner was also rejected vide order dated 18.10.2001. Initially, the petitioner has challenged the order of dismissal from service on 18.05.2001. However, later by way of amendment, he has also challenged the order passed on the mercy petition.

4. Learned counsel for the petitioner has taken this Court to the contents of the mercy petition and submits that mental condition of the petitioner was not very good due to his constraints, therefore, the mercy petition ought to have been granted to the petitioner and any punishment other than dismissal from service ought to have been awarded. Learned counsel for the petitioner has further submitted that by way of the impugned order dated 18.05.2005, the punishment of dismissal from service has been awarded to the petitioner without affording any opportunity of hearing to the petitioner and without following the due procedure as provided under Rule 22 of Border Security Force Rules, 1969 and in support of his submission, he has relied upon the judgment of Apex Court in **Union of India and another vs Tulsiram Patel, AIR 1985 SC 1416**, wherein it has been held that once a person has been convicted on a criminal charge and if such conviction warrants an imposition of the penalty in the disciplinary proceeding and for determination by the disciplinary authority, what punishment ought to have been awarded, the disciplinary proceedings ought to have been initiated after granting due opportunity of hearing to the petitioner. Therefore, learned counsel for the petitioner submits that since no opportunity of hearing before passing the punishment order has been granted to the petitioner and he has not been heard on the quantum of punishment to be awarded to the petitioner, therefore, the punishment order is vitiated and he seeks quashing thereof.

5. Per contra, learned counsel for the respondent relying upon the judgment of the Delhi High Court dated 16.01.2024 passed in **Brijesh Kumar Singh vs. Union of India and Ors., 2024:DHC:316-DB**, which has been passed on the identical circumstances where the guilt is admitted by the petitioner, the punishment of sentence as well as the dismissal from service has been upheld by the Division Bench of the Delhi High Court. The judgment of Apex Court dated 12.02.2026 passed in **Bhagirath**

Choudhary vs Border Security Force, 2026 LiveLaw(SC) 165, wherein the identical punishment order whereby the composite order of imposition of six months rigorous imprisonment as well as punishment of dismissal from service was in question. The Apex Court has held that by virtue of Section 50 of the BSF Act 1968, a sentence of Security Force Court in addition to the punishment contemplated under Clause-(c) of Sub-section-(1) of Section 48 can impose anyone or more of the punishments specified under the law as it may find appropriate. In such view of the matter, the said composite punishment order has been upheld by the Apex Court. Thus, learned counsel for the respondents submits that there is no illegality in the impugned orders, which has been passed on the basis of the admitted guilt on the part of the petitioner and the composite order passed with regard to the punishment and dismissal from service are in accordance with the provisions of the Section 50 of the BSF Act. Therefore, there is no illegality in the impugned orders and consequently, he seeks dismissal of this writ petition.

6. Having heard the rival submissions made by learned counsel for the parties, this Court has carefully gone through the record of the case. It is an admitted fact that the punishment order dated 18.05.2001 has been passed on the admitted guilt of the petitioner and the petitioner has not raised any objection to the charges leveled against him. Consequently, the Security Force Court has passed the composite punishment order in terms of Section 50 of the BSF Act whereby rigorous imprisonment of six months along with the dismissal of service has been awarded to the petitioner. Proviso-(a) to Rule 22 of BSF Rules 1969 categorically provides where the services are terminated on the ground of conduct, which has led to the conviction by the Security Force Court do not require any procedure to be followed as provided in Sub-Rule (1) with regard to awarding the punishment of dismissal from service.

7. In such view of the matter, this Court do not find any illegality in the impugned orders and consequently, the instant petition fails and is hereby **dismissed**.

August 3, 2026
Ashish Pd.

(Anish Kumar Gupta,J.)