



2025:DHC:9828-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI**Judgment reserved on: 09.10.2025****Judgment pronounced on: 11.11.2025**

+ W.P.(C) 5080/2024

ARUN KUMAR

.....Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Sourabh Gupta, SPC for
UOI

Mr. Jagdish Chandra, CGSC with Mr. Sujeet
Kumar, Adv.

+ W.P.(C) 10384/2024

UDAY KUMAR

.....Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Iram Majid, CGSC with Mr.
Md. Suboora and Mr. Shivam Parashar,
Advs.

+ W.P.(C) 5091/2024

VIJAY SINGH

.....Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus



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UNION OF INDIA & ORS.
Through:

.....Respondents

+ W.P.(C) 5097/2024

SUNIL KUMAR

.....Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Saumya Tandon, CGSC
with Mr. Gaurav Singh Sengar, Adv.

+ W.P.(C) 5101/2024

RAJESH XALXO

.....Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Ishkaran Singh Bhandari,
CGSC with Mr. Piyush Yadav, Adv. for UOI

+ W.P.(C) 5102/2024

HUKAM SINGH

.....Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. T. P. Singh, SPC

+ W.P.(C) 5103/2024, CM APPL. 56141/2025

RAJVEER

.....Petitioner

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Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Adv.

versus

UNION OF INDIA & ORS.Respondents

Through: Mr. Jagdish Chandra, CGSC
with Mr. Sujeet Kumar, Adv.

+ W.P.(C) 5104/2024

SHASHI KANTPetitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Adv.

versus

UNION OF INDIA & ORS.Respondents

Through:

+ W.P.(C) 5106/2024

ARVIND KUMARPetitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Adv.

versus

UNION OF INDIA & ORS.Respondents

Through: Mr. Kshitij Chhabra, SPC with
Mr. Ashish Rawat, GP for UOI

+ W.P.(C) 5109/2024

DHEERAJ YADAVPetitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Adv.

versus

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UNION OF INDIA & ORS.Respondents
Through: Mr. Shashank Dixit, CGSC with
Mr. Kunal Raj and Ms. Charu Khandelwal,
Advs.

+ W.P.(C) 5111/2024

SATISHPetitioner
Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.Respondents
Through: Mr. Gigi C. George, SPC with
Mr. Sunil Kumar, Adv. for UOI
Mr. Abhishek Saket, SPCG with Mr. Amit
Acharya, GP, Mr. Manish Madhukar, Mr.
Abhigyan, Ms. Reya Paul and Ms. Amruta
Padhi, Advs.

+ W.P.(C) 5113/2024

AKASH KUMARPetitioner
Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.Respondents
Through:

+ W.P.(C) 5114/2024

MANOJ JOSHIPetitioner
Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus



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UNION OF INDIA & ORS.

.....Respondents

Through:

+ W.P.(C) 5115/2024

KULBIR SINGH

.....Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Ashok Kashyap, Sr. PC with
Mr. Kabir Hazarika, GP with Ms. Steffi
Khokhar, Adv. for UOI

+ W.P.(C) 5117/2024

RAKESH KUMAR

.....Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Gaurav Sharma, SPC with
Ms. Manpreet Kour, Adv.

+ W.P.(C) 5118/2024

RAJIV KUMAR YADAV

.....Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Pratima N Lakra, CGSC
with Mr. Shailendra Kumar Mishra, Mr.



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Shivansh Bansal and Ms. Raunak, Advs.

+ W.P.(C) 5119/2024

MD. ALFAZ ALAM

.....Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Abhishek Saket, SPCG with
with Mr. Amit Acharya, GP, Mr. Manish
Madhukar, Mr. Abhigyan, Ms. Reya Paul and
Ms. Amruta Padhi, Advs.

Mr. Jagdish Chandra, CGSC with Mr. Sujeet
Kumar, Adv.

+ W.P.(C) 5121/2024, CM APPL. 60029/2025

YOGESH KUMAR

.....Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Krishna Chandra Dubey,
Ms. Uma Tarafdar and Mr. Parag Kumar,
Advs. for UOI

+ W.P.(C) 5122/2024

RINKU KUMAR

.....Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

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Through: Mr. Vikrant N Goyal, Mr. Kunal
Dixit, Mr. Arun Kumar Yadav, Mr. Harsh
Kumar Singh and Mr. Piyush Wadhwa, Advs.

+ W.P.(C) 5125/2024

SANDEEP KUMAR

.....Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Dr. B. Ramaswamy, CGSC for
UOI
Mr. Nishant Gautam, Adv.

+ W.P.(C) 5131/2024

AJEET SINGH YADAV

.....Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Sandeep Kumar Mahapatra,
CGSC with Ms. Mrinmayee Sahu and Mr.
Tribhuvan, Advs.

+ W.P.(C) 5132/2024

VIKASH KUMAR YADAV

.....Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Jagdish Chandra, CGSC
with Mr. Sujeet Kumar, Adv.



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+ W.P.(C) 5935/2024

CHANDRAVIR SINGH

.....Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Akshat Singh, Sr. PC with
Mr. Utkarsh Kandpal, Adv. for UOI

+ W.P.(C) 7569/2024

RAMKARAN YADAV

.....Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through:

+ W.P.(C) 10904/2024

NEEKESH KUMAR

.....Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Pratima N Lakra, CGSC
with Mr. Shailendra Kumar Mishra, Mr
Shivansh Bansal and Ms. Raunak, Advs.

+ W.P.(C) 10905/2024

MATTA NAVEEN

.....Petitioner

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Through: Mr. Arun Bhardwaj, Sr. Adv.
with Mr. Ankur Chhibber, Mr. Raj Singh
Phogat, Mr. Amit Raj and Mr. Anshul
Sharma, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Ms. Shagun Shahi Chugh, Sr.
PC with Ms. Kavya Roy Choudhury, Adv. for
UOI

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT

11.11.2025

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OM PRAKASH SHUKLA, J.

1. The present batch of writ petitions has been filed under Article 226 of the Constitution of India seeking quashing of the orders of dismissal from the Indian Coast Guard dated 28.02.2024, and, consequently, seeking reinstatement of the petitioners with full pay and other benefits. The petitions further assail Rule 23 of the Coast Guard (General) Rules, 1986¹, as being violative of Article 311 of the Constitution of India. Further, the writ petitions call for the record of proceedings leading to the dismissal of the petitioners, which includes the offence report, Record/Abstract of Evidence², the Punishment Approval Form under the Coast Guard (Discipline) Rules, 1983³, and the subsequent Board of Inquiry⁴ proceedings.

¹ "General Rules" hereinafter

² "AOE" hereinafter

³ "Discipline Rules" hereinafter

⁴ "BOI" hereinafter



2. Since the issues arising in the present batch of writ petitions are identical and the allegations levied against the petitioners arise from the same transaction, accordingly, all petitions have been heard together and are as such being disposed of by way of this common judgment. The writ petition being W.P.(C) No. 5103 of 2024 titled ***Rajveer v. Union of India & Ors.***, is treated as the lead matter for the purposes of adjudication of the present batch of petitions.

BACKGROUND

3. Before delving into the rival contentions, we deem it fit to note the brief factual matrix. The petitioners herein were serving as members of the Indian Coast Guard⁵ and were posted on board the Indian Coast Guard Ship⁶ *Sarthak*, which was en route from Goa Shipyard Limited, Vasco da Gama, Goa to Porbandar, Gujarat. It is alleged that the petitioners were involved in smuggling of 1,512 bottles of Indian Made Foreign Liquor⁷ on board, in consequence of which they were all dismissed from service by the impugned order dated 28.02.2024.

4. For the sake of clarity and to effectively address the common issues as well as the factual distinctions, the petitioners have been categorised into two groups based on the type of proceedings to which they were subjected. It is stated that while one faction underwent summary trial proceedings and subsequently BOI proceedings, the other was subjected only to BOI proceedings. The **first category**

⁵ "ICG" hereinafter

⁶ "ICGS" hereinafter

⁷ "IMFL" hereinafter



consists of 15 petitioners against whom summary trial proceedings were conducted and accordingly minor punishments were proposed. However, subsequently, the said punishments were set aside, and the petitioners were subject to fresh BOI proceedings which ultimately led to their dismissal from service. It has also been stated in the records that certain petitioners in this category were on leave at the time when the search and seizure of the contraband (IMFL) took place. Further, since this is a batch of 25 writ petitions, there exist certain factual variations, particularly concerning the posts held by each petitioner at the relevant time and the number of bottles allegedly seized from each petitioner. The individual details pertaining to the petitioners as per the record falling under this category, including their respective posts, leave details, and the number of bottles allegedly seized from the petitioners on board, are set out below in a tabulated form:

S. No.	Writ Petition Details	Date of Joining and Post when cause of action arose	No. of Bottles Recovered	Leave Details
1.	W.P.(C) No. 5080/2024	07.08.2019; Navik (ME)	170	Petitioner was living as <u>Money in lieu of Ration</u> ⁸ family member and on 23.12.2022, the petitioner went to family quarters at Porbandar
2.	W.P.(C) No. 10384/2024	20.07.2007; Adhikari (QA)	35	-



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3.	W.P.(C) No. 5091/2024	01.10.2002; Adhikari (STD)	70	Petitioner was living as MLR family member & on 23.12.2022 went to family quarters at Porbandar
4.	W.P.(C) No. 5102/2024	30.03.2011; Pradhan Navik (STD)	170	Petitioner was living as MLR family member & on 23.12.2022 went to family quarters at Porbandar
5.	W.P.(C) No. 5103/2024	01.08.2006; Adhikari (ME)	70	Earned Leave from 19.12.2022 to 30.12.2022 as per Genform.
6.	W.P.(C) No. 5106/2024	30.01.2006; Adhikari (QA)	20	Petitioner was living as MLR family member & on 23.12.2022 went to family quarters at Porbandar
7.	W.P.(C) No. 5111/2024	21.01.2008; Adhikari (R)	24	Living as MLR, on o 23.12.2022 went to family quarters at Porbandar
8.	W.P.(C) No. 5114/2024	08.08.2018; Uttam Yantrik (SW)	25	Petitioner was living on the ship and was not in family quarter
9.	W.P.(C) No. 5115/2024	21.01.2008; Adhikari (RP)	80	Petitioner was living as MLR family member & on 23.12.2022 went to family quarters at Porbandar. Petitioner went on earned leave from 26.12.2022 till 06.01.2023 as per the Genform but it is stated in the petition that he was called back on board on 03.01.2023
10.	W.P.(C) No. 5117/2024	13.02.2013; Pradhan Yantrik (ER)	85	Living as MLR, on 23.12.2022 went to family quarters at Porbandar

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11.	W.P.(C) No. 5118/2024	31.07.2000; Uttam Adhikari (RO)	35	Living as MLR, on 23.12.2022 went to family quarters at Porbandar
12.	W.P.(C) No. 5119/2024	20.08.2014; Pradhan Yantrik (ER)	28	Living as MLR, on 23.12.2022 went to family quarters at Porbandar
13.	W.P.(C) No. 5132/2024	20.01.2011; Pradhan Navik (RO)	85	Living as MLR, on 23.12.2022 went to family quarters at Porbandar. In reply to the show-cause notice, the petitioner contends that they were on leave from 26.12.2022 till 13.01.2023 but was called back on 03.01.2023.
14.	W.P.(C) No. 5935/2024	12.02.2010; Pradhan Yantrik (R)	195	In reply to show-cause notice, the petitioner states that he was on 10 days earned leave w.e.f. 09.11.2022.
15.	W.P.(C) No. 7569/2024	07.02.2020; Navik (P)	130	Petitioner was on leave from 09.02.2024 for 15 days till 25.02.2024. However, the petitioner allegedly did not join back from 26.02.2024 onwards and hence was "marked run"

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5. The **second** category consists of 11 petitioners against whom the summary trial proceedings were not initiated and were directly subjected to the BOI proceedings, leading to their dismissal. The relevant particulars of these petitioners as per the record are provided as follows:

S. No.	Writ Petition Details	Date of Joining and Post when cause of action arose	No. of Bottles Recovered	Leave Details
1.	W.P.(C) No. 5097/2024	08.02.2017; Uttam Navik (RP)	30	-
2.	W.P.(C) No. 5101/2024	12.02.2010; Uttam Sahayak Engineer (P) In reply to show-cause notice, the petitioner admitted the purchase of liquor worth Rs. 21,276/- but stated that he consumed it in Goa itself.	Purchase of liquor worth Rs. 21,276/-	-
3.	W.P.(C) No. 5104/2024	18.08.2014; Uttam Navik (AH)	10	The petitioner was on board only for 19 days from 02.11.2022 till 20.11.2022 and thereafter reported for duty on ICGS Sarthak from ICGS Porbandar on 23.12.2022
4.	W.P.(C) No. 5109/2024	09.11.2021; Navik (CK)	13	-
5.	W.P.(C) No. 5113/2024	13.02.2018; Navik (RP)	20	-

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6.	W.P.(C) No. 5121/2024	30.07.2012; Navik (ME)	Pradhan	10	Petitioner lived in Goa as MLR from 13.11.2022 to 20.11.2022 as the reply to show-cause notice. Petitioner states that during the refit/dry dock period of ICGS Sarthak, he resided outside the ship during off duty hours. The petitioner had applied for earned leave for 22 days from 07.03.2024 to 31.03.2024 via mail which was allegedly not granted since the Genform dt. 13.03.2024 (accompanying the dismissal order) states that the petitioner took leave without approval, hence, the Petitioner was “declared marked run” w.e.f. 06.03.2024.
7.	W.P.(C) No. 5122/2024	06.02.2020; (GD)	Navik	16	Petitioner was on casual leave for 05 days with two prefix and two suffix i.e., from

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				17.12.2022 till 25.12.2022. The Genform dated 05.03.2024 stated that the petitioner was absent without leave w.e.f. 02.03.2024.
8.	W.P.(C) No. 5125/2024	14.02.2014; Uttam Navik (P)	8	-
9.	W.P.(C) No. 5131/2024	22.07.2010; Pradhan Navik (RP)	10	Petitioner, in his reply, states that out of 51 days of the dry dock/refit of ICGS Sarthak, he was only present for 16 days on board.
10.	W.P.(C) No. 10904/2024	Pradhan Naivak (QA); Admitted in reply to Show-cause Notice that he bought liquor for a birthday party with no intent to consume on board.	25	-
11.	W.P.(C) No. 10905/2024	09.09.2021; Naivak (QA); Admitted the purchase of bottles in Goa for brother's marriage in his reply to Show-cause Notice	25	-

6. Reverting to the common factual background of the petitions before this Court, it is stated that the ICGS *Sarthak* was docked at Goa Shipyard Ltd. for a Guarantee Refit/Dry Dock (GRDD) and upon completion of the refit, the vessel departed for Porbandar, Gujarat.

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7. During the voyage, on 17.12.2022, an inspection round was allegedly conducted on ICGS *Sarthak*. It is undisputed that no contraband was found during this inspection, and an “OK” report was forwarded to the Commander, Coast Guard District Headquarters No. 1 (Respondent No. 5) at Porbandar. The ship thereafter arrived at Porbandar, Gujarat on 23.12.2022.

8. Two days after its arrival, on 25.12.2022 around 11 a.m., the Commanding Officer, ICGS *Sarthak* (Respondent No. 7) purportedly received information that certain personnel had brought illicit liquor on the ship. Consequently, Respondent No. 7 constituted a Board of Officers to conduct a search of personal lockers, living spaces, office spaces and shared areas such as dining halls. The search continued till 9 p.m., during which approximately 264 liquor bottles were allegedly recovered from the personal and office spaces of six personnel.

9. The following day, another search was undertaken covering tanks, void spaces, machinery compartments and other concealed areas. It is stated that the search lasted until 30.12.2022 and resulted in the alleged recovery of 868 bottles of liquor. In addition, around 380 unclaimed bottles of liquor were found in void spaces, air treatment units, bilges, mess panels, ballast tanks etc. Following the search, the personnel who were on leave, or living as MLR in family quarters, or otherwise not on board were called back to ICGS *Sarthak* in connection with the inquiry relating to the recovery of illicit liquor.



10. Considering the seized bottles to be a hazard on the ship, on 31.12.2022, Respondent No. 7 constituted a Board of Officers for the disposal of the contraband, which was carried out on the same day.

11. After the search, seizure and disposal thereof, it is stated that the respondents constituted another Board to ascertain the circumstances under which the liquor was discreetly brought on the ship. As per the proceedings of the aforementioned Board dated 01.01.2023, it was determined that the incident might have originated from two or three personnel bringing small quantities of liquor on board, which was subsequently followed by others but there was no conclusive finding as to from whom this chain of events had begun. Upon examination, the alleged *modus operandi* was found to be that the personnel brought small quantities of bottles in backpacks which were likely wrapped and hidden with care in void spaces, beneath bunks, shoe racks, office spaces, etc. These findings formed the basis for initiating disciplinary proceedings against all the petitioners in the first category.

12. Thereafter, the authorities held a summary hearing/proceeding on the charge under Rule 20 of the Discipline Rules on 01.01.2023 (and on 04-05.01.2023 in some cases). These brief proceedings led to a proposed minor punishment *vide* order dated 09.01.2023 under Section 57(g), i.e., deprivation of good conduct badges. During the course of these hearings, it is alleged that the petitioners were made to give handwritten statements wherein they purportedly admitted the allegations.

13. However, the summary trial proceedings were later set aside on 20.01.2023 (communicated *vide* order dated 12.10.2023) by the



Commander, Coast Guard Region (NW) (i.e., the Deputy Inspector General⁹ in the present case), on grounds, *inter alia*, that the proceedings were conducted in haste and in a biased manner. Accordingly, the BOI proceedings were convened *vide* order dated 08.02.2023.

14. Based on the BOI proceedings, Respondent No. 3 issued respective show-cause notices on 23.10.2023 under Section 11 of the Act read with Rule 23 of the General Rules, alleging that 25 personnel (petitioners herein) had purchased IMFL bottles (1,512 in total) from Goa between 25.12.2022 and 30.12.2022 and brought them on ICGS *Sarthak* without due authorisation. The petitioners submitted their respective replies purportedly denying the said allegations.

15. The respondents, however, found the abovementioned replies unsatisfactory and hence, proceeded to issue the impugned dismissal orders dated 28.02.2024. The petitioners allege that the dismissal orders were issued without furnishing the Offence Report, AOE, or a copy of BOI proceedings, thereby adversely affecting their right to properly defend themselves. The present petitions assail the said dismissal orders, the non-supply of essential evidentiary material and the alleged procedural infirmities violating principles of natural justice.

SUBMISSIONS

COGNATE SUBMISSIONS ON BEHALF OF THE PETITIONERS

16. The learned Counsel for the petitioners submitted that, to act upon the allegations, the respondents could have resorted to one of the



three procedures available, i.e., either proceed under Section 57 of the Act or convene Coast Guard Court under Chapter VII of the Act or as under Rule 23 of the General Rules. However, it was emphasised that the respondents did not follow any of the aforementioned procedures.

17. It was submitted on behalf of the petitioners that only 40-50 personnel were subjected to the BOI proceedings out of a total of 112 personnel on the ship, without any intelligible reason for the exclusion of others. Further that during BOI proceedings, they were either compelled into reiterating the same coerced admissions made during the summary trial, or that they had denied making any such admissions or did not make any statements at all. The petitioners assert that they were not allowed to meaningfully take part in the BOI proceedings, and that their signatures were forcefully taken on an undertaking/certificate on 09.03.2023 to show the compliance of due procedure.

18. The learned Counsel for the petitioners submitted that the procedure leading up to the dismissal of the petitioners in both categories was violative of the principles of natural justice. It was submitted that there were no eyewitnesses, no CCTV footage, no signatures of the petitioners in their statements, the petitioners were not cautioned as under Rule 23(2) of the General Rules, and that there was no procedural compliance of Chapter VII of the said Rules. Additionally, in the case of the petitioners belonging to the first category, it was stated that no show-cause notice was issued before the proposal of minor punishment under Section 57(g) of the Act. It was also contended that once the minor punishment was proposed *vide* order No. 203 dated 09.01.2023, it could not have been set aside and



therefore, it attained finality. Consequently, the subsequent BOI proceedings could not have been initiated against the petitioners in the first category, as the same is barred under Section 68 of the Act which prohibits a second trial on the same allegations and is also violative of their fundamental right guaranteed under Article 20(2) of the Constitution of India. To substantiate, reliance was placed on the proviso to Section 57 which stipulates that approval is required for punishments under sub-Sections (a) to (d) – both inclusive, and that the present case involved punishment under sub-Section (g) which did not warrant an approval. Hence, setting aside the proposed punishments under Rule 28(d) of the Discipline Rules is untenable, as the Rule only permits setting aside of punishments requiring prior approval.

19. Pertaining to the summary proceedings, it was submitted that the alleged admissions of the petitioners in the first category were obtained via handwritten statements. The learned Counsel vehemently challenged the veracity of the same and pressed that the petitioners were unilaterally declared guilty, coerced into making handwritten statements admitting guilt and forced to sign certain documents admitting the charges. Hence, the summary proceedings and the consequent proposed punishment were tainted having been arrived at on false pretexts.

20. Pertaining to the petitioners falling in the second category who were not subjected to the summary trial, it was submitted that Rule 28(d) does not apply since there was no withdrawal or setting aside of the proposed punishment. Rather, they were directly subjected to BOI proceedings. Hence, their case falls under the ambit of Rule 39(4) of



the General Rules, which stipulates the safeguards to be followed during BOI proceedings where an enquiry may adversely affect the concerned personnel. The Rule mandates that such personnel are to be granted a fair opportunity to remain present throughout the inquiry, make statements, furnish evidence, cross-examine witnesses and produce witnesses in their defence. It further stipulates that the Presiding Officer must ensure that the personnel affected are given due notice and fully understand their rights. It was contended that since the aforementioned requirements were not fulfilled, the principles of natural justice owed to the petitioners were unjustly violated. The learned Counsel for the petitioners placed reliance on *UOI & Anr. v. Purushottam*¹⁰ and *Ritesh Soni v. UOI*¹¹. It was further argued that the order of the Regional Law Officer¹², Coast Guard Region (NW) setting aside the proposed punishment on 20.01.2023 was untenable in law since the RLO did not possess the power to set aside a punishment imposed by DIG and was only a forwarding authority. Additionally, it was submitted that the Coast Guard Order¹³ No. 02/93 stipulates that punishment under Section 57(e) to (k) do not require approval. Hence, the punishment under Section 57 (g) could not have been set aside under Rule 28(d) since the said Rule only applies to offences which require approval.

21. With respect to the power of setting aside a proposed punishment, the learned Counsel also submitted that Rule 28(d) of the Discipline Rules was not applicable in the present circumstance and

¹⁰ (2015) 3 SCC 779

¹¹ 2019 SCC OnLine Del 11827

¹² "RLO" hereinafter

¹³ "CGO" hereinafter



Rule 21 of the Discipline Rules, which disqualifies the Commanding Officer from dealing with certain cases, also does not apply, as the criteria stipulated therein were not satisfied. The accused ought to have been attached to other units or stations for the purposes of disciplinary action, which was not done in the present case.

22. It was contended by the learned Counsel that the non-compliance of Rule 39(4) during the BOI proceedings adversely affected the petitioners in both categories. Additionally, the non-compliance of Rule 23 of the General Rules which contains certain safeguards in cases of dismissal, has been stressed upon by the learned Counsel on behalf of the petitioners in both categories.

23. The learned Counsel submitted that the search conducted was not in accordance with Section 100 of the Criminal Procedure Code, 1973, no search or seizure memorandum was prepared, the search was done in voids and public areas, i.e., not in places where petitioners had exclusive access, and that the petitioners were not made part of the search conducted. The learned Counsel emphasises that nothing was placed on record regarding the specific details of the alcohol allegedly recovered, such as the brand name or the size, etc. it was further highlighted that these details were never made part of the evidence on record and that the contraband was destroyed before the summary proceedings began. It was also argued that certain petitioners were either on earned leave or living as MLR in family quarters and hence were not on board at the relevant time when the “possession” was alleged or when the alleged recovery was made. Further, the petitioners were also not afforded a real and effective opportunity to be heard



during the summary trial which led to the proposal of minor punishment under Section 57(g) of the Act. Further, certain discrepancies were also pointed out by the learned Counsel, such as that the alleged written statement by the petitioner in the lead matter pertained to 100 bottles whereas he was charged with possession of 70 bottles. It was argued that the handwritten statements pertaining to the summary trial, though carry signatures, were made under duress and threat. It was submitted that the petitioners were not granted liberty to leave the ship till the written statements were taken.

24. The learned Counsel submitted that the summary trial conducted under Section 57 of the Act did not follow due procedure since the petitioners were not present during the search and/or seizure and nor were they made aware of the material/evidence against them. Further, the validity of the statements of the petitioners during the BOI proceedings was challenged on the grounds that the petitioners did not admit the allegations and were rather forced/compelled to accept certain charges, their written statements were obtained under duress and coercion. The learned Counsel for the petitioners vehemently challenged the validity of the BOI proceedings since, the petitioners were not allowed a reasonable opportunity to be heard or defend themselves, they were not provided any material relied upon against them and further, it is argued that the respondents relied on certain typed statements which purportedly records the said admissions of the petitioners, however, the making of the admissions/statements in typed format do not carry signatures of the petitioners. To substantiate the aforementioned, the learned Counsel relied upon *UOI & Ors. v. Mohd.*



Ramzan Khan¹⁴, Ex Constable Randhir Singh CRPF v. UOI & Ors.¹⁵ and **Kashinath Dikshita v. UOI & Ors¹⁶**. Additionally, it was contended that there was no due caution as mandated under Rule 23 of the Discipline Rules. It was highlighted that the respondents did not sufficiently establish that the petitioners were given a suitable warning and sufficient time to defend themselves. Further, it was vehemently argued that an admission under threat cannot constitute evidence to the detriment of the petitioners.

25. The learned Counsel placed reliance upon the order setting aside the proposed minor punishment dated 20.01.2023 wherein the respondents quoted Article 0708 of the Ship's Standing Orders, which stipulated that bringing alcohol on board did not constitute an offence, hence, the charge brought against the petitioners is invalid.

26. It was submitted that the show-cause notice dated 23.10.2023 did not satisfy the procedure in cases of dismissal of personnel laid down under Rule 23 of the General Rules and was furnished without supply of the BOI proceedings which violates principles of natural justice. It was highlighted that all the petitioners had denied the allegations in their respective replies to the show-cause notice, despite which, they came to be dismissed *vide* orders dated 28.02.2024 under Section 11(b) of the Act. It was further argued that the said show-cause notice was vague and did not provide a real opportunity of defence. Further, it did not carry any specifications regarding the liquor bottles

¹⁴ (1991) 1 SCC 588

¹⁵ 1991 SCC OnLine Del 696

¹⁶ (1986) 3 SCC 229



allegedly recovered from the petitioners or the date when the petitioners purportedly brought the bottles on board or who were the witnesses against them. It was submitted that as per the decision in ***Shri B.D. Gupta v. State of Haryana***¹⁷, the lack of necessary details renders the notice illegal.

27. The learned Counsel submitted that after setting aside of the proposed punishment, the BOI proceedings were initiated against 40-50 personnel only out of a total of 112 personnel on ICGS Sarthak, without attributing any reason for exclusion of others. It was highlighted that the BOI proceedings are only fact-finding proceedings of preliminary nature and do not constitute evidence as to form the basis for dismissal of the petitioners. Reliance was placed on ***Nirmala J. Jhala v. State of Gujarat***¹⁸ and ***Amalendu Ghosh v. Distt. Traffic Supdt., N.E. Rly***¹⁹. It was argued that the BOI proceedings were untenable since the signatures of the petitioners were not taken on any documents that day, the material relied upon against the petitioners was not furnished to them, they were not made part of the entire BOI proceedings or afforded the opportunity to cross-examine witnesses as required under Rule 39(4) of the General Rules. Reliance was placed on ***Maj. R.K. Sareen v. UOI & Ors.***²⁰ to submit that if an action is taken against an officer and the BOI proceedings have been relied upon for the same then if the record of such proceedings is not furnished with the show-cause notice, then the subsequent order of dismissal becomes invalid.

¹⁷ (1973) 3 SCC 149

¹⁸ (2013) 4 SCC 301

¹⁹ 1960 SCC OnLine SC 65

²⁰ ILR (2011) Delhi II 684



28. It was submitted that the impugned dismissal order was issued without providing any supporting documents, such as the Offence Report or AOE under Rule 18 and Rule 24 respectively of the Discipline Rules or the Punishment Approval Form appended in the said Rules or a copy of BOI proceedings. It was submitted that the aforesaid was in blatant violation of Rules 23 and 24 of the Discipline Rules read with CGO 02/93 and Chapter VII of the General Rules and the principles of natural justice. The learned Counsel for the petitioners vehemently challenged the dismissal orders passed by the learned Director General²¹ of the ICG contending that there was non-compliance of Rule 23(2) and Rule 39(4) of the General Rules. It was submitted that lack of proper procedure undermines the rule of law and reliance was placed on *Vinod Kumar v. State of Haryana*²², *P. Kasilingam & Ors. v. P.S.G. College of Technology & Ors.*²³ and *Rajnarain Singh v. Chairmen Patna Administration Committee, Patna & Anr.*²⁴.

29. The learned Counsel brought the attention of this Court to Section 11 of the Act to submit that it is *pari materia* to Section 11 of the Border Security Force Act, 1968 and Section 20 of the Army Act, 1950. Reliance was placed on paragraph 20 of the decision in *Lt. Gen. Surendra Kumar Saini v. Chief of Army Staff & Ors.*²⁵ to submit that Rule 39(4) of the General Rules is akin to Rule 180 of the Army Rules, 1954. The learned Counsel placed further reliance on the decision of the

²¹ "DG" hereinafter

²² 2013 (16) SCC 293

²³ 1995 Supp (2) SCC 348

²⁴ (1954) 2 SCC 82

²⁵ 2007 SCC OnLine Del 1928



co-ordinate Bench of this Court in *Sudesh Kumar v. UOI*²⁶ and *Ajaib Singh v. UOI*²⁷ to argue that the administrative power subject to the Rules framed cannot be used for penal purposes. It was also contended that since no plea of guilt was either made or accepted, Rule 69 of the Discipline Rules, which provides that once an accused pleads guilty, the nature and effect of the charge must be explained to them, was not duly followed. The learned Counsel reiterated *UOI & Ors. v. Jogeshwar Swain*²⁸ in that regard.

30. With respect to dismissal of the petitioners, it was submitted that the posts in the ICG are protected under Article 311 of the Constitution of India as reaffirmed in *Moti Ram Deka v. G.M., North East Frontier Rly*²⁹. It was argued that the respondents did not record any reasons to satisfy initiation of disciplinary/summary proceedings, hence, the same is violative of Article 311 of the Constitution of India.

31. The learned Counsel for petitioners in W.P.(C) Nos. 10384/2024 and 10904-05/2024, in addition to the abovementioned submissions, placed reliance on Rule 39(6) of the General Rules which explicitly stipulates that the BOI proceedings or any statement or confession made therein, shall not be admissible as evidence against any personnel subject to laws governing the Armed Forces of the Union. It was also submitted that in cases wherein a BOI is convened, the respondents must establish the compliance of Rule 23(2) i.e., issuance of due notice and sufficient time to respond thereafter.

²⁶ 1997 (42) DRJ (DB)

²⁷ 1997 (40) DRJ

²⁸ (2023) 9 SCC 720

²⁹ 1963 SCC OnLine 87



COGNATE SUBMISSIONS ON BEHALF OF THE RESPONDENTS

32. Per contra, at the very outset, the learned Counsel for the respondents submitted that the petitioners had failed to establish a cause of action arising within the territorial limits of this Court, hence, this Court lacks territorial jurisdiction to entertain the present batch of writ petitions.

33. The learned Counsel further opposed the contentions of the petitioners and submitted that the impugned dismissal order under Section 11(b) of the Act was passed in accordance with law after affording due opportunity of hearing to the petitioners. It was submitted that the petitioners in the first category were never actually awarded the minor punishment, the same was only proposed/recommended which came to be set aside under Rule 28(d) of the Discipline Rules. It was vehemently argued by the learned Counsel that the authority who recommended the punishment i.e., the DIG in the present case, also possessed the power to set it aside under Rule 28(d). With regards to the contention that setting aside under Rule 28(d) can only be done by an authority having the power to approve a punishment, reliance was placed on CGO No. 23 of 2002 wherein Direction/Paragraph 5 provides that punishments under Section 57(a) to (d) and (g) of the Act require approval by authorities stipulated therein, for punishment under sub-Section (g), COMCGs (Commander Coast Guard) not below the rank of DIG are authorised. It is pertinent to note that DIG is the concerned authority in the present case.



34. With respect to prayer (a), it was submitted that upon receiving credible information, a systematic and comprehensive search was conducted leading to the recovery of 1,512 bottles of illicit liquor bottles from places easily accessible to the petitioners, and that many petitioners had admitted to carrying liquor from Goa. Hence, disciplinary proceedings were initiated under Section 42 of the Act wherein certain petitioners had voluntarily admitted guilt through handwritten statements duly signed by them which culminated into the proposed punishment order. However, it was admitted by the learned Counsel for the respondents that the summary trial against the petitioners in the first category was set aside on 20.01.2023 by the RLO due to legal infirmities. Resultingly, to ensure proper procedural compliance, BOI proceedings were initiated on 08.02.2023 wherein certain petitioners had re-affirmed their earlier admissions. Pursuant to the BOI proceedings, show-cause notices were issued to the petitioners, which were duly replied to by them. However, upon due consideration of the replies, they were found unsatisfactory, and consequently, Respondent No. 2 passed reasoned dismissal orders dated 28.02.2024 under Section 11(b) of the Act followed by consequential orders *vide* Genforms dated 05.03.2024 and 13.03.2024. It was submitted that the power to dismiss under Section 11(b) is independent of disciplinary proceedings under Section 42 of the Act and that the competent authority may exercise its power to dismiss if sufficient reliable evidence establishes misconduct. Further, it was also argued that allowing prayer (b) of the petition would be contrary to Rule 21 of the General Rules.



35. It was contended that the liquor bottles, even if carried in good faith, amounted to a fire hazard on board and, were, therefore, destroyed. However, though the destruction of the contraband rendered the summary proceedings invalid, the subsequent admissions of the petitioners before the BOI and the bank records depicting transactions with liquor vendors, constituted sufficient material for dismissal under Section 11(b) of the Act. It was highlighted that Rule 23 of the General Rules was duly complied with, and the petitioners were given full opportunity to respond to their respective show-cause notices. Further, the replies to the show-cause notices submitted by the petitioners depicts due participation of the petitioners in the proceedings. Reliance was placed on paragraphs 100 to 108 of the decision in *XXX v. UOI & Ors.*³⁰ to substantiate that the show-cause notices were duly issued by an authority having jurisdiction. It was highlighted that Chapter VII of the General Rules pertains to BOI proceedings, and that Rule 41 specifically allows the competent authority to take action within its jurisdiction based on the findings of the BOI proceedings.

36. The attention of this Court was drawn to the dual aspects leading to the dismissal of the petitioners, the first being the possession of IMFL liquor on board ICGS, Sarthak, and the second, which aggravated the misconduct, namely, carrying the liquor to the State of Gujarat, a “dry State”, i.e., a State wherein the sale and consumption of alcohol are prohibited and may be allowed subject to stringent conditions. Hence, it was submitted that in the present case, there was not only a violation of service rules but also a breach of statutory provisions. It was further



highlighted that since the present case involved the offence of smuggling of liquor on a significant scale, it necessitates due care and cautious consideration.

37. It was submitted that the petitioners were not protected under Article 311 of the Constitution of India by placing reliance on *UOI & Ors. v. Major S.P. Sharma*³¹ wherein it was held that personnel in the defence and paramilitary forces serve at the pleasure of the President and hence excluded from the purview of Article 311.

REASONING AND ANALYSIS

38. We have duly heard the submissions advanced by the learned Counsels for the parties and carefully examined the materials available on record.

39. In the present batch of writ petitions, notice was issued on 16.04.2024 and the parties were directed to file brief written submissions on 31.01.2025 by learned co-ordinate Bench of this Court. Thereafter, the present petitions were listed for final disposal on 22.09.2025.

40. After having given due consideration to the present *lis*, we deem it appropriate to deal with the preliminary objection pertaining to the territorial jurisdiction of this Court raised on behalf of the respondents at this nascent stage. In our view, and as has been reaffirmed in a



plethora of judgments that this Court may entertain the writ petitions preferred under Article 226 of the Constitution of India since the Headquarters of the Respondents i.e., the Indian Coast Guard is situated in Delhi, within the territorial limits of this Court. Furthermore, the petitioners have also challenged Rule 23 of the General Rules, which is applicable throughout the nation including the National Capital Territory of Delhi and as such the objection of the respondent relating to the territorial jurisdiction of this Court, is liable to be rejected.

ANALYSIS AND REASONING PERTAINING TO THE PETITIONERS IN THE FIRST CATEGORY – SUMMARY PROCEEDINGS

41. Before delving into the validity of the impugned dismissal orders, we deem it fit to first delineate the sequence of events that form the backdrop to the present controversy and the law governing these procedures. It is made out from the record that the petitioners in the first category were initially subjected to summary trial proceedings which resulted in proposed minor punishment order dated 09.01.2023 under Section 57(g) of the Act, i.e., deprivation of good conduct badges. Subsequently, the DIG, by exercising powers under Rule 28(d) of the Discipline Rules, set aside the proposed minor punishment through an order dated 20.01.2023, which was communicated to the petitioners on 12.10.2023. The DIG observed several legal infirmities in the summary trial, noting that particulars of the search and seizure ought to have been properly recorded, and the recovery should have been made part of the evidence on record. It was further reasoned that since the Presiding Officer and other members of the summary proceedings were themselves witnesses to the search and seizure, the trial stood vitiated



due to procedural impropriety. It was also reasoned that in some cases, the statements of the accused and witnesses, as well as the certificate of compliance during the AOE were dated prior to the initiation of the disciplinary proceedings. Most importantly, the primary evidence, i.e., the liquor bottles, had been destroyed before the conduct of the trial, amounting to destruction of evidence. The DIG, upon noting the aforesaid fatal infirmities in the summary trial, in his wisdom, set aside the proposed minor punishment. While it is undisputed that the summary trial was set aside, the reasons for doing so are of utmost significance. This Court must examine whether the legal infirmities identified by the DIG were subsequently cured during the BOI proceedings, and, if not, determine the consequential effect on the validity of those proceedings. This examination is pivotal, since these legal infirmities formed the very basis for setting aside the proposed minor punishment imposed on the petitioners.

42. Apparently, the summary trial of the petitioners in the first category led to the proposed minor punishments under Section 57(g) of the Act. Under the proviso to Section 57, certain punishments listed in clauses (a) to (d) require prior approval from the designated officer. However, no such approval is required for a punishment under clause (g). The relevant excerpt of the provision is reproduced below:

“57. Minor punishments.—Subject to the provisions of section 58, a Commanding Officer or such other officer as is, with the consent of the Central Government, specified by the Director-General may, in the prescribed manner, proceed against a person subject to this Act, otherwise than as an officer, who is charged with an offence



under this Act and award such person, to the extent prescribed, one or more of the following punishments, that is to say,—

*...**Provided that no punishment specified in clauses (a) to (d) (both inclusive) shall be inflicted,—***

(a) in the case of a subordinate officer, unless it is approved by an officer not below the rank of an Inspector-General; and

(b) in the case of others, unless it is approved by an officer not below the rank of a Deputy Inspector-General.”

(emphasis supplied)

43. The power of setting aside proposed punishment stems from Rule 28(d) of the Discipline Rules which is reproduced hereinbelow:

“28. Summary Punishments.—

...(d) If an officer having power to approve a punishment may consider for any reason that the punishment proposed is illegal, unjust, or excessive he may cancel, vary or remit the punishment within the limits of the powers of punishment of a Commanding Officer and the punishment so altered shall be the punishment awarded;”

(emphasis supplied)

44. The CGO 02/93 explicitly lays down the chronological procedure to be followed during the investigation of offences including the procedure to be followed during a preliminary inquiry; it mandates providing the accused with due opportunity of being heard and requires that the Investigating Officer should ensure that the accused understands the nature of the charges. It is stipulated that if a statement is not free and voluntary, it is rendered inadmissible. Further, the accused is permitted to produce witnesses to substantiate their case. Thereafter, the procedure prescribes that the Commanding Officer may decide to remand the case for recording of evidence, or AOE, as under Rules 23



and 24 of the Discipline Rules respectively and a copy of such an order is to be provided to the accused and shall contain all the charges against the accused and be duly signed by the Commanding Officer. Further, as per Paragraph/Direction 10(b) of the said CGO, an order for minor punishment can be made under Section 57(e) to (k), which do not require approval, based on the Offence Report.

45. The controversy in the present case with respect to the petitioners in the first category arises due to the contention of the learned Counsel for the petitioners that Rule 28(d) permits an authority to set aside a summary punishment only when that punishment relates to an offence for which prior approval was required. The petitioners contended that their case falls under Section 57(g), and that Section 57(g) does not require prior approval. Therefore, according to them, Rule 28(d) simply cannot be invoked to set aside the said minor punishment. However, this Court is not inclined to accept the aforementioned contention. We shall set out our reasoning in the following discussion.

46. In the present case, the minor punishment was recommended/proposed by the Commanding Officer i.e., the DIG, which was subsequently set aside by the DIG, Chief Staff Officer for the Commander, Coast Guard Region (NW). On the reading of the Rule 28(d), it can be inferred that it is applicable to “*officers*” who have the authority to approve punishments and not to the “*punishments*” themselves that require approval under Section 57. The Rule provides that if such officer considers a punishment to be illegal, unjust or excessive, the officer has the authority to cancel, vary or remit the punishment.



47. In this context, Section 57 stipulates various minor punishments labelled from (a) to (k). Among these, the punishments listed from (a) to (d) clearly require prior approval from a higher authority before they can be awarded. However, for the punishments listed under (e) to (k), the provision does not stipulate anything about whether such approval is required or not. In short, approval is mandatory for punishments (a) to (d), but for (e) to (k), there is no express requirement of obtaining approvals.

48. The “officer” i.e., the DIG, is a competent officer who otherwise possesses an independent power to approve a punishment. We are of the considered view that since Rule 28(d) does not pertain to offences requiring approval, hence, it does not particularly apply only to Section 57(a) to (d) and to the exclusion of other sub-sections. The Rule aims to ensure that an officer possessing supervisory authority (such as the DIG) retains the power to review, cancel, alter or remit a punishment if found illegal, unjust or excessive. To hold that the DIG possesses the power to impose or award a punishment but not to approve or set it aside will create legal absurdity. This interpretation would lead to an anomaly whereby an officer of the rank of DIG, having the power to impose punishments and approve those requiring prior approval, would nonetheless be powerless to set aside a punishment even if the punishment is found to be unjust, unfair, or violative of natural justice. Hence, we deem it fit to harmonise Section 57 and Rule 28(d) in this said manner as explained hereinafter.



49. Further, Section 57(1) invariably says that punishment may be awarded with consent of the Central Government. However, in the present case, the punishment under Section 57(g) was merely *proposed* and not *awarded*. It is pertinent to recall that Section 57 is silent on the requirement of approval for punishments awarded under sub-Sections (e) to (k) and also does not explicitly prohibit obtaining approval for punishments under the said sub-Sections. Additionally, as far as the present case is concerned, the proposed punishment was submitted for approval *vide* order dated 09.01.2023. Further, there exists no statutory impediment precluding the DIG from granting such approval. Accordingly, in our considered view, the DIG qualifies under Rule 28(d) as an “officer having power to approve a punishment,” and may also exercise the power to cancel, vary, or remit the proposed punishment if found illegal, unjust, or disproportionate, especially if fatal legal infirmities have been identified.

50. Having said so, the implication would be that the proposed punishment was duly set aside by a competent authority in accordance with the statutory provisions upon careful consideration and in light of various legal infirmities, and therefore, it did not attain finality and hence, is *non est*. Since the proposed punishment is held to have been duly set aside on grounds of procedural shortcomings, we do not deem it necessary to examine further procedural compliance during the summary trial/proceedings. The decisions in ***Purushottam*** (supra) and ***Ritesh Soni*** (supra) relied upon by the learned Counsel for the petitioners to substantiate that the proposed punishment order dated 09.01.2023 attained finality and hence the petitioners herein could not be subjected to another trial are of no avail and does not help the case



of the petitioners in light of the fact that the said order was duly set aside by a competent authority.

51. Post setting aside of the proposed punishment, BOI proceedings were initiated *vide* order dated 08.02.2023. There is nothing on record or in the Act or the Rules to impose a bar on the same. Section 68 of the Act prohibits a second trial when a person has been acquitted or convicted of an offence by a Coast Guard Court or by a criminal court. In the present case, only a summary trial was held and there was no conviction or acquittal of the petitioners; rather only a minor punishment was recommended/proposed, awaiting approval which was subsequently set aside. Hence, Section 68 does not act as an embargo herein.

COGNATE ANALYSIS OF THE BOI PROCEEDINGS AGAINST PETITIONERS IN BOTH CATEGORIES

52. Before examining the validity of the BOI proceedings, we find it apposite to discuss the ICG Rules governing these proceedings. The General Rules under Chapter VII enumerated from Rules 36 to 42 act as a complete code on BOI proceedings. Rule 39 governs the procedure for the conduct of BOI proceedings. We find it helpful to reproduce the same below:

“39. Procedure for Board of Inquiry. - (1) The Board shall be guided by the provisions of these rules and also by the Coast Guard Orders, for the time being in force, and the written instructions of the convening authority; provided that the Coast Guard Orders and the written instructions are not inconsistent with the provisions of these rules.



(2) *The proceedings of the Board of Inquiry shall not be open to the public. Only such persons may attend the proceedings as are permitted by the Board to do so.*

(3) *Every witness examined by the Board shall be informed in the following terms which shall be recorded in the minutes : — "You are privileged to refuse to answer any question, the answer to which may tend to expose you to any penalty or forfeiture. It will be for you to raise the objection and for the Board to decide whether you must answer the question or not."*

(4) Whenever an enquiry affects the character or reputation of a person serving in the Coast Guard or may result in the imputation of liability or responsibility for any loss or damage, or is made for the contravention of any rules or general or local orders, full opportunity shall be afforded to such person for being present throughout the enquiry and of making any statement and of giving any evidence he may wish to make or give, and of cross-examining any witness whose evidence in his opinion affects him, and producing any witness in his defence. The Presiding Officer of the Board shall take such steps as may be necessary to ensure that any such person so affected and not previously notified receives notice of, and fully understands, his rights under these rules.

(5) *The proceedings of the Board shall be recorded in accordance with any directions contained in the Coast Guard Orders for the time being in force and any instructions given by the convening authority. The minutes of such proceedings shall contain a verbatim report of all evidence given, and all questions and answers shall be numbered in one series throughout the minutes.*

(6) *The proceedings of the Board or any confession, statement, or answer to a question made or given before the Board, shall not be admissible in evidence against a person subject to the laws relating to any Armed Forces of the Union nor shall any evidence respecting the proceedings of the Board be given against any such person. Provided that nothing in these rules shall prevent proceedings from being used for the purpose of cross-examining any witness.*

(7) *No counsel, or legal practitioner shall be permitted to appear before a Board of Inquiry.*



(8) *The Board may put such questions to a witness as it thinks desirable for testing the truth or accuracy of any evidence he has given and otherwise for eliciting the truth.*

(9) *A Board shall, unless otherwise ordered by the convening authority, sit within closed doors.”*

(emphasis supplied)

53. Rule 42 of the General Rules provides certain safeguards to the affected persons in the interest of justice and fairness. The Rule mandates the supply of the necessary documents to the affected personnel/officer to enable them to enter a proper defence and thereby solidifies their right to be heard. It is reproduced below:

“42. Right of certain persons to copies of statements and documents. – (1) *Any person who is tried by a Coast Guard Court shall be entitled to copies of such statements and documents contained in the proceedings of a Board of Inquiry, as are relevant to his prosecution or defence at his trial.* (2) *Any person whose character or reputation is affected by the evidence before a Board of Inquiry shall be entitled to copies of such statements and documents as have a bearing on his character or reputation as aforesaid unless the Director General for reasons recorded by him in writing, orders otherwise.”*

54. Admittedly, the BOI proceedings were initiated against all the petitioners before this Court pertaining to the allegation of bringing liquor bottles on board without due authorisation and not depositing them with the Regulating Officer while on board as per Article 0708 of the Ship’s Standing Orders. Hence, the examination of the procedural compliance and adherence to principles of natural justice in the BOI proceedings would, on its four corners, apply to the petitioners falling in both categories.



55. It was contended on behalf of the petitioners that the respondents did not afford them a reasonable opportunity to be heard and did not supply relevant documents and other material such as the Offence Report and AOE under Rules 18 and 23 of the Discipline Rules respectively, the Punishment Approval Form appended in the said Rules, and the copy of subsequent BOI proceedings. In that regard, reliance was placed on *Mohd. Ramzan Khan* (supra), *Ex Constable Randhir Singh CRPF* (supra) and *Kashinath Dikshita* (supra), the aforementioned decisions reiterate that the non-supply of inquiry report or other adverse material against a government servant facing disciplinary action and not providing an effective hearing to such person amounts to violation of principles of natural justice and depending upon the surrounding circumstances, the same could vitiate the proceedings itself.

56. With respect to the contention on behalf of the petitioners, that they were not awarded a fair hearing or supplied the relevant and necessary material to enter a proper defence, it was submitted that the non-compliance was in blatant violation of Rule 39(4) of the General Rules. In that respect, reliance was placed on *Nirmala J. Jhala* (supra) and *Amalendu Ghosh* (supra) to challenge the evidentiary value of the BOI proceedings which is only preliminary in nature. The aforementioned decisions provided that the evidence recorded in preliminary inquiry is limited to the purpose of investigating the veracity of the allegations and on the basis of such findings, no punishment can be imposed, they can only be used as a segue to initiate regular proceedings. Further, it was held that lack of opportunity to cross-examine during such inquiry is violative of principles of natural



justice. This Court is in agreement with the said decisions. The principles of natural justice lie at the core of a legal system, as they ensure fairness and uphold the rule of law. Unless expressly excluded in certain necessary circumstances, adherence of these principles is imperative to preserve and maintain the integrity of the law. However, it is pertinent to clarify that the abovementioned decisions pertain to civil servants under the Government. Accordingly, while the principles of natural justice are applicable to personnel in the ICG, it is to be noted that the specific protection of Article 311 is not available to them since they are not “civil servants” employed in “civil capacities”. Therefore, in view of the same, we find the reliance placed on behalf of the petitioners on *Moti Ram Deka* (supra) to extend the protection of Article 311 to the petitioners herein, to be misplaced. We find ourselves in consonance with the decision relied upon by the learned Counsel for the respondents in *Major S.P. Sharma* (supra) wherein it was reiterated that defence personnel serve at the pleasure of the President and come under the purview of Article 310 of the Constitution of India.

57. Further, with regard to the issue pertaining to the show-cause notices issued on 23.10.2023 against the petitioners, it was contended that the said notices were vague and illegal by placing reliance on *Shri B.D. Gupta* (supra) wherein it was stated that a general or vague notice does not afford a real opportunity to enter a defence and hence violates the principles of natural justice. It was contended that a show-cause notice must indicate the scope of the notice and should contain specific allegations against the person concerned. However, we are of the opinion that except in situations wherein the application of principles of natural justice would be a futile exercise and/or where their non-



adherence does not cause prejudice, they must be employed. Moreover, the decision in ***Sudesh Kumar*** (supra) reiterates the requirement of issuing proper show-cause notice and allowing the affected person to defend themselves. It was held that the issuing authority could not go beyond the reasons stated in the show-cause notice without holding due inquiry pertaining to the additional grounds. In ***Ajaib Singh*** (supra), it was emphasised that a person could not be dismissed without the conduct of a trial by placing sole reliance on a show-cause notice. However, reliance placed on behalf of the respondents, on the decision in ***XXX*** (supra), to justify the jurisdiction/validity of the show-cause notice is misplaced, since the said decision specifies, in paragraph 105, that it pertains to a “duly constituted inquiry”, which is precisely the centre of controversy in the present case.

58. Having noted the contentions of both sides, we find that in ***Lt. Gen. Surendra Kumar Saini*** (supra), the Court carved out the safeguards under Rule 180 of the Army Rules, 1954 and found its footing under Article 14 of the Constitution of India. The said Rule pertains to the procedure for inquiry where the character of a person subjected to the Army Act and Rules is involved i.e., it requires a reasonable opportunity to be afforded to such affected person to furnish evidence, cross-examine and remain present throughout the inquiry. The Rule is similar to Rule 39(4) of the General Rules herein. In the aforesaid decision, it was held that the said Rule protects some of the basic tenets of law i.e. procedural fairness, equality before law and equal protection of laws, especially when an officer or their military repute is at stake. We see no plausible reasons as to why the said tenets behind the safeguards under Rule 180 should not be extended to other inquiries



of similar nature such as in the present case. Administrative decisions or orders cannot disregard, be incongruent with, or blatantly violate principles of natural justice. We concur with this view taken in ***State of Orissa v. Dr. Binapani Dei***³².

59. The decision in ***Vinod Kumar*** (supra) reaffirmed the sanctity of due process and fairness in administrative action and held that the same should be free from arbitrariness. It has been reiterated by the Hon'ble Apex Court that an authority would be said to have acted *ultra vires* when it abuses its power by acting in bad faith. We are in consonance with this view as it has become part of *lex loci* upon reaffirmation in a plethora of decisions. Further, in ***Rajnarain Singh*** (supra), it was held that an administrative direction, i.e., a notification, could not be contradictory to statutory provisions, otherwise, the same would be deemed as *ultra vires*. To the same effect, is the principle enunciated in ***P. Kasilingam*** (supra), wherein it was held *inter alia* that subsidiary rules form part of the composite scheme and that various provisions of an Act may only be put into operation after the same is prescribed in the Rules i.e., such Rules act as an important aid to the construction of the statute. The aforesaid decision acts in aid of the petitioners to establish that the right of fair hearing of affected personnel, which is prescribed under the General Rules, forms part of the statute as well and thus carries statutory force. Further, this Court is in agreement with the view taken in ***Maj. R.K. Sareen*** (supra) wherein Rule 180 of the Army Rules was reaffirmed to hold that an affected personnel must be supplied relevant documents and other such material even during inquiry proceedings, which are preliminary in nature, if such inquiry will, or is



likely to affect the character or military repute of such personnel. We reproduce the relevant extract from the said judgment, as hereinbelow:

“34. Rules of natural justice require that an adjudicating/administrative authority should afford a reasonable opportunity of being heard to a party. The expression “reasonable opportunity of being heard” implies that the authority should:—

(i) give all information as to the nature of the case which the party has to meet;

(ii) supply all information, evidence or material which the authority wishes to use against the party;

(iii) receive all relevant materials which the party wishes to produce in support of its case and

(iv) give an opportunity to the party to rebut adverse information, evidence or material appearing against such party.”

(emphasis supplied)

60. The petitioners relied on the decision in **Jogeshwar Swain** (supra) to contend that due procedure under Rule 69 of the Discipline Rules was not followed. In the said decision, the Hon’ble Court highlighted that in cases wherein the accused enters a plea of guilty, the authority before whom such plea is made, must ensure that the accused understands the nature and meaning of the charges and the consequences thereof. We are in agreement with the procedural safeguards reaffirmed by the said decision, however, Rule 69 pertains to acceptance of a “guilty” plea. Further, we find that none of the petitioners had pleaded guilty and had stated that any alleged admissions were made under threat and duress. Hence, non-adherence to the said Rule is not fatal.



61. Adverting to the facts of the present case, we note that the petitioners were dismissed from service *vide* impugned order dated 28.02.2024 (w.e.f. 05.03.2024 and on 13.03.2024 in W.P. (C) No. 5121 of 2024 i.e., the date of the accompanying Genform) under Section 11(b) of the Act. In cases of dismissal of personnel, Rule 23 of the General Rules stipulates a certain procedure to be followed i.e., the Commanding Officer shall establish the fact that the personnel concerned were given a “suitable warning” and “sufficient time to improve”, and further, the recommendation of dismissal (which is to be forwarded to the Additional Director General) must be accompanied by documentary evidence to prove such compliance. It was submitted on behalf of the petitioners before this Court that the impugned dismissal order was passed in violation of the Act and the Rules, and that the Record of Proceedings leading up to the dismissal were not furnished to the petitioners including the Offence Report under Rule 18 and the Punishment Approval Form of the Discipline Rules pertaining to the proposed punishment order dated 09.01.2023. Additionally, the BOI proceedings were not furnished to the petitioners which is mandated under Rule 23 (read with CGO 02/93) and Chapter VII on BOI of the General Rules on BOI.

62. We shall now examine the impugned dismissal orders in light of the aforesaid contention of the petitioners. Rule 23 of the General Rules lays down the procedure for dismissal/removal of officers. The learned Counsel for the petitioners relied upon Rule 23(2) contending its non-compliance by the respondents. It is reproduced as follows:

“23. Procedure for dismissal/removal of enrolled persons. –



(1) Where the Commanding Officer is satisfied that an enrolled person is considered unsuitable to be retained in the service on the grounds of misconduct or unsuitability, he may make a recommendation to the Additional Director General in the Coast Guard Headquarters for the dismissal/removal of such person from the Coast Guard.

(2) In all cases of recommendation for dismissal/removal of a person, the Commanding Officer shall establish clearly the fact that the person has been given a suitable warning and sufficient time to improve. Documentary evidence to this effect shall accompany the recommendation.

(3) Where, upon the conviction of an enrolled person by a criminal court, the Deputy Inspector General under whom the person is serving considers that the conduct of the person which has led to his conviction renders his further retention in the service undesirable, a certified copy of the judgement of the criminal court convicting him shall be submitted to the Additional Director General in the Coast Guard Headquarters with the recommendations of the Deputy Inspector General under whom the person is serving as to the termination of the person's service in the manner specified in sub-rule (4).

(4) The Additional Director General in the Coast Guard Headquarters on receipt of a recommendation under sub-rule (1) or (3) may pass an order dismissing or removing the person concerned from the service.

(5) The Additional Director General in the Coast Guard Headquarters may in suitable cases retire or remove the person with or without pension or gratuity."

(emphasis supplied)

63. The impugned dismissal orders contain the individual charges of the petitioners with respect to the number of the illicit bottles of liquor allegedly recovered from them and highlight that the petitioners were duly served with respective show-cause notices dated 23.10.2023 to enter a proper defence. However, the reply of the petitioners to the said notice was found "unsatisfactory", with the reasoning that the petitioners in the first category had retracted from their earlier "admissions" allegedly made during the BOI proceedings, and reliance was placed on the alleged written statements whereby the petitioners



purportedly admitted to the charges. Pertaining to the petitioners in the second category, the impugned dismissal orders pertaining to the petitioners in the second category state that the reason of finding their reply “unsatisfactory” was that they had deviated from their earlier “admissions” made before the BOI and reliance, in some matters, was placed on the statements wherein alleged admissions were made. It was contended on behalf of the petitioners that since the notice was vague and that they were not supplied the relevant material or evidence relied upon against them, the petitioners were ill-equipped to efficiently defend themselves. We are of the view that a show-cause notice must contain the necessary relevant information such as the specific allegations and the scope of the notice. Further, supply of relevant material is *sine qua non* for an effective defence as reiterated in the foregoing discussion.

64. In light of the aforementioned, this Court observes that there is nothing brought on record or argued before us to show that the impugned dismissal orders were furnished along with other necessary documents. The handwritten statements carrying the signatures of the petitioners during the summary trial are disputed and objected to since they were allegedly made as a result of threats and force exerted by senior officers, therefore, their authenticity is questionable. Additionally, once the summary trial proceedings were set aside with the observation that it was conducted in a biased manner, any reliance on the evidence therein is misplaced. Furthermore, to prove compliance with Rule 39(4) of the General Rules, the respondents have only furnished the purported statements of the petitioners wherein alleged admissions were made by them accepting the respective charges. These



statements are in typed format, and they lack signatures of the petitioners. They are strongly resisted by the petitioners with the reasoning that they were not granted a real and effective opportunity to participate in the BOI proceedings, and the said statements were not made by them. Irrespective of the said contention, the lack of signatures itself is fatal for the respondents since there is no other material on record to show participation of the petitioners in BOI proceedings, and such participation is not remotely proved by the reply to the show-cause notices furnished by the petitioners since the notice was issued after the BOI proceedings.

65. The BOI proceedings are governed by Chapter VII of the General Rules. During BOI proceedings, a warning must be given to the witnesses under Rule 39(3) that they are at liberty to not answer as well as it may expose them to penalties. Further, Rule 39(4) stipulates that due opportunity must be given to the concerned personnel to be present throughout the proceedings, to make any statement, furnish any evidence and/or witnesses and to cross-examine witnesses. It stipulates an additional safeguard that the Presiding Officer of the Board shall ensure that sufficient notice is served and the affected personnel understands their rights properly. Rule 39(6) provides that the proceedings or any statement or confession or answer to any question made during such proceedings will not be admissible as evidence against a person subject to laws of the Armed Forces of the Union.

66. In view of the above, we are of the considered view that principles of natural justice along with the scheme of the Act and the Rules warrant and mandate that an accused/affected personnel must be



awarded a real and effective opportunity to be heard and produce witnesses and must also be supplied any adverse material relied upon to sustain charges against such personnel, in order to ensure an equitable chance to enter a proper defence, especially in cases wherein the dismissal of the accused/affected personnel may be contemplated. The object of adhering to the principles of natural justice was carved out by the Hon'ble Apex Court in ***Central Organisation for Railway Electrification (CORE) v. ECI SPIC SMO MCML (JV) A Joint Venture Co.***³³ by holding the following in paragraph 80 that the object is to ensure that “every person whose rights are going to be affected by the proposed action gets a fair hearing”. Further, it was held that non-adherence leads to prejudice. In ***Madhyamam Broadcasting Limited v. UOI***³⁴, it was held that the procedural fairness “holds an inherent value in itself.”

67. Procedural fairness and integrity are of utmost importance, as they ensure an unbiased investigation and adjudication thereof. The procedure for reaching a decision is equally important as the decision itself. The Apex Court in ***Bank of Patiala v. SK Sharma***³⁵ carved out the difference between no effective opportunity to be heard and no opportunity to be heard. Further, in ***Krishnadatt Awasthy v. State of M.P. & Ors.***³⁶, it was held that “an ineffective hearing at the initial stage therefore taints the entire decision-making process leading to a cascade of flawed orders at subsequent stages...”. It has been held time and again that in situations where no opportunity of fair hearing has been

³³ 2024 SCC OnLine SC 3219

³⁴ (2023) 13 SCC 401

³⁵ (1996) 3 SCC 364

³⁶ 2025 INSC 126; (2025) 7 SCC 545



provided (and the same is not explicitly excluded), any order thereby passed may be rendered invalid, and the relevant authority may be directed to conduct *de novo* proceedings in accordance with the principle of *audi alteram partem*.

68. Hence, in view of the foregoing discussion, and taking note of the procedural impropriety and without commenting upon the facts or merits, this Court is of the considered view that the proceedings are remanded to the competent authority for fresh consideration from the stage of BOI proceedings in accordance with principles of natural justice and with due and effective compliance of the Act and Rules. Hence, the impugned dismissal orders dated 28.02.2024 along with Genforms dated 05.03.2024 and in W.P.(C) No. 5121 of 2024, Genform dated 13.03.2024, are set aside. Needless to say, the said proceedings shall be conducted in a time-bound manner, preferably within eight weeks from the date a certified copy of this order is made available by the petitioners to the competent authority.

69. The writ petitions are partly allowed to the extent of prayer (a). No order as to costs.



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70. Pending application(s), if any, stands disposed of.

OM PRAKASH SHUKLA, J.

C.HARI SHANKAR, J.

NOVEMBER 11, 2025/pa

Signature Not Verified

Signed By:PREETI
Signing Date:11.11.2025
19:40:12

W.P.(C) 5103/2024 and other connected matters

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