

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

Civil Appeal No.11835/2016

SUBIR KR. DEY

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

O R D E R

1. The appellant is before this Court assailing the Order dated 21-9-2012 passed by the High Court of Gauhati in Writ Appeal (Civil) No.860 of 2012.

2. The appellant herein was charged for the misconduct of unauthorized absence from duty and was initially imposed the punishment for withholding of increments through the Order dated 13-2-2006. Subsequent to the imposition of the said punishment also, the appellant had continued to remain absent without joining duty at Lumding and as such a charge memo dated 27.10.2006 proposing proceedings for major penalty was issued. Ultimately the order of removal from service dated 22-8-2007 (Annexure P-3) was passed against him.

3. The appellant claiming to be aggrieved by the said order had approached the Central Administrative Tribunal, Gauhati in O.A. No.92 of 2008. The Central Administrative Tribunal, after adverting to the fact situation, had arrived at a conclusion that action initiated against the appellant was justified and, therefore, dismissed the application through the order dated 3-3-2010. Against

the said order, the appellant – herein filed the Writ Petition before the High Court.

4. The Division Bench of the High Court, while taking note of the contentions had arrived at a conclusion that the punishment imposed upon the appellant is justified.

5. Learned counsel appearing for the appellant while assailing the order contended that the medical certificate dated 18-6-2006 would indicate that the appellant was unwell and doctor who had treated him at the State Dispensary, Dibrugarh had advised rest for the periods from 9-3-2006 to 17-6-2006. He further refers to the Medical Certificate dated 2-10-2007 to contend that the appellant again fell ill and as such there was sufficient justification for having remained absent. Though such contention is put forth, learned Senior counsel appearing for the respondents from the very said document pointed out that the doctor had opined on 18-6-2006 that the appellant is fit to resume his duties but despite the same he had failed to do so. It is pointed out that the subsequent certificate was of 2-10-2007 and as such there is no explanation as to why the appellant had remained absent during the interregnum and in the meanwhile action was initiated and punishment was imposed. That apart, even if he was actually unwell, there is no justification for long unauthorized absence, more so, when medical facility was available in the Railway Hospital.

6. Be that as it may, when the Inquiry Officer has taken note of fact situation and rendered a finding of fact that the misconduct

alleged against the appellant is proved and the Central Administrative Tribunal has re-appreciated the said evidence and had arrived at its conclusion, certainly the High Court was justified in arriving at its conclusion that the order impugned does not merit interference.

7. In that circumstance, having examined the matter in detail, we see no reason to interfere with the impugned order passed by the High Court.

8. The appeal is, accordingly, dismissed.

.....J  
(A.S. BOPANNA)

.....J  
(VIKRAM NATH)

NEW DELHI;  
16TH JUNE, 2022.

ITEM NO.103

COURT NO.2

SECTION XIV-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G SCivil Appeal No.11835/2016

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VERSUS

UNION OF INDIA &amp; ORS.

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Date : 16-06-2022 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.S. BOPANNA  
HON'BLE MR. JUSTICE VIKRAM NATH  
(VACATION BENCH)

For Appellant(s)

Mr. Azim H. Laskar, Adv.  
Mr. Bikas Kar Gupta, Adv.  
Mr. Abhijit Sengupta, AOR

For Respondent(s)

Mr. A.K. Panda, Sr. Adv.  
Mr. Ranjan Kr. Chourasia, Adv.  
Ms. Arunima Dwivedi, Adv.  
Mr. Amrish Kumar, Adv.  
Mr. Sharath Nambiar, Adv.  
Mrs. Anil Katiyar, AORUPON hearing the counsel the Court made the following  
O R D E R

The appeal is dismissed, in terms of the signed order.

(VISHAL ANAND)  
ASTT. REGISTRAR-cum-PS(DIPTI KHURANA)  
ASSISTANT REGISTRAR

(Signed Order is placed on the file)