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

Date of decision: 07th JANUARY, 2026

IN THE MATTER OF:

+ **W.P.(C) 6449/2017**

SANDEEP YADAV

.....Petitioner

Through: Mr. Ravi Kumar, Advocate.

versus

DIRECTOR GENERAL OF INDIAN COAST

.....Respondent

Through: Mr. Jaswinder Singh, Advocate.

+ **W.P.(C) 4357/2018 & CM APPL. 21615/2024**

EX UTTAM NAVIK SHELENDER SINGH

.....Petitioner

Through: Mr. Ravi Kumar, Advocate.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mrs. Abha Malhotra (Sr. CGC) with
Ms. Shubhra Sharma, Ms. Ranjita
Biswas, Advs.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT

SUBRAMONIUM PRASAD, J.

1. The instant Writ Petitions have been filed by Mr. Sandeep Yadav and Mr. Shelender Singh, (*collectively referred to as the 'Petitioners'*),



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impugning the Orders dated 26.09.2016 (*hereinafter referred to as “Impugned Orders”*), passed by the Regulating Officer, Indian Coast Guard, Haldia (*hereinafter referred to as “Respondent Authority”*), wherein certain punishments were inflicted upon the Petitioners.

2. Since both the writ petitions arises out of separate albeit analogous Impugned Orders, both the writ petitions are being decided by a common Judgment, in order to avoid any confusion.

3. *Vide* the Impugned Orders, the Respondent Authority awarded punishment of simple imprisonment of 90 days as well as dismissal from the Indian Coast Guard service with effect from 26.09.2016 to the Petitioners herein. Additionally, the Petitioner in W.P.(C) 4357/2018 was deprived of his ‘Good Conduct Badge’ as part of the punishment.

4. Shorn of unnecessary details, the facts leading to the filing of the instant writ petitions are as follows:-

- a. The Petitioners are the officers of the Indian Coast Guard (*hereinafter referred to as “ICG”*) and were carrying out their duties on the Indian Coast Guard Station (ICGS) Sucheta Kriplani at the relevant time.
- b. As per the case of the Petitioners, it is stated that on 13.09.2016, Pradhan Navik Vijay Kumar, who was closer to the Petitioners, complained that he was suffering from a severe chest pain and as such, was not in a position to sail. Despite the same, the Executive Officer Himanshu Shekhar directed Pradhan Navik Vijay Kumar to carry out his duties as per the schedule.
- c. On 15.09.2016, Pradhan Navik Vijay Kumar again suffered from severe chest pain while sailing on ICGS Sucheta Kriplani and fell



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unconscious on the floor. The officers nearby attempted to revive him back to life by giving him CPR several times, however, the attempt was unsuccessful and the Medical Officer on board declared Pradhan Navik Vijay Kumar (*hereinafter referred to as “deceased”*) dead due to heart attack.

- d. It is stated that after the declaration of the deceased's death, the environment on ICGS Sucheta Kriplani became tense. Subsequently, , a verbal altercation took place between three officers (Petitioners herein and one S.B. Rapsang) and Executive Officer Himanshu Shekhar, wherein the latter was blamed for being the reason behind the deceased's death.
- e. Material on record indicates that the Petitioners were alleged to have punched the Executive Officer Himanshu Shekhar out of sudden outburst and provocation. Resultantly, the Petitioners were taken in custody on 17.09.2016 at the Headquarters of ICGS, Haldia.
- f. Thereafter, charges were framed under Section 22(a) of the Coast Guard Act, 1978 (*hereinafter referred to as the “Act”*) against the Petitioners for pushing and punching Executive Officer Himanshu Shekhar and for using insubordinate language. The charges framed against the Petitioners reads as under:-

“1. Did at about 0545 hrs on 15 Sep 16, struck Asst Comdt Himanshu Shekhar (1102-D), thereby committed an offence punishable under Section 22 (a) of Coast Guard Act 1978.

2. This charge is tentative and may be altered depending on the outcome of the ROE.”



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g. After the framing of charges, an Enquiry Officer was appointed for preparation of Record of Evidence (*hereinafter referred to as "ROE"*). The ROE was carried out from 20.09.2016 to 21.09.2016 i.e., within a period of 2 days and based on the same, the Respondent Authority by way of summary trial found the Petitioners guilty of the offence under Section 22(a) of the Act and inflicted the following punishment *vide* the Impugned Orders dated 26.09.2016:-

Sandeep Yadav (<i>Petitioner in</i> W.P.(C) 6449/2017)	(i) Simple Imprisonment for a period of 90 days (ii) Dismissal from Coast Guard w.e.f 26.09.2016
Shelender Singh (<i>Petitioner in</i> W.P.(C) 4357/2018)	(i) Simple Imprisonment for a period of 90 days (ii) Dismissal from Coast Guard w.e.f 26.09.2016 (iii) Deprivation of Good Conduct Badge

- h. The Petitioners served their respective sentences of 90 days and were thereafter released from the Correctional Home on 24.12.2016. While the Petitioners were serving their respective sentences, representations were made by their respective fathers on behalf of the Petitioners to the Prime Minister's Officer (PMO) regarding the dismissal from the service, however, the same was declined by the concerned authorities.
- i. Material on record indicates that separate petitions were filed under Section 119 of the Act read with Rules 44 and 45 of the Coast Guard



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(General) Rules, 1986 to the Direct General, ICG, Headquarters, New Delhi, for setting aside the order of dismissal stipulated in the Impugned Orders. However, the same was rejected *vide* Order dated 18.09.2017 against the Petitioner in W.P.(C) 6449/2017.

j. Aggrieved by the aforesaid decision, the Petitioners herein have challenged the Impugned Orders in the present writ petitions.

5. Learned Counsel for the Petitioners submits that the due procedure established under law was not followed by the Respondent Authority while punishing the Petitioners herein *vide* Impugned Order. It is stated that the Petitioners were charged under Section 22(a) of the Act instead of Section 19 of the Act despite the latter being specific to the offence of striking a senior official. It is contended that as per Rule 22 of the Coast Guard (Discipline) Rules, 1983 (*hereinafter referred to as "Rules"*), offences under Section 19 of the Act were exempted from being subjected to summary trials. It is stated that the Respondent Authority, with pre-decisiveness to punish the Petitioners, wrongly charged the Petitioners under Section 22 of the Act instead of Section 19 of the Act.

6. It is further contended on behalf of the Petitioners that there is a fallacy in the procedure adopted by the Respondent Authority regarding the territorial jurisdiction of the conduct of the trial. It is stated that the place of alleged offence was ICGS Sucheta Kriplani and the Commanding Officer of the Petitioners was Mr. BN Mehto at the time of the incident. However, the proceedings conducted against the Petitioners and the punishment inflicted onto them was by the Commanding Officer of ICGS Haldia. It is also contended that the Impugned Orders show that the place of the offence is



ICGS Haldia, which is factually incorrect. As per the Rules, the Commanding Officer must conduct the trial and therefore, the Commanding Officer of ICGS Sucheta Kriplani should have conducted the trial, which is not the case. Moreover, material on record also does not shed any light as to why ICGS Haldia took this matter in its own hands as such due procedure prescribed under law was not followed by the Respondent Authority.

7. It is further submitted that the Petitioners were not given an adequate opportunity to defend themselves as per Rule 23 of the Rules. It is stated that the ROE was prepared in a hurried manner within a period of merely 2 days, without affording any opportunity to the Petitioners to get ready with the defence. Furthermore, it is stated that the witness testimonies recorded were not read out and explained it to the Petitioners. Lastly, learned Counsel for the Petitioners submits that the punishment awarded was disproportionate to the offence the Petitioners were accused of.

8. *Per contra*, learned Counsel for the Respondents submits that the Impugned Orders were passed in accordance with the Act and Rules and that there is no deviation from the established procedure under law. It is stated that the Petitioners were given an opportunity to defend themselves, however, the same was not utilised and hence, it cannot be said that an opportunity was denied to the Petitioners.

9. It is contended that the punishment of dismissal from service was not prescribed under Section 22(a) of the Act, under which the Petitioners were found guilty. However, for dismissal from service, due permission as per Rule 28(a) of the Rules was sought and therefore, there was no illegality or contravention of Article 20(2) of the Constitution of India.



10. It is also contended on behalf of the Respondents that the Commanding Officer is the final authority and prerogative of framing charges lies with him. Depending on the material produced in the ROE and examination therein, the Commanding Officer will have to come to conclusion whether to punish the accused or re-conduct ROE or to discharge the accused. Therefore, it is contended that the Respondent Authority has followed due procedure prescribed under law and that there is no illegality in the procedure adopted while passing the Impugned Order.

11. Heard learned Counsels for the parties and perused the material on record.

12. Before advertng to the merits of the case, it is pertinent to note that the writ court under Article 226 of the Constitution of India has limited the scope of interference in matters concerning the Armed Forces.

13. The Apex Court in the case of Union of India v. P. Gunasekaran, (2015) 2 SCC 610 observed that the scope of interference is restricted. The relevant portions reads as under:-

“12. Despite the well-settled position, it is painfully disturbing to note that the High Court has acted as an appellate authority in the disciplinary proceedings, reappreciating even the evidence before the enquiry officer. The finding on Charge I was accepted by the disciplinary authority and was also endorsed by the Central Administrative Tribunal. In disciplinary proceedings, the High Court is not and cannot act as a second court of first appeal. The High Court, in exercise of its powers under Articles 226/227 of the Constitution of India, shall not venture into reappreciation of the evidence. The High Court can only see whether:



- (a) the enquiry is held by a competent authority;*
- (b) the enquiry is held according to the procedure prescribed in that behalf;*
- (c) there is violation of the principles of natural justice in conducting the proceedings;*
- (d) the authorities have disabled themselves from reaching a fair conclusion by some considerations extraneous to the evidence and merits of the case;*
- (e) the authorities have allowed themselves to be influenced by irrelevant or extraneous considerations;*
- (f) the conclusion, on the very face of it, is so wholly arbitrary and capricious that no reasonable person could ever have arrived at such conclusion;*
- (g) the disciplinary authority had erroneously failed to admit the admissible and material evidence;*
- (h) the disciplinary authority had erroneously admitted inadmissible evidence which influenced the finding;*
- (i) the finding of fact is based on no evidence*

13. Under Articles 226/227 of the Constitution of India, the High Court shall not:

- (i) reappraise the evidence;*
- (ii) interfere with the conclusions in the enquiry, in case the same has been conducted in accordance with law;*
- (iii) go into the adequacy of the evidence;*
- (iv) go into the reliability of the evidence;*
- (v) interfere, if there be some legal evidence on which findings can be based.*
- (vi) correct the error of fact however grave it may appear to be;*
- (vii) go into the proportionality of punishment unless it shocks its conscience.”*

14. Therefore, the limited issue which subsists before this Court for adjudication is whether the Respondents, while inflicting punishment onto



the Petitioners *vide* Impugned Orders, followed the due process prescribed under law.

15. The main contentions raised by the Petitioners herein is that the Respondent Authority has disproportionately awarded the punishment *vide* Impugned Orders and that the Respondent Authority has not followed the due procedure prescribed under law. The Petitioners' case is also that the instant case is outside the purview of Commanding Officer of ICGS Haldia when the place of offence is ICGS Sucheta Kriplani.

16. In light of rival contentions, it is apposite to reproduce Rule 20 of the Rules, which is as follows:-

“20. Hearing of charge. – (1) Every charge against a person subject to the Act shall be heard by the Commanding Officer in the presence of the accused, who shall have full liberty to cross examine any witness against him, and to call such Witness and make such statement as may be necessary for his defence:

Provided that where the charge against the accused arises as a result of investigation by a Board of Inquiry convened under rule 36 of the Coast Guard (General) Rules, 1986 and where the provisions of sub-rule (4) of rule 39 of the principal rules have been complied with, the Commanding Officer may dispense with the above procedure.

(2) The Commanding Officer shall dismiss a charge brought before him, if, in his opinion, the evidence does not show that an offence under the Act has been committed, or if he is satisfied that the charge ought not to be proceeded with:



Provided that the Commanding Officer shall not dismiss a charge under any of the circumstances under rule 21 or for any offence under rule 22.

(3) after compliance of sub-rule (1), if the Commanding Officer is of opinion that the charge ought to be proceeded with, he shall, within a reasonable time,-

(a) award any of the punishment which he is empowered to award; or

(b) remand the accused for preparing a record of evidence or an abstract of evidence against him:

Provided that where the Commanding Officer proposes to award any of the punishments under section 57 of the Act, which requires approval, he shall prepare a Record of Evidence or an Abstract of Evidence and forward it alongwith the Punishment Approval Form set out in Appendix III B.”

17. The foregoing provision indicates that the Commanding Officer is the competent authority to deal with the charges levelled against an accused and that it is his satisfaction that the subsequent course of action i.e., either discharge, punishment or remand, is decided.

18. It is also pertinent to mention Rule 21 of the Rules, which deals with the attachment of a case to another unit. Rule 21 of the Rules reads as follows:-

“21. Attachment to another unit. - The Commanding Officer shall not deal with any case : -

(a) where the offence with which the accused is charged is against the Commanding Officer himself; or



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(b) where the Commanding Officer is himself a witness in the case against the accused; or

(c) where the Commanding Officer is otherwise personally interested in the case the accused shall be attached to another ship or station for the disposal of the case under the orders of the District Commander or the Regional Commander :

Provided that a Commanding Officer shall not be disqualified from hearing a charge merely because the offence was committed against the property of a Coast Guard Mess or band or institution of which the Commanding Officer is a member or trustee or because the offence is one of disobedience of such Commanding Officer's orders.

19. Material on record indicates that the Commanding Officer of Sucheta Kriplani was not personally involved in the alleged incident nor was he a witness to the said incident. The object of Rule 21 of the Rules is to ensure fairness to the accused so that he/she is not put in a disadvantageous position at the time of enquiry as it is improper and unfair to have a Commanding Officer who has a personal interest in the case of the accused. However, in the instant case, the Commanding Officer of Sucheta Kriplani was unrelated to the case as he was not even present at the time of the incident. Therefore, the proviso of Rule 21(c) of the Rules applies in the facts of the present case.

20. Moreover, no reason has been assigned as to why the instant case was tagged to ICGS Haldia, when the offence took place on ICGS Sucheta Kriplani. The record itself shows that the fact that the incident took place on ICGS Sucheta Kriplani is undisputed. Therefore, attaching this case to ICGS



Haldia without following the procedure laid down under Rule 21 of the Rules, in the opinion of this Court, is arbitrary.

21. It is well settled that if there is a power coupled with duty mandating that an act has to be done in a particular way, then it has to be done only in that way or not at all, and all other modes are forbidden. The said principle has been laid down in Taylor v. Taylor, (1876) 1 Ch.D 426, where it was observed that where a statutory power is conferred for the first time upon a Court and the mode of exercising it is pointed out, it means that no other mode can be adopted. This judgment has been followed by the Privy Council in another landmark judgment: Nazir Ahmad v. King Emperor, AIR 1936 PC 253, wherein it has been observed as under:

“11.where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden.”

22. This principle has been consistently followed by the Apex Court in a number of judgments (refer: State of Rajasthan v. Mohinuddin Jamal Alvi & ANR., (2016) 12 SCC 608; State v. Sanjeev Nanda, (2012) 8 SCC 450); Nika Ram v. State of H.P., (1972) 2 SCC 80; Delhi Airtech Services (P) Ltd. v. State of U.P., (2011) 9 SCC 354) making it mainstream in the Indian legal jurisprudence.

23. Further, the Apex Court in the case of Ranjit Thakur v. Union of India, (1987) 4 SCC 611, observed as follows:-

“Re contention (d):

25. Judicial review generally speaking, is not directed against a decision, but is directed against the “decision-making process”. The question of the choice



and quantum of punishment is within the jurisdiction and discretion of the court-martial. But the sentence has to suit the offence and the offender. It should not be vindictive or unduly harsh. It should not be so disproportionate to the offence as to shock the conscience and amount in itself to conclusive evidence of bias. The doctrine of proportionality, as part of the concept of judicial review, would ensure that even on an aspect which is, otherwise, within the exclusive province of the court-martial, if the decision of the court even as to sentence is an outrageous defiance of logic, then the sentence would not be immune from correction. Irrationality and perversity are recognised grounds of judicial review. In Council of Civil Service Unions v. Minister for the Civil Service [(1984) 3 WLR 1174 (HL) : (1984) 3 All ER 935, 950] Lord Diplock said:

“Judicial review has I think developed to a stage today when, without reiterating any analysis of the steps by which the development has come about, one can conveniently classify under three heads the grounds on which administrative action is subject to control by judicial review. The first ground I would call ‘illegality’, the second ‘irrationality’ and the third ‘procedural impropriety’. That is not to say that further development on a case by case basis may not in course of time add further grounds. I have in mind particularly the possible adoption in the future of the principle of ‘proportionality’ which is recognised in the administrative law of several of our fellow members of the European Economic Community; . . .”

24. In light of the aforesaid position of law and facts of the present case, it appears that the punishment inflicted onto the Petitioners *vide* the Impugned Orders was not as per the procedure prescribed under law. As mentioned



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earlier, this Court's scope of interference is limited and therefore, it cannot go into the evidence and merits of the case, and only the "decision-making" process can be looked into. Since the same is not duly followed by the Respondents in arriving at the conclusion finding the Petitioners guilty, this Court is of the considered view that the instant writ petitions deserve to be allowed as the matter requires reconsideration by the appropriate authority.

25. Accordingly, the instant matter is remanded back for fresh consideration by the appropriate authority in accordance with law.

26. The present writ petitions are disposed of in the aforesaid terms along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

VIMAL KUMAR YADAV, J

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