

11.08.2025
Item No.35 & 36
BR

RVW 49 of 2025
With
CAN 1 of 2025, CAN 2 of 2025
Union of India and Ors.
-vs-
Sanjay Kumar
With
CPAN 1093 of 2025
Sanjay Kumar
-vs-
Daljit Singh Choudhury Director General
Border Security Force and anr.
In
WPA 22387 of 2011
Sanjay Kumar
-vs-
Union of India and ors.

Mr. Abhishek Banerjee,

...for the petitioner

Mr. Rajdeep Majumder, Sr. Adv.,
Ms. Anamika Pandey (Virtual)

...for the respondent no.1

Re : CAN 2 of 2025

1. CAN 2 of 2025 is an application praying for condonation of delay in preferring the review application.
2. Considering the grounds as made out and in the interest of justice, the

application for condonation of delay is allowed on the delay being condoned.

3. IA No. CAN 2 of 2025 stands disposed of.

Re : RVW 49 of 2025 with CAN 1 of 2025

1. CAN 1 of 2025 is taken up for hearing along with the review application. The prayer for review is by the applicants herein/Respondents being the Union of India and the concerned authorities of the Border Security Force praying for review of this Court's observation and direction in paragraph 18 of the judgment dated 25.09.2024 passed by this Court while disposing of the writ application.
2. Learned senior counsel for the petitioner herein has relied upon Section 117(2) of the BSF Act, 1968 and the judgment of the Hon'ble Supreme Court in ***Union of India and others -vs- Ex. Constable Amrik Singh, reported in (1991) 1SCC 654,***

wherein the Hon'ble Supreme Court has held as follows:-

*“7. From the above discussion it emerges that **in cases of special enactments like Army Act, all the principles of natural justice cannot be imported.** The same ratio applies to a petition under Section 117(2) of the Act also. We may also point out here that Chapter XIII consisting of Rules 167 to 169 of the BSF Rules deals with petitions filed under Section 117 of the Act. Even in them there is nothing to indicate that a hearing has to be given before disposal of a petition.*

*8. **As noted above, under Section 117 (2) the respondent is only entitled to file a petition but the disposal of such a petition does not attract principles of natural justice.** The respondent has been tried by observing the due process of law and the verdict of the Security Force Court was confirmed and it is only a post –confirmation petition that was filed under Section 117(2) of the Act and the authority which disposed of the same is not a court and every order passed administratively cannot be subjected to the rigours of principles of natural justice.”*

3. Accordingly, in view of the observation of the Hon'ble Supreme Court and considering the relevant provision of Act, paragraph 18 of the judgment under review is modified as follows:-

“On being approached the appellate authority under Section 117(2) of the BSF Act, shall consider the appeal/petition filed by the writ petitioner, in accordance with the provision of the Act, within 60(sixty) days from the date of filing the appeal.”

4. Order dated 25.09.2024 stands modified on being reviewed.
5. This order be read along with order dated 25.9.2024.
6. Review application along with CAN 1 of 2025 stands disposed of.

Re : CPAN 1093 of 2025

1. The writ petitioner has preferred a contempt application being CPAN 1093 of 2025 stating that the respondents in the writ application have willfully disobeyed the judgment and order dated 25.09.2024 passed by this Court.
2. Considering that a review application had been filed and was pending hearing, the contempt application being infructuous stands disposed of.

3. CPAN 1093 of 2025 stands disposed
of.

(Shampa Dutt (Paul), J.)