



**IN THE HIGH Court OF PUNJAB AND HARYANA
AT CHANDIGARH**

204

CRWP-5492-2025 (O&M)**Date of Decision: 12.09.2025**

COLONEL JAGPREET SINGH BAKSHI AND ANR

...Petitioners

Versus

UNION OF INDIA AND OTHERS

...Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Navdeep Singh, Advocate,
Mr. Rajesh Sehgal, Advocate and
Mr. Arun Singla, Advocate, for the petitioners.

Mr. Rohit Verma, Senior Panel Counsel, assisted by
Major Partho Katyayan, for the respondents.

HARSIMRAN SINGH SETHI, J. (ORAL)

1. In the present Criminal Writ petition, the challenge is to the order dated 07.05.2025 (Annexure P-12) passed by the learned Armed Forces Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as 'Tribunal'), by which the plea raised by the petitioners before the Tribunal that the initiation of the Court Martial proceedings against them is time barred keeping in view the Section 122 of the Army Act 1950, has been rejected, which is causing them prejudice.

2. It may be noticed that certain facts need to be mentioned hereinafter for the correct appreciation of the issue in hand.

2.1 Petitioners, while posted at Jalandhar, were entrusted with execution of the operational works of construction of Integrated Security



Fence and construction of the Hybrid Fence of the Jalandhar Cantonment during the period 2018-2019, for which certain quotations were asked from the vendors. After receiving the quotations, the work of fencing of the Jalandhar Cantonment was awarded for execution to the bidders in accordance with the rates submitted by them. After the deposit of the amount by the Army authority with the vendors qua execution of the work mentioned hereinbefore, certain complaints were received with regard to Uploaded Request for Proposals (RFPs) on Central Public Procurement Portal (CPPP) with inflated quantifies of stores and the supply orders had been placed for lesser quantities which resulted in higher bids being obtained and accepted although store requirement was much less, keeping in view the Work Order given that the same is causing loss to the Army authorities. After the receipt of complaints, the work of fencing was re-looked into and keeping in view certain facts, an amount of Rs.1.92 crores, which was released to the bidders for execution of the construction of fencing, was re-deposited with the Army authorities. Subsequently, upon reconsideration, the Work Order was re-issued and same was duly executed.

2.2 Keeping in view the fact that at the time when the aforementioned incident happened, the petitioners happened to be posted at Jalandhar and were involved in the construction of fencing of the Jalandhar Cantonment, in order to find out whether the petitioners performed their duty with utmost dedication or not or they were negligent or connived with the bidder(s), a Court of Inquiry was ordered on 19.06.2019. The Court of



Inquiry started its proceedings. The petitioners were heard, their statements were recorded and after looking into all the aspects, the Court of Inquiry submitted a report on 28.09.2019. It may be necessary to mention that the Competent Authority to examine the report of the Court of Inquiry to adjudge whether any further proceedings are to be carried out is the General Officer Commanding 11th Corps. (hereinafter referred to as 'GOC'). After the submission of report of the Court of Inquiry to the GOC on 28.09.2019, vide letter dated 29.10.2019 issued from the office of the Brigadier General Staff (BGS), HQ11 Corps, directions were issued to carry out further investigations into certain aspects which according to the Competent Authority were not looked into while submitting the report dated 28.09.2019. After carrying out the further enquiry as directed, the first report of Court of Inquiry was again submitted to GOC, HQ 11 Corps vide communication dated 03.12.2019.

2.3 The GOC, on 19.02.2020, looked into all the aspects submitted in the report of the Court of Inquiry and vide order dated 24.02.2020 issued directions for General Court Martial against the petitioners.

2.4. The findings of the Court of Inquiry were challenged by the petitioners before the AFT, Principal Bench, New Delhi, vide OA No.1175 of 2020 and the same was allowed vide order dated 28.11.2020. Hence, a fresh Court of Inquiry was convened vide order dated 01.01.2021, which was, however, cancelled due to administrative reasons and vide order dated 06.01.2021 another Court of Inquiry was convened and fresh directions



dated 16.09.2021 for initiation of General Court Martial was given. Further, a tentative chargesheet was framed and the General Court Martial proceedings were initiated on 14.01.2023.

2.5 The petitioners challenged the said holding of the General Court Martial on 14.01.2023 by raising certain pleas primarily that by 14.01.2023, the General Court Martial proceedings cannot be allowed to be conducted in view of section 122 of the Army Act 1950, which prescribes a limitation of three years to commence the General Court Martial after the knowledge of a *prima facie* case against an accused.

2.6 Though various proceedings took place during the interregnum, as various orders were passed by the Tribunal qua the conducting of the said General Court Martial, which were challenged by the petitioners before this Court but keeping in view the ultimate order passed by the Coordinate Bench of this Court dated 12.11.2024, the matter was remanded back to the Tribunal to pass appropriate orders after considering the claim of the petitioners whether General Court Martial, which commenced on 14.01.2023, was within the limitation prescribed under section 122 of the Army Act, 1950 or not.

2.7 By the impugned order dated 07.05.2025 (Annexure P-12), the Tribunal has recorded a finding that as the Competent Authority i.e. GOC had not perused the proceedings of the Court of Inquiry convened vide order dated 19.06.2019 at any point of time before 19.02.2020. Thus, the earliest date of knowledge was 19.02.2020 as per Section 122 of the Army Act,



1950, which is actual date from which the limitation of three years starts and the date of 19.02.2020 is the date which is to be taken into consideration for the purpose of Section 122 of the Army Act, 1950 and as the General Court Martial proceedings commenced on 14.01.2023, the same were within the period of limitation of three years and the claim raised by the petitioners that the said General Court Martial is time barred, is incorrect and the petition filed before the Tribunal by the petitioners was dismissed vide impugned order dated 07.05.2025 . Hence, the present Criminal Writ Petition.

3. Learned counsel appearing on behalf of the petitioners has raised certain arguments with regard to the findings recorded by the Tribunal that the Competent Authority i.e. the GOC only came to know about the aforesaid incident on 19.02.2020 and not to a date prior to the said date, is incorrect and the Tribunal has ignored certain pleadings by the Army authorities during the litigation, wherein the factual aspect had already been described that the GOC looked into the Court of Inquiry report dated 28.09.2019 and had passed an order dated 29.10.2019 giving directions for further enquiry, which factual aspect and the said pleading by the respondents has totally been ignored, and therefore, the order dated 07.05.2025 (Annexure P-12) passed by the Tribunal is factually incorrect and is perverse to the facts on record.

4. Learned counsel appearing on behalf of the petitioners further submits that under all circumstances, even after the further investigation upon the Court of Inquiry report dated 28.12.2019, a fresh Court of Inquiry report was submitted on 03.12.2019 and even if it is assumed for the sake of argument that the Tribunal has held that the said report was considered by



the GOC on 19.02.2020, then also the limitation will not start from 19.02.2020 but will start from 03.12.2019 keeping in view the settled principle of law on the said aspect and therefore, then also initiation of the Court Marshal proceedings on 14.01.2023 was beyond the prescribed period of three years, which fact as well as the settled principle of law has been ignored by the Tribunal while dismissing the petition filed by the petitioners. Therefore, the order passed by the Army authorities holding the Court Marshal from 14.01.2023 as well as the order passed by the Tribunal declining the prayer of the petitioners that the said Court Marshal is time barred, may kindly be set aside.

5. Upon notice of motion, the respondents have appeared and submitted that once the Tribunal, on the basis of the actual record submitted before the Tribunal, has recorded a finding that the GOC being the Competent Authority first examined the matter on 19.02.2020 and issued direction to hold the Court Marshal on 24.02.2020, accordingly initiation of the Court Marshal on 14.01.2023 is perfectly within the limitation period of three years, as prescribed under section 122 of the Army Act, 1950. Therefore, the reliance being placed by the petitioners on certain pleadings become irrelevant keeping in view the factual aspect which has been noticed by the Tribunal based upon the actual record which was presented before the Tribunal. Hence, the order dated 07.05.2025 passed by the Tribunal that the Court Marshal was initiated within the limitation prescribed i.e. three years, may kindly be upheld and the present Criminal Writ Petition filed by the petitioners may kindly be rejected.

6. We have heard the learned counsel for the parties and have



gone through the case file with their able assistance.

7. The first question which arises for the determination in the present petition is as to on what date, it can be said that the GOC had the knowledge about the case, from date the limitation of three years under Section 122 of the Army Act, 1950 is to be counted. Further, whether from the date of such knowledge, the General Court Marshal proceedings were initiated within a period of three years or not?

8. It is a conceded fact that a Court of Inquiry was constituted on 19.06.2019 to ascertain the truth with regard to the allegations of embezzlement and irregularities being alleged against the petitioners. It is also a conceded fact before this Court that the Court of Inquiry report was submitted on 28.09.2019 to the Competent Authority i.e. GOC. The fact which needs to be examined as to what happened thereafter. As per the petitioners, the said Court of Inquiry report was put up before the Competent Authority i.e. the GOC on 28.09.2019 and keeping in view the direction given by the GOC further investigation was sought to be done, which order was passed on 29.10.2019 hence, the date of the knowledge of the Court of Inquiry report was with the GOC starting from either 28.09.2019 or at very best on 29.10.2019, wherein further investigation was ordered by GOC.

9. It may be noticed that certain pleadings between the parties on the said aspect in the litigation between the parties pertaining to the same incident is very necessary to be looked into to find out when the Competent Authority i.e. GOC, had the knowledge about the Court of Inquiry report dated 28.09.2019. It may be noticed that the said letter dated 28.09.2019, by which the report of Court of Inquiry was submitted, has been reproduced by



the petitioners in paragraph 26 (VIII) of the petition. Perusal of the same shows that it was addressed to the GOC, HQ 11 Corps. In response to the said submission of the Court of Inquiry report, the further investigation was ordered on 29.10.2019, which letter is also on record as Annexure A-12 at page 250 of the paperbook.

10. A bare perusal of the said letter dated 29.10.2019 would show that following statement has been made by the Army authorities while requesting for further enquiry into the enquiry report dated 28.09.2019. The paragraphs 1 and 2 of the said letter are as under:-

“1. Ref your letter No.4225/1/A2 dated 28 Sep 19 and even no. dated 22 Oct 19.

2. The Court of Inquiry proceedings were placed for perusal of the Competent Authority. Following observations have been noticed:-”

11. A bare perusal of the above reproduction would show that it is conceded by the Army authorities that the Court of Inquiry report dated 28.09.2019 was placed for perusal of the Competent Authority and further observations were noted. The Competent Authority is GOC, which is a conceded fact.

12. Further, after doing the needful as requested by letter dated 29.10.2019, the fresh Court of Inquiry report along with all the data were again submitted to the Competent Authority on 03.12.2019, which letter is also on record as Annexure A-13, which is also addressed to the Competent Authority i.e. GOC. Hence, the letter *prima facie* shows that the Court of Inquiry report dated 28.09.2019 was brought to the notice of the GOC and upon his instructions, certain directions were given for further enquiry, which directions were also undertaken and fresh report of Court of Inquiry



was submitted on 03.12.2019.

13. It may be noticed here that no other Officer except the GOC could have ordered the further investigation after the report of Court of Inquiry dated 28.09.2019 being the Competent Authority. Hence, any further investigation undertaken has to be held that same were ordered at the instance of the GOC as per the letter dated 29.10.2019.

14. Further, the issue when raised before the Tribunal, the stand of the Army authorities is to be seen whether there was any shift in the stand or that was same.

15. An affidavit was filed along with the written statement (Annexure P-2) filed by the respondent Army authorities and the relevant submissions made in the written statement with affidavit are as under:-

“At that time, it was not known that Brig Alok Joshi (Retd) would be called as a witness in this case. Thus, the first C of I in the matter assembled vide Convening Order dated 19 June 2019 and examined witnesses accordingly. The C of I proceedings were duly submitted to the convening authority i.e. GOC, 11 Corps on 25 Sep. 2019, however an addl C of I was ordered and the same was carried out in the month of Nov and Dec 2019 by the same members and various docus like bank statements were taken on record meaning thereby that the inv was still on and not finalised. The addl C of I pedgs alongwith addl findings and opinion were submitted to the convening auth and were finalised vide directions dated 24 Feb 2020, directing disciplinary action against both the applicants.”



16. A bare perusal of the above averment would show that it is being conceded by the Army authorities that the Court of Inquiry report dated 28.09.2019 (wrongly mentioned as 25.09.2019) which was submitted to the GOC, an additional Court of Inquiry was ordered and the same was carried in November and December and same was submitted to the Competent Authority.

Further, in the same written statement, in para 39, the following averments have made:-

“39. Para 5 (vii) (ix)

(a) The contents are denied as the first C of I assembled vide Convening Order dated 19 Jun 2019 and examined witnesses accordingly The C of I proceedings were duly submitted to the Convening Authority ie. GOC, 11 Corps on. 25 Sep 2019. However, an addi C of I was ordered to bring on record additional evidence and the same was carried out in the month of Nov and Dec 2019 by the same members and various docus like bank statements were taken in its podgs meaning thereby that the inv was still on and not finalised. The addi C of 1 pcdgs alongwith addi findings and opinion were submitted to the convening auth and were finalised vide directions dated 24 Feb 2020, directing disciplinary action against both the applicants. Hence, it strongly denied that, date of submission of C of 1 pedgs be taken to calculate the period of limitation Since, the pedgs were not completed, the competent auth returned back the pedgs to record additional evidence and did not agree with the opinion of the Court there at.”



17. A bare perusal of the above reproduction would show that it was conceded that the Competent Authority did not agree with the initial report of the Court of Inquiry dated 28.09.2019 and directed the further investigation into the aspect, which further report was submitted again. Once, the written statement was filed by the Army authorities based upon the record along with an affidavit to support the same that the said averments are to be treated as true and the said averment have to be taken on the face value as submitted by the respondents and the natural conclusion which can be drawn is that even the respondents were conceding the fact that the Court of Inquiry report dated 28.09.2019 was submitted to the Competent Authority and the Competent Authority i.e. the GOC took a decision for further investigation being not satisfied with the same and further inquiry was conducted in the months of November and December of 2019 and a fresh report was submitted to the Competent Authority on 03.12.2019 on which, the Competent Authority i.e. GOC had a look on 19.02.2020 and a Court Martial was ordered on 24.02.2020. Hence, Court of Inquiry report dated 28.09.2019 as well as 03.12.2019 were with the Competent Authority and the decisions were being taken by the Competent Authority i.e. GOC on the said report much prior to 19.02.2020.

18. It may be noticed that the said stand of the respondents continued even before the General Court Martial. In the reply filed by the respondent on defence by way of written argument, which is annexed as Annexure A-9 is on record the following stand was taken by the Army authorities before the General Court Martial. The said stand taken is being reproduced hereunder for the ready reference:-



“As regards the re-assembly of the Court of inquiry held in this case and the contention of the defence, it may be clarified that in terms of AR 179(5) the convening authority, can cause the Court of inquiry to reassemble for reasons to be mentioned Exhibit 21 is a letter issued by HQ 11 Corps after perusal of the proceedings by competent authority and it is duly addressed to the Presiding officer of the Court of inquiry wherein the specific purpose of it's re assembly e. rectification of observations and the additional evidence required to be brought in by additional proceedings for holistic appreciation has been duly mentioned Exhibit 22 has clearly shown that the additional evidence along with additional findings and opinion of the Court of inquiry have been submitted to the convening authority.”

19. A bare perusal of the above would show that it is being conceded by the Army authorities that the Exhibit 21 which is the letter dated 29.10.2019 and Exhibit 22 that is the letter dated 03.12.2019 by which the fresh Court of Inquiry was submitted, were brought to the notice of the Competent Authority that is the GOC.

20. It may be noticed that as mentioned earlier, the issue whether the General Court Marshal has been ordered within the prescribed limitation of three years in the present case had reached this Court by way of CRWP-275-2024. In the said petition also, the reply was filed by the Army authorities and in paragraph 32 of the reply, the following has been noticed.

“Thus, the first C of I in the matter assembled vide Convening Order dated 19 Jun 2019 and examined witnesses accordingly. The C of I proceedings were duly submitted to the Convening Auth i.e. GOC, 11



Corps on 29 Sep 2019, however an additional C of I was ordered and the same was carried out in the month of Nov-Dec 2019 by the same members and various documents like bank statements were taken on record meaning thereby the investigation was still on and not finalized. The additional C of I proceedings along with additional findings and opinion were submitted to the Convening Auth and were finalised vide directions dt 24 Feb 2020, directing disciplinary action against both the Petitioners.”

21. A bare perusal of the above reproduction would show that in the said affidavit as well, it is conceded by the respondents that the Court of Inquiry report was duly submitted to the Convening Authority on 28.09.2019 (wrongly mentioned as 29.09.2019 while filing the reply) and the same was looked into by the Competent Authority i.e. the GOC and directions were given to further hold the investigation, which further investigation was completed and Court of Inquiry report was submitted again for the orders of the Competent Authority i.e. the GOC on 03.12.2019, which report was looked in and orders were passed on 24.02.2020. This shows that at all given point of time, the stand of the authorities were that the Court of Inquiry report dated 28.09.2019 was brought to the notice of the Competent Authority and an order was passed on 29.10.2019 on the directions of the Competent Authority to hold further inquiry which was completed and a fresh report was submitted on 03.12.2019. Hence, the date of the knowledge, which has been described as 24.02.2020 by the Competent Authority, keeping in view the facts and circumstances of the present case, cannot be accepted to be true.

22. The arguments which have been raised and noticed



hereinbefore, are sought to be reverted by the learned counsel appearing on behalf of the respondents. Learned counsel for the respondents submits that though, the documentation which has been noticed by this Court in the preceding paragraphs is correct but the same is not in consonance with the actual record. Learned counsel for the respondents submits that for the very first time, the Competent Authority that is GOC, looked into the Court of Inquiry report which was submitted vide communication dated 03.12.2019 to HQ11 Corps, on 19.02.2020. Hence, any averment made in the pleadings are which is contrary to the actual facts, hence, cannot be taken into account and the Tribunal while passing the order dated 07.05.2025 rightly ignored the said facts keeping in view the actual record, which was brought to the notice of GOC, who was the Competent Authority on 19.02.2020.

23. For the said argument, it may be noticed that the Army authorities are among the most disciplined units and it goes without saying that they perform the duties as per their jurisdiction without transgressing on anybody else authority. The said aspect is well appreciated. In case the argument of the learned counsel for the respondents is to be accepted, then it means that the jurisdiction of Competent Authority that is GOC, was transgressed by another authority while directing the further investigation into the Court of Inquiry report dated 28.09.2019 while passing the order dated 29.10.2019. Said argument cannot be accepted for the reasons that though the said order dated 29.10.2019 might have been actually passed by an authority subordinate to the Competent Authority but it cannot be accepted that the said order was passed without informing the actual facts to the Competent Authority or taking appropriate instruction upon the Court of



Inquiry report dated 28.09.2019. These documents/averments in the pleadings, reproduced hereinbefore clearly go to show that the Competent Authority was informed about the Court of Inquiry report dated 28.09.2019, even if the same was informed and the orders were taken orally from GOC, the same has to be treated as the date of knowledge.

24. It may further be noticed that the letter dated 29.10.2019, of which the relevant paragraph has been reproduced, clearly states that the Court of Inquiry proceedings were placed for the perusal of the Competent Authority i.e. the GOC and observations which were made clearly go to show that the said action of directing further investigation was taken by the Competent Authority, i.e. the GOC, even if the written orders were actually passed by another authority on the oral instructions of the GOC on 29.10.2019.

25. Further, this view stands fortified from a simple fact that in case, any authority subordinate to the GOC, without informing the said Competent Authority about the Court of Inquiry report dated 28.09.2019, issued an order for further investigation into Court of Inquiry report dated 28.09.2019 claiming it to be the direction of the Competent Authority, no corrective action has been taken so far even after expiry of 05 years of the writing of the said letter by such authority. Further, no action has been taken against the officer, who is purported to have written the said letter dated 29.10.2019 and that too without jurisdiction. This clearly go to show that impliedly, the letter dated 29.10.2019 is being accepted to have been issued on the basis of the oral direction which was given by the Competent Authority i.e. GOC. Hence, the argument which is being raised that the



written order was passed for the very first time on the Court of Inquiry on 24.02.2020 under his signatures, though might be correct, but, the actual facts were not to the knowledge of the Competent Authority i.e. GOC prior to the said date, cannot be accepted in view of the facts mentioned here in the law. Hence, for all intents and purposes, the Competent Authority was having knowledge of the Court of Inquiry report dated 28.09.2019 much prior to the date i.e. 24.02.2020 and keeping in view the facts and circumstances noted hereinbefore, it can be stated that the GOC, who was the Competent Authority, had the knowledge of the Court of Inquiry report dated 28.09.2019 on 29.10.2019 when the fresh inquiry was ordered under his direction. Hence, the limitation if taken from 29.10.2019 for a period of three years to commence the General Court Martial under Section 122 of the Army Act, 1950 finished on 28.10.2022, whereas, the same were directed to be started on 14.01.2023. Hence, the same was beyond limitation of a period of three years.

26. It may be noticed that the matter can be examined from another angle as well. Even if the order passed by the Tribunal that the Court of Inquiry report was looked into by the Competent Authority on 19.02.2020 for the first time, then also, the question will arise as to from which date the limitation will start i.e. from the date the report of the Court of Inquiry was submitted on 28.09.2019 or 03.12.2019 or the date when the same were looked into by the Competent Authority i.e. the GOC and orders were passed. The law on the said issue has to be looked into.

27. Learned counsel appearing on behalf of the petitioners submits that the first judgment on the said issue is by the Hon'ble Supreme Court of



India in Civil Appeal No.32 of 2003, titled as ***Union of India and others vs. V.N. Singh***, decided on 08.04.2010. The relevant para 18 of the said judgment is as under:-

“18. Ms. Indira Jaisingh, Learned ASG argued that in terms of Section 122(1)(b) of the Army Act, the then Brigadier K.S.Bharucha was not the person aggrieved by the offence and neither the then Brigadier K.S.Bharucha nor Major General BS Suhag were competent to initiate action against the respondent but G.O.C. Delhi area was Disciplinary Authority of the respondent who learnt about the offence having been committed by the respondent for the first time on receipt of the report of Staff Court of Inquiry submitted on December 3, 1994 and as the G.C.M. commenced the trial on December 17, 1996 the same could not have been treated as time barred under Section 122 (1)(b) of the Army Act. It was asserted that the Technical Court of Inquiry could not come to a definite conclusion about the correct details of purchase of Hygiene and Chemicals nor any definite conclusion could be reached about the persons responsible for the irregularities but the involvement of the respondent came to the light only in August 1994 when the Staff Court of Inquiry submitted its report and therefore the High Court was not justified in quashing the proceedings of G.C.M. on the ground that they were time barred.

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35. It is relevant to notice that the contents of the letter dated May 27, 1993 written by Brigadier K.S.Bharucha to Major General ASC Headquarter Western Command do not mention at all, the respondent as the person who had committed the



irregularities except for a reference that there had been certain procedural lapses on the part of 4RPD. The said letter was addressed by Brigadier K.S.Bharucha apparently with a view to closing the case in total disregard to the facts and the circumstances emerging from the case. This fact has been observed by the GOC-in-C Western Command who while giving direction to initiate administrative action against Major General K.S.Bharucha ordered initiation of departmental inquiry against the respondent. Even the reference to ACR of the respondent written by Major General Suhag only mentions that the respondent had failed to monitor the local purchase of Hygiene and Chemicals but there is no mention therein that the respondent was himself responsible for the irregularities found to have been committed in the purchase of Hygiene and Chemicals. It was only after the detailed investigation by Staff Court of Inquiry that the irregularities committed by the respondent and his role in the purchase of Hygiene and Chemicals came to light.”

When paras 18 and 35 reproduced hereinbefore are read together, it is clear that the Hon’ble Supreme Court of India accepted the date of Staff Court of Inquiry submitted on 03.12.1994 so as to ensure the limitation from the said date and in the present case also, the Court of Inquiry reports either dated 28.09.2019 or dated 03.12.2019 are taken into consideration, the initiation of the Court Martial proceedings on 14.02.2023 are time barred.

28. The judgment in *V.N. Singh’s* case (supra) has been considered threadbare in the subsequent judgments also as to what date



should be considered as the date of the knowledge whether the same is to be treated as the submission of the inquiry report or the date on which the consideration takes place by the GOC so as to compute limitation as per Section 122 of the Army Act, 1950.

29. In Civil Appeal No.6274 of 2003, titled as ***J.S. Sekhon vs. Union of India and another***, decided on 10.08.2010, after taking into consideration judgment in ***V.N. Singh's*** case (supra), following was held in para 22 of the said judgment, which is as under:-

“22. Since, the authority competent to initiate action has derived his knowledge about the commission of the offence on submission of the report of the Court of Inquiry 11.10.1996 or at the most on submission of the report by the technical board of officers on 9.4.1995 and the date of the convening of the trial by general court martial is 9.3.1998, the trial is not barred by limitation as sought to be submitted by the counsel appearing for the appellant, and therefore, the submission of the counsel appearing for the appellant fails and is rejected. ”

30. A bare perusal of the above reproduction would show that the submission of the Court of Inquiry report has been treated as the date of knowledge so as to start the limitations of three years as prescribed under section 122 of the Army Act, 1950.

31. The same question again came up for consideration before the Hon'ble Supreme Court of India in Civil Appeal No. 2107 of 2012, titled as ***Rajvir Singh vs. Secretary, Ministry of Defence and others***, decided on 15.02.2012, and after considering all the facts, in paragraphs 18 and 19 of the said judgement, Hon'ble Supreme Court of India has held that the date of



knowledge of the Competent Authority to determine the limitation provided for initiating Court Martial proceedings is the date of submitting of the inquiry report. The relevant para 18 and 19 is being reproduced as under:-

18. It is further submitted that in any event the GOC-in-C, CC was undeniably the competent authority to initiate action against the appellant. On May 7, 2007, the alleged offence and the identity of the appellant as the alleged offender was fully within his knowledge on the basis of the recommendation of GOC, MB Area and the report of the Court of Inquiry ordered by him. His knowledge is evident from his recommendation to Integrated HQ, wherein, he stated that the culpability of the appellant was established. The period of limitation must, therefore, commence from a date not later than May 7, 2007 and reckoning from that date, the period of three years came to end on May 6, 2010. But the order for convening the General Court Martial was finally passed by the GOC, MB Area on August 23/26, 2010, that is, clearly beyond the period of limitation. Hence, the appellant's trial before the General Court Martial was clearly hit by section 122 and was barred by limitation.

19. On behalf of the respondents, on the other hand, it is argued that the period of limitation in this case can only commence from May 12, 2008 when the GOC-in-C, CC directed that disciplinary action be initiated against the appellant and that later date must be deemed to be the date when the competent authority had the knowledge within the meaning of section 122 of the Act

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29. It is, thus, to be seen that the order dated May 12, 2008 is almost in identical words as the one passed on



May 7, 2007. There is, therefore, no escape from the fact that the GOC-in-C, CC was in knowledge of the offence and the identity of the appellant as one of the alleged offenders on May 7, 2007. Reckoning from that date, the order passed by the GOC, MB Area, to convene the General Court Martial on August 23/26, 2010 is clearly beyond the period of three years and hence, barred in terms of section 122.”

32. A bare perusal of the above reproduction would show that the date of submission of the inquiry report has to be treated as a date of the knowledge of the offence. The argument of the learned counsel for the respondents that in the case of *Rajvir Singh* (supra), certain directions with regard to re-investigation were given by the Competent Authority i.e. the GOC, according to which the report of the Court of Inquiry was submitted on 07.05.2007, which was taken as a date to start limitation, which fact is missing in the present case.

33. Even if, the said argument of the learned counsel for the respondents is accepted but when applied in the present case, the first Court of Inquiry report was submitted on 28.09.2019 and further directions for re-investigation were given by the Competent Authority i.e. the GOC on 29.10.2019 in pursuance to which, the Court of Inquiry report was submitted on 03.12.2019 and if the date 03.12.2019 is taken as the date of submission of the Court of Inquiry report on which report, orders of Court Martial were passed on 24.02.2020, then also the initiation of the Court Martial proceedings on 14.01.2023 is beyond the limitation of the period of three years, if taken from 03.12.2019. Learned counsel for the respondents has not been able to rebut the said fact.



34. Apart from this, the Hon'ble Supreme Court of India in Civil Appeal No.6274 of 2003, titled as ***J.S. Sekhon vs. Union of India and another***, decided on 10.08.2010, has again considered the said issue and the finding recorded by the Hon'ble Supreme Court of India in para 22 is as under:-

“22. Since, the authority competent to initiate action has derived his knowledge about the commission of the offence on submission of the report of the Court of Enquiry 11.10.1996 or at the most on submission of the report by the technical board of officers on 9.4.1995 and the date of the convening of the trial by general court martial is 9.3.1998, the trial is not barred by limitation as sought to be submitted by the counsel appearing for the appellant, and therefore, the submission of the counsel appearing for the appellant fails and is rejected.”

35. A bare perusal of the above reproduction would show that the date of start of limitation has been taken as the date of submission of the Court of Inquiry keeping in view the limitation prescribed under Section 122 of the Army Act, 1950. Learned counsel for the respondents has not been able to rebut the said proposition of law, which has been noticed above so as to contend to the contrary.

36. Keeping in view, the totality of the facts and circumstances of the present case, even if for the sake of argument, the date of the submission of the Court of Inquiry is taken as 03.12.2019, after the action of directing the re-investigation was taken upon the first inquiry report dated 28.09.2019 keeping in view the directions given by the Competent Authority i.e. the GOC on 29.10.2019, the period of three years stand lapsed starting from



03.12.2019 when the Court Martial proceedings were initiated on 14.01.2023. That being so, the Tribunal while passing the order dated 07.05.2025 did not appreciate the certain facts first to give the finding that the Competent Authority i.e. the GOC did not have the knowledge about the Court of Inquiry proceedings prior to 19.02.2019 as well as the settled principle of law that the date of the submission of the Court of Inquiry report is to be taken as the date for computing the limitation, which in the present case even if is taken as 03.12.2019, which is the date on which second inquiry report was submitted, then also the period of limitation as prescribed to be three years, stood expired on 14.01.2023.

37. Even the argument of the learned counsel for the respondents is taken that the date 19.02.2020 is to be taken as the date from the limitation should start, then also keeping in view the pleadings between the parties, which have already been noticed and reproduced hereinbefore, the direction which was given by the Competent Authority i.e. the GOC on 24.02.2020 was on the basis of the report which came into the knowledge on 19.02.2020 keeping in view the report of Court of Inquiry dated 03.12.2019, then also the said date will be treated as the date of knowledge, keeping in view the facts and circumstances of the present case and therefore, under all circumstances, whether the date of knowledge is to be taken from the date when any order is passed on the direction of the Competent Authority or the report of Court Inquiry submitted whether first or second, 19.02.2020, or 03.12.2019, the starting of the General Court Martial proceedings on 14.01.2023 was beyond the limitation.

38. Keeping in view the above, the order dated 07.05.2025



(Annexure P-12) passed by the Tribunal and the initiation of the Court Marital proceedings cannot be treated to be as per Section 122 of the Army Act, 1950 and hence, cannot be allowed to be proceeded and therefore, the Court Martial proceedings initiated on 14.01.2023 against the petitioners are set aside. However, the Competent Authority i.e. the GOC will be still within its jurisdiction to initiate any other proceeding for which they are entitled against the petitioners as per the provisions of law qua the allegations of embezzlement being alleged against them.

39. The writ petition stands allowed.

(HARSIMRAN SINGH SETHI)
JUDGE

(VIKAS SURI)
JUDGE

September 12, 2025
harish

Whether speaking/reasoned	Yes
Whether reportable	Yes