

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(S).3877/2011

BHAGIRATH CHOUDHARY

APPELLANT

VERSUS

BORDER SECURITY FORCE

RESPONDENT

O R D E R

1. Heard.

2. The appellant was a Sub-Inspector in the Border Security Force (for short, "BSF") with 36 years of service and was accused of facilitating illegal cattle smuggling at Gate No.16 on the Indo-Bangladesh Border while performing the duties as a Post-Commander. The allegation was based preliminarily on an alleged confessional statement and physical signs at the site, however no cattle or illegal gratification was recovered and there was no independent witness or eye-witnesses to the incident. After recording a preliminarily hearing and the evidence, the appellant was

tried by General Security Force Court (for short "GSFC") and was convicted under Section 40 of the BSF Act, 1968 on the ground of his conduct being prejudicial to good order and discipline of the Force. After recording the evidence and complying with the principles of natural justice, the GSFC imposed a composite punishment of six months rigorous imprisonment and dismissal from service which was later confirmed by the authorities. The same came to be challenged by the appellant before the High Court contending *inter alia* and urging that the confession was obtained under coercion, the evidence relied upon is unreliable and dismissal from service was not permissible for conviction under Section 40 of the BSF Act, 1968 or in other words, the punishment inflicted on the appellant was disproportionate to the alleged offence and particularly in the backdrop of 36 years of service having been rendered by the appellant.

3. Learned counsel appearing for the appellant reiterating the grounds urged and pleas put forward in the appeal would also add that in view of long service of appellant and being at the fag end of his career, pension could not have been denied to him due to dismissal order which punishment is highly disproportionate. Hence, he seeks for allowing the appeal.

4. *Per contra*, Ms. Vidhi Gupta, learned counsel appearing on behalf of Mr. Davinder Pal Singh, learned ASG would vehemently contend that the order of GSFC as well as the impugned order is in consonance with the settled principles, namely, there being no violation of principles of natural justice and full opportunity having been granted to the appellant to participate in the GSFC proceedings, it cannot be contended that those orders suffer from any infirmities whatsoever. Hence, she prays for dismissal of the appeal.

5. Learned counsel appearing for the appellant has also relied upon the dicta of this Court in the matter of *Yasodhar Kamat Vs. Director General, Border Security Force and Ors.*, reported in (2021) 13 SCC 333 to contend that the prayer for grant of pension be considered sympathetically.

6. Having heard the learned counsels appearing for the parties and after bestowing our attention to the rival contentions raised at the Bar, we notice that though several grounds were urged in the Writ Petition before the High Court, the same was restricted to one ground alone as is evident from paragraph No.16 of the impugned order namely that the order dated 22.01.2008 being a composite order of imposing six months' rigorous imprisonment and punishment of dismissal from service and same being

contrary to law. This has been dealt with by the High Court in detail by referring to the relevant provisions of the BSF Act, 1968 and rightly so has arrived at a conclusion that by virtue of Section 50 of the BSF Act, 1968, a sentence of a Security Force Court in addition to, the punishment contemplated under clause (c) of sub-section (1) of Section 48 being permissible namely any one or more of the punishments specified under the law can be imposed as found that therein, and as such there was no infirmity in the said order. The reasoning adopted by the High Court is in consonance with the provisions of the BSF Act, 1968 and as such we do not find any infirmity in the impugned order.

7. Insofar as prayer of the appellant for extending the benefit of pension in the teeth of *Yasodhar Kamat's* referred to *supra* though at first blush looks attractive, on a deeper examination it is not. We say so, for the simple reason that in the said case, the delinquent employee was absent unauthorizedly which triggered the authorities to dismiss the appellant from service. In that factual background, this Court is of the view that punishment imposed was highly disproportionate and found the antecedent of the appellant therein was also for a similar offence, namely, unauthorized absence, whereas in the instant case, the appellant has four incidents

resulting in punishment being imposed on 13.05.1980, 06.01.1989, 25.07.1994 and 29.12.1995 which has also resulted in the imprisonment of ten days for the first offence, and punishment of severe reprimand for the second and third offences, and the fourth one is the present case of permitting smuggling of cattle at the Border of the country. When the national security is paramount, any infraction thereof that too by the officers or the concerned who would be manning the Borders cannot be viewed lightly and it is for this reason, the punishment permissible under Section 48(1)(c) of the BSF Act, 1968 has been imposed on the appellant. However, having regard to the fact that the appellant has put in 36 years of service, we permit the appellant to submit a representation to the respondents for granting pension, if any, and in the event of such application being filed, the authorities would be at liberty to consider the same on its own merits and in accordance with law notwithstanding the confirmation of the order of dismissal taking into consideration that 36 years of service had been rendered by appellant and respondent would be at liberty to restrict the pension for any particular quantum or period or otherwise. However, we make it clear that this order shall not be construed as an order directing the respondent to grant pension to appellant and

it would be in the complete discretion of the competent authorities.

8. Subject to the above observations, the appeal stands disposed of.

9. Pending application(s), if any, shall stand disposed of.

.....J.
(ARAVIND KUMAR)

.....J.
(PRASANNA B. VARALE)

NEW DELHI;
FEBRUARY 12, 2026.

ITEM NO.102

COURT NO.16 SECTION XIV-A
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
Civil Appeal No(s).3877/2011

BHAGIRATH CHOUDHARY

Appellant(s)

VERSUS

BORDER SECURITY FORCE

Respondent(s)

Date : 12-02-2026 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ARAVIND KUMAR
HON'BLE MR. JUSTICE PRASANNA B. VARALE

For Appellant(s) : Mr. Anirudh Singh, Adv.
Mr. Abhijeet Singh, Adv.
Ms. Chitrangda Rastravara, Adv.
Mr. Aishwary Mishra, Adv.
Mr. Dhananjai Shekhwat, Adv.
Mr. Yuvraj Singh, Adv.
Ms. Pearl Pundir, Adv.
Mr. Dashrath Singh, Adv.
Mr. Gp. Capt. Karan Singh Bhati, AOR

For Respondent(s) : Mr. Davinder Pal Singh, A.S.G.
Ms. Vidhi Gupta, Adv.
Mr. Rajan Kumar Chourasia, Adv.
Mr. Sanjay Kumar Tyagi, Adv.
Mr. Padmesh Mishra, Adv.
Mr. Arkaj Kumar, Adv.
Mr. Arvind Kumar Sharma, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal stands disposed of in terms of the signed order placed on the file.

Pending application(s), if any, shall stand disposed of.

(NEHA GUPTA)
COURT MASTER (SH)

(AVGV RAMU)
COURT MASTER (NSH)