

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Judgment Reserved on : March 05, 2015*
Judgment Delivered on : March 17, 2015

+ **W.P.(C) 1721/2014**

SARJEET SINGH Petitioner
Represented by: Ms.Shashi Kiran and
Mr.Abhiuday Chandra,
Advocates.

versus

UNION OF INDIA AND ORS. Respondents
Represented by: Mr.Ajay Dignpaul, CGSC for
UOI.

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG
HON'BLE MS. JUSTICE PRATIBHA RANI

PRATIBHA RANI, J.

1. The writ petitioner challenges the order dated October 31, 2012 passed by Summary Security Force Court holding the petitioner guilty of the three charges framed against him and inflicting the punishment of dismissal from service.
2. Though the statutory petition was rejected by the DG, BSF on April 18, 2013, the same has not been challenged in the writ petition but ignoring the technicalities and noticing that prior to filing of the writ petition the statutory petition also stood rejected, we treat this writ petition challenging the order by the Statutory Authority as well.
3. As per the averments made in the writ petition, the petitioner was

enrolled as a Constable in BSF in 2011 and after completion of training, he was posted at Indo-Pak Border, Poonch Sector, Jammu & Kashmir. He was posted at E-Coy but as he became friendly with a local Muslim girl of a nearby village which was to the disliking of his superiors, he was transferred to G-Coy. On the night intervening October 13/14, 2012 between 0130 hrs to 0200 hrs he noticed some movement on Indian side of LOC and opened fire by firing seven rounds. On hearing the sound of firing, Guard Commander Mohd. Zayed came out of the bunker to enquire about the cause of firing and also alerted two other constables who were sleeping in the bunker to join and get alert in 'stand to position'. Sound of firing also made Platoon Commander Sukhdev Singh to reach upper sentry post with his guard party to assess the situation and scan the area. The petitioner briefed him also about noticing some movement which led him to fire. The Platoon Commander also left giving directions to all of them at upper sentry post of FDL R-1 to remain in 'stand to position'. The petitioner again fired at about 0300 hrs. on the direction of Guard Commander as Ct.Raj Kumar noticed some movement towards petitioner's guarded direction. Simultaneously on hearing some voice from upper sentry post to stop firing as Army party was approaching their post, the situation was anticipated to be tense; the petitioner also changed his magazine and remained in stand to position. At around 0310 hrs. the CO of the Army with Commandos reached there and made enquiry from the Guard Commander as well from the petitioner about the cause of firing. The CO of the Army arranged the search light from the lower post and search was carried out. Thereafter the CO of the Army asked the petitioner, Ct.Raj Kumar, Ct. Narayan and Guard Commander of BSF to rest in the bunker leaving four Army Commandos to man the posts. The

petitioner was also called by the Platoon Commander at lower sentry post of FLD R-1 to enquire into the matter and the number of rounds fired by the petitioner. The petitioner was asked to show his pouch carrying magazines for verification which the petitioner had left at his post. The petitioner left for his bunker to fetch the pouch. The petitioner while returning from the bunker for the lower sentry post escaped from communication trench and got hidden on a tree near LOC. Immediately thereafter the whole area was searched by BSF alongwith Army with the help ILLU Bombs illuminating the area, HHTI and Sniffer dogs. As the day progressed more and more BSF and Army party joined to carry out intensive search but failed to locate the petitioner. The petitioner gathered the courage and returned to post FDL R-1 on 15th October at around 2045 hrs. and he was received by Ct.Hilal Ahmed and Ct.Ranjeet Singh. The petitioner was brought before the DIG and some other senior officers. He was sent to Rajouri Head Quarter and put in prison. He was assured of pardon on admitting his crime. After the medical examination, the petitioner was tried by Summary Security Force Court and on being found guilty of the charge framed, he was awarded punishment of dismissal from service.

4. Ms.Shashi Kiran, learned counsel for the petitioner has submitted that the petitioner has not been given a fair trial as he was not permitted to be defended by a legal practitioner. She has urged that the entire trial by Summary Security Force Court is in gross violation of principles of natural justice. Learned counsel for the petitioner has drawn the attention of this Court to the communication dated October 26, 2012 (Annexure P-1 at Page 30) whereby the petitioner was informed that he could appoint a friend for the Court proceedings and could select any officer/subordinate employee

available in the Battalion. For availing assistance of a civil advocate, the communication was to the following effect :

'1. You hereby inform that under section 18(a) and 16(a) of BSF Act, 1968 initiation of disciplinary action has been fixed against you by Summary Security Force Court. Accordingly to Rule 157 of BSF, you can take assistance of Civil Advocate during Summary Security Force Court but during Court proceedings civil advocate can neither put any question to any witness nor can say anything. You will have to bear the expenses to engage civil advocate.'

5. Ms.Shashi Kiran, learned counsel for the petitioner has submitted that no reason for returning the finding of guilt has been given by Summary Security Force Court and even the punishment of dismissal is disproportionate to the offence for which the petitioner has been convicted.

6. Mr.Ajay Digpaul, learned counsel for the respondent while refuting the contentions raised by learned counsel for the petitioner submitted that the contents of para 1 of the communication dated October 26, 2012 is nothing but reproduction of Rule 157 of BSF Rules. There is no bar to seek assistance from a civil advocate and the limited restriction has been imposed about the role of civil advocate during trial before Summary Security Force Court in accordance with Rule 157 of BSF Rules. It has been further submitted that the petitioner requested that Sh.Sher Singh Meena, Dy.Commandant be appointed as his friend during Court proceedings and this request was acceded to. Learned counsel for the respondents submitted that despite the petitioner getting the plea of guilt recorded at the stage of offence report and arraignment of charge, the Commandant ordered for recording of evidence. Not only that treating the plea of guilt as 'not guilty', 13 witnesses have been examined before the Summary Security Force Court

to prove the charges against the petitioner and giving opportunity to him to cross examine the witnesses which he declined.

7. During the course of hearing of this writ petition, learned counsel for the respondents has also brought the record of disciplinary proceedings initiated against the petitioner which we have perused.

8. Record shows that the offence report which was prepared in the format Appendix-IV (Rule 43) was in respect of three offences. Two offences were under Section 16 (e) of BSF Act and one under Section 18 (A) of BSF Act. Though the petitioner pleaded guilty to all three charges, the Commandant detailed Sh.Manohar Lal, DC to prepare Record of Evidence (ROE). After considering the evidence which emerged at the ROE the Commandant directed that the petitioner should be tried at Summary Security Force Court. The petitioner was directed to face the trial on the following charges :

1ST CHARGE

BSF ACT U/S- 16(e)

INTENTIONALLY OR THROUGH NEGLIGENCE OCCASIONS A FALSE ALARM IN CAMP OR QUARTERS, OR SPREADS OR CAUSES TO BE SPREAD REPORTS CALCULATED TO CREATE UNNECESSARY ALARM OR DESPONDENCY.

in that he,

On 14-10-2012 at about 0135 hrs while on active duty at sentry post of forward FDL R-1 intentionally fired 07 Rds in South-East direction without any threat, thus caused false alarm.

2ND CHARGE

BSF ACT U/S- 16(e)

INTENTIONALLY OR THROUGH NEGLIGENCE OCCASIONS A FALSE ALARM IN CAMP OR QUARTERS, OR SPREADS OR CAUSES TO BE SPREAD REPORTS CALCULATED TO CREATE UNNECESSARY ALARM OR DESPONDENCY.

*in that he,
On 14-10-2012 at about 0300 hrs while in stand-to at forward
FDL R-1 intentionally fired 15 Rds in North-West direction
without any threat/suspicion, thus caused false alarm.*

3RD CHARGE

BSF ACT U/S- 18(e)

DESERTING THE SERVICE ON ACTIVE DUTY

in that he,

*On 14-10-2012 at about 0435 hrs while on active duty at
forward FDL R-1 deserted the post with 02 Magazine and 08
Rds of 5.56 INSAS Rifle and voluntarily reported back at FDL
R-1 on 15-10-2012 at about 2105 hrs.'*

9. At the stage of arraignment of charge, the petitioner again pleaded guilty to all the three charges on October 29, 2012. Despite the plea of guilt being made by the petitioner the Commandant recorded that keeping in mind the gravity of the offence and other factors, it will be in the interest of justice to treat the plea of all the three charges as 'Not Guilty'.

10. At the trial, 13 witnesses were examined by the department namely: ASI Mohammed Zahid PW-1, Ct.Raj Kumar PW-2, Ct.K.L.Narayana PW-3, SI Sukhdev Singh PW-4, Sh.Rajesh Kumar, AC PW-5, Inspector Prem Singh PW-6, Ct.Parmeshwar Prasad PW-7, Ct.Ranjeet Singh PW-8, Ct.Narendra Kumar PW-9, Ct.Arindra Singh Parmar PW-10, HC Kanhaiya Lal PW-11, Sh.Jagtar Singh Sikarwar, DC PW-12 and Dr.Alok Singh PW-13.

11. ASI Mohammed Zahid PW-1, Ct.Raj Kumar PW-2, Ct.K.L.Narayana PW-3, SI Sukhdev Singh PW-4, Rajersh Kumar and Ct.Ranjeet Singh PW-8 have been examined to establish the incident of firing at two times by the petitioner and subsequently deserting the post. Ct.Parmeshwar Prasad PW-7

and Ct.Narendra Kumar PW-9 were part of the search operation which included dog squad. Inspector Prem Singh PW-6 has stated about receiving information about the false alarm as well missing of the petitioner. Sh.Jagtar Singh Sikarwar, Dy.Commandant PW-12 was telephonically informed about the entire incident. Dr.Alok Singh PW-13 medically examined the petitioner before commencement of trial before Summary Security Force Court and declared him mentally and psychologically fit. Sh.Rajesh Kumar, Asstt.Commandant PW-5 deposed about he being informed about the developments at FDL R-1 and left with Inspector Prem Singh for joining the search operation. He has stated that approximately 20 search party of total 200 personnel were moving in the probable area on both the days. The search operation ruled out the possibility of the petitioner being taken away by the wild animal or BAT action. HC Kanhaiya Lal PW-11 was detailed as Campus Security Patrol Party Commander on the night intervening October 13/14, 2012. He woke up after hearing the sound of fire from upper sentry post. While in 'stand to position' he again heard the sound of fire from North-West direction at about 0300 hrs while army party was coming towards FDL. He also heard the loud cry of *bachao-bachao* of Ct.Sarjeet Singh from the direction of midpoint of communication trench between middle and upper sentry post. On October 15, 2012 at about 2105 hrs Ct.Sarjeet Singh alone came to FDL R-1 from the front side of lower sentry post, which faces towards POK. Ct.Arindra Singh Parmar PW-10 on being alerted by the sentry at about 0130 hrs came in 'stand to position'. He also heard the loud cry of *bachao-bachao* of Ct.Sarjeet Singh and rushed towards that direction with torches and search light. He also fired one round from his service weapon to scare away the animal perceiving that some wild

animal might have lifted Ct.Sarjeet Singh.

12. The petitioner did not cross examine any of the above witnesses despite the opportunity being given and after the prosecution evidence was closed, the petitioner was questioned (**Page No.33**) as under :

'Q.No.5 : Do you want to call any witness in your defence?

*Questions
to the accused*

Ans. No.5 : No, I do not want to call any defence witness.

*Answer by
the accused*

Defence

The accused is called upon for his defence and states:-

I committed the mistake but I am from a poor family and has to look after my siblings who are still not settled. The Court should take a lenient view and pardon me. '

13. Before dealing with the contentions raised by the petitioner, we consider it necessary to note that three version of the petitioner regarding the incident before preparation of Offence Report have been annexed with the counter affidavit. Infact these versions of the petitioner made prior to the stage of Offence Report in the presence of witnesses are certified to be given voluntarily by the petitioner without any fear or pressure.

14. The first version of the petitioner is dated October 17, 2012, running into three pages, Exhibit-K (Annexure-P2 at Page No.193) has been given in the presence of HC Manoj Kumar and certified to be given in the presence

of Commandant without pressure or threat giving narration of incident as under:

(i) On the night of October 14, 2012 the petitioner was on duty from 11.00 pm to 2.00 am and at about 1.00 am he noticed some movement in the direction of Topa Post. He was under stress at that time for not being sanctioned leave and was thinking of committing suicide by shooting himself but dropped the idea after thinking about his family.

(ii) Though he resorted to firing but at the same time realised the implication of what he had done. Other members of the post came to him to enquire about the cause for firing. Army party also reached and made enquiry.

(iii) After some time he fired in another direction and when the CO of the Army asked about the cause of firing, he informed of having seen someone there. After staying for about 30 minutes, CO left leaving four Army personnel there.

(iv) When he was questioned about how many rounds he had fired, he could not give the figure as his pouch was at upper post. When he was returning after bringing the pouch, on not being able to offer any satisfactory explanation for the firing, after raising alarm '*Bachao-Ranjeet Bachao*' he went in another direction. After hiding the pouch under a stone and putting some grass over there, he climbed on a tree and continued sitting there with various thoughts crossing his mind. He noticed jawans of other Country coming to fetch water. By evening he climbed down, had corn and water. He thought of returning to his post with determination that whatever had happened by mistake/accidently would be realised by him. He proceeded by calling Ranjeet-Ranjeet who responded to his call and brought him back to

the post where he was offered tea and thereafter produced before the CO.

15. The second version of the petitioner is dated October 19, 2012 (Annexure-P2 at Page No.198) made at 1400 hrs is to the following effect:

(i) He was on duty on the night of October 13, 2012 from 11.00 pm to 2.00 am and at about 1.40 am fired seven rounds towards Topa Side. BSF jawans woke up on hearing the sound of firing and he informed that he had seen someone. After sometime Army CO also came and enquired about the reason of firing and he was applauded by the Army CO for his bravery. After sometime he also fired to earn appreciation hoping that in lieu thereof would get his leave sanctioned.

(ii) The reason for running away from the post was that pretending that he had been taken away by terrorist from where he had been able to come back, will again be appreciated and due to that reason he climbed on a tree, continued sitting there, looking towards Pakistan as well keeping watch over his pouch hidden under a stone ensuring that even if he is taken away by the Pakistanis, they would not be able to take the pouch.

(iii) In the evening he got down from the tree, lifted his pouch and proceeded towards his post calling Ranjeet-Ranjeet who recognised his voice and brought him back to the post.

This statement has also been certified by the petitioner as well by HC Manoj Kumar, HC Bachhiter Singh, HC/RO B.M.Lal to be made without any pressure or threat.

16. The third version of the petitioner is also dated October 19, 2012 (Annexure-P2 at Page No.202) made at 1515 hrs records that on October 12, 2012 he requested Inspector Prem Sahab for leave as his parents were visiting Vaishno Devi Shrine on October 24, 2012 but he was told that leave

would not be given on October 24, 2012 and after reaching Naushera he would get the leave. He committed this mistake under stress for which he requested with folded hands to be pardoned in the interest of his family.

17. The petitioner has not disputed the incident of resorting to firing in a highly sensitive area at LOC at Indo-Pak Border on the night intervening October 13/14, 2012. The petitioner has also not disputed that after he left the post to collect his pouch, he failed to return immediately thereafter and remained untraced till he voluntarily returned on the evening of October 15, 2012. His side of version about the circumstances in which he resorted to firing has already been captured by us while recording facts as pleaded in the petition as well in his three versions, referred to above, before the Commandant prior to preparation of offence report.

18. The main contentions raised by learned counsel for the petitioner are that

- (i) he was not permitted to be defended by a legal practitioner,
- (ii) there is violation of principles of natural justice,
- (iii) while convicting the petitioner no reason was given by Summary Security Force Court for returning the finding of guilt, and
- (iv) the punishment of dismissal awarded to the petitioner is disproportionate to the offence for which the petitioner convicted.

19. It is evident from record that since inception the petitioner had been pleading guilty and seeking pardon. It is not the case of the petitioner that he wanted to engage the services of a civil advocate which was declined. The record of the disciplinary proceedings does not contain any request to seek assistance of a civil advocate with his active participation nor it has been so pleaded. We find hand written communication by the petitioner addressed to

the Commandant requesting for appointment of Sh.Sher Singh Meena, Dy.Commandant to be appointed as his friend during proceedings before Summary Security Force Court and it is nowhere the case of the petitioner that his request was declined.

20. There is no violation of principle of natural justice, rather we find that the conviction of the petitioner is not based on plea of guilt but on the basis of testimony of witnesses who were posted at the same post, heard the sound of firing on each occasion, alerted as the area of Indo-Pak Border was highly sensitive. The petitioner has admitted that the operation to search him was launched on that very night and dog squad was deployed to locate him. Even FIR Exhibit-H was also lodged at PS Chingus, J&K Police, Distt. Rajouri (J&K) on October 15, 2012 regarding missing of Ct.Sarjeet Singh 76 BN BSF No.111350564. It is also admitted by the petitioner that initially he thought of committing suicide but then he thought about his family and decided to return to the post to realise his mistake and face the consequences for his misconduct. The incident of firing on the night intervening October 13th/14th, 2012 as well the petitioner not returning to the post after he left for the upper post to bring back his pouch to account for the round of fires made by him, his return to the post on October 15, 2012 has been admitted by the petitioner even in this petition. The three versions given by the petitioner on October 17, 2012 and October 19, 2012 about the incident in presence of the witnesses were certified to be made without any fear or pressure. These versions are his versions of the incident for which he was charged. The mere fact that his plea of guilt at every stage was treated as 'pleaded not guilty' and before returning the finding of the guilt, 13 witnesses were examined before the SSFC, giving opportunity to the petitioner to cross-

examine them which he failed to avail, we do not find it to be a case of violation of principles of natural justice or denial of fair trial.

21. In the case AIR 1996 SC 484 B.C.Chaturvedi vs. Union of India & Ors. the Apex Court has observed as under:

'13. The disciplinary authority is the sole judge of facts. Where appeal is presented, the appellate authority has co-extensive power to reappreciate the evidence or the nature of punishment. In a disciplinary inquiry the strict proof of legal evidence and findings on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal.'

22. From the facts noted above, it is apparent that the petitioner admitted the charges at the trial by pleading guilty but the Summary Security Force Court treated the plea as to be 'not guilty' examined as many as 13 witnesses regarding the incident and on the basis of material on record returned the finding of guilt for all the three charges. The petitioner had not challenged their credibility by cross-examining them. It is petitioner's own case that he was on duty at highly sensitive area at Indo-Pak border so much so that army had taken over the post by asking the BSF personnel to take rest in bunker and the CO of the army left his four commandoes to man the posts.

23. It is established from the record that before holding the petitioner guilty, the entire material has been weighed by the SSFC as well as by the Appellate Authority and there is no reason to interfere with the finding of guilt recorded by the SSFC and upheld by the Appellate Authority.

24. The last contention raised before us is challenging the impugned orders on the aspect of proportionality of sentence. Record of disciplinary

proceedings contains the finding of the Summary Security Force Court as well the proceedings before sentence and the sentence, which reads as under:

'Finding of the Court

Guilty

On the basis of evidence before me that accused No.11135056 Constable Sarjeet Singh is found 'GUILTY' of all three charges.

Proceedings before sentence

The following minutes by the Court are read and explained.

It is within my own knowledge from the record of the 76 Bn BSF, that the accused No.11135056 CT Sarjeet Singh has not been previously convicted by Security Force Court or Criminal Court.

That, the following is a fair and true summary of the entries in his service book exclusives of convictions by Security Force Court or a Criminal Court.

WITHIN LAST 12 MONTHS

Nil

SINCE ENROLMENT

Nil

That he is presently undergoing nil sentence.

That irrespective of this trial, his general character has been 'Satisfactory'.

That his age is 23 years 10 months 01 days and his rank as Constable since 03.05.2011. (date since held)

*That he has been under close arrest **for 13 days** – before trial.*

That he is in possession of the following decorations and rewards:-

- 1. Decorations : Nil*
- 2. Rewards : Nil*

Sentence by the Court

*Taking all these matters into consideration, I now sentence the accused No.11135056 Constable Sarjeet Singh of 76 Bn BSF **TO BE***

DISMISSED FROM SERVICE.

Signed at HQ 76 Bn BSF, Rajouri (J&K) this 31st day of Oct. 2012.

*Sd/-
(COMMANDANT)
76 BN BSF
HOLDING THE TRIAL*

The trial closed at 1230 hrs on 31st Oct 2012.

Remarks by Reviewing Officer
BSFAct Section 115

“COUNTERSIGNED”

*Place : Sunderbani (J&K)
Date : 07/12/2012*

*Sd/-
DEPUTY INSPECTOR GENERAL
SECTOR HEADQUARTER, BSF
SBN (J&K) ’*

25. Undisputedly after resorting to firing two times in a highly sensitive area at Indo-Pak Border on the pretext of collecting pouch from the upper post, the petitioner left and failed to return till the evening of October 15, 2012. We can find traces in the three versions of the incident made by the petitioner prior to the preparation of offence report which rather indicate his state of mind showing him to be under tremendous mental stress on various counts like; (i) not being able to convince his superior officers about the reason for firing, (ii) not being sanctioned leave to join his parents at pilgrim at Vaishno Devi on October 24, 2012, and (iii) taking time to introspect and prepare himself to face the consequences of his misconduct. The above conduct of the petitioner who was member of disciplined force cannot be

appreciated or condoned. If the version of the petitioner as made on October 17, 2012 and October 19, 2012 is true, his act of watching the entire search operation while sitting on a tree, needed to be dealt with sternly by the concerned authorities. While considering all these aspects of the misconduct we are also taking judicial notice of the various surveys conducted and published from time to time about the conditions in which our forces and para-military forces have to discharge their duties. The surveys reveal that major factors behind losing para-military personnel is high stress level, poor working conditions, pathetic living, poor mental and physical well being of the forces who are made to work in extremely difficult and sub-human working conditions. Surveys reveal that we are losing more para-military personnel for the above reasons rather than enemy bullets. Shortage of manpower in para-military forces have resulted in denial of leave which causes more mental stress as the jawans are often denied the opportunity to attend bereavement or celebrations in the family. Most of the jawans in the forces belong to rural background and come at a very young age and are not able to handle the stress at times. Taking note of the fact that though the forces require 20% of the personnel in reserve, they are unable to achieve this target and most of the members of the para-military forces are developing suicidal tendencies and the attrition rate among para-military forces is alarmingly high. (*Ref.* The Hindu dated March 09, 2015 under the Head : 'Work stress leading to social isolation of CRPF Jawans' and Mail Today dated March 09, 2015 under the Heading : 'One CRPF man ends life every three days').

26. The conduct of the petitioner on October 14, 2012 shows that he was under extreme stress, bordering on Paranoia. While on duty at night he saw

fear and fired in a bush. When the sound of gunfire attracted the other force personnel; and as the petitioner retreated from the place of duty he showed bizarre behaviour. He fired another round in a different direction after sometime and raised the alarm '*Bachao-Ranjeet Bachao*'. He then hid the pouch under a stone and covered it with grass. He climbed on to a tree and continued sitting there. The behaviour is certainly abnormal.

27. The problem lies in the fact that recognizing that police plays an essential role of enforcement of law and order in modern societies and without an efficient police force a society would become anarchic and because of this concept, to ensure that individuals recruited to the police force possess certain essential attributes, the emphasis while recruitment is made is on (a) physical strength and fitness; free from medical diseases, (b) ability to exercise initiative in the work, and (c) good moral character and integrity.

28. But emotional maturity and ability to remain calm in emotionally charged situations, good judgment and ability to carry a great deal of responsibility in handling different situations alone is not judged in India. We follow the archaic means : of checking of the police dossiers and by subjecting the candidates to a physical test and a medical examination. We find that in some jurisdictions abroad, such as United States of America, Canada, Philippines, to name a few, a psychological test is conducted to ascertain the suitability of candidates commensurate to the nature of job they are being inducted to. At times a polygraph test is also conducted to check the deceiving tendencies of candidates. Because so much public trust is placed in peace officers, candidates for these positions are carefully screened to rule out emotional instability, poor judgment, lack of dependability, or

other problems which might negatively affect their law enforcement work.

29. In a situation where forces are struggling with the issue of shortage of man power, the question that requires consideration by the concerned authorities is should a newly inducted young jawan trained at a huge cost to the public exchequer be shown the exit door without ascertaining the possibility of reformation. We feel that amputation is recommended only when it is a case of gangrene and fear of infection being spread over other part of the body which could lead to death. The three charges against the petitioner no doubt required surgical process, but whether it is amputation or not could be a matter of debate. The petitioner who was a newly inducted Constable in BSF serving in one of the toughest terrain with no past history of indiscipline perhaps required a counselling or may be an evaluation of his emotional stability.

30. Under the circumstances while upholding the finding of guilt by SSFC, the writ petition is disposed of requesting the DG BSF, to reconsider the matter, and if necessary, take the help of a psychologist and then to re-evaluate the conduct of the petitioner, which as noted above was highly bizarre. The evaluation would be to ascertain whether it was emotional stress or a psychological disorder which led the petitioner to do what he did. If the opinion is that it was a psychological disorder, then perhaps that would be the end of the matter. If it was a case of stress, the DG BSF would consider levying some other penalty upon the petitioner. In the evaluation process we would commend to the DG BSF to subject the petitioner to an appropriate psychological test to be drawn up by a Psychologist.

31. Necessary decision would be taken within three months from the date of this decision.

32. No costs.

(PRATIBHA RANI)
JUDGE

(PRADEEP NANDRAJOG)
JUDGE

March 17, 2015
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