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Border Security Force Act, 1968

Chapter VIII - Confirmation and Revision

No finding or sentence of a General Security Force Court or a Petty Security Force Court shall be valid except so far as it may be confirmed as provided by this Act.

Section 108 - Power to confirm finding and, sentence of General Security Force Court

The findings and sentences of General Security Force Courts may be confirmed by the Central Government or by any officer empowered in this behalf by warrant of the Central Government.

Section 109 - Power to confirm finding and sentence of Petty Security Force Court

The findings and sentences of Petty Security Force Courts may be confirmed by an officer having power to convene a General Security Force Court or by any officer empowered in this behalf by warrant of such officer.

Section 110 - Limitation of powers of confirming authority

A warrant issued under section 108 or section 109 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

Section 111 - Power of confirming authority to mitigate, remit or commute sentences

Subject to such restrictions, reservations or conditions, as may be contained in any warrant issued under section 108 or section 109, a confirming authority may, when confirming the sentence of a Security Force Court, mitigate or remit the punishment thereby awarded, or commute that punishment for any punishment or punishments lower in the scale laid down in section 48.

Section 112 - Confirming of findings and sentences on board a ship

When any person subject to this Act is tried and sentenced by a Security Force Court while on board a ship, the finding and sentence so far as not confirmed and executed on board the ship, may be confirmed and executed in like manner as if such person had been tried at the port of disembarkation.

Section 113 - Revision of finding or sentence

(1) Any finding or sentence of a Security Force Court which requires confirmation may be once revised by order of the confirming authority and on such revision, the court, if so directed by the confirming authority, may take additional evidence.

(2) The court, on revision, shall consist of the same officers as were present when the original decision was passed, unless any of those officers are unavoidably absent.

(3) In case of such unavoidable absence the cause thereof shall be duly certified in the proceedings, and the court shall proceed with the revision, provided that, if a General Security Force Court, it still consists of five officers, or, if a Petty Security Force Court, of three officers.

Section 114 - Finding and sentence of a Summary Security Force Court

(1) Save as otherwise provided in sub-section (2), the finding and sentence of a Summary Security Force Court shall not require to be confirmed, but may be carried out forthwith.

(2) If the officer holding the trial is of the rank of Superintendent of Police or of a rank declared under clause (a) of sub-section (5) of section 74 as equivalent thereto or of a lower rank has held such rank for less than five years, he shall not, except on active duty, carry into effect any sentence, until it has received the approval of an officer not below the rank of Deputy Inspector-General.

Section 115 - Transmission of proceedings of Summary Security Force Courts

The proceedings of every Summary Security Force Court shall, without delay, be forwarded to the officer not below the rank of Deputy Inspector-General within whose command the trial was held, or to the prescribed officer, and such officer, or the Director-General or any officer empowered by him in this behalf may, for reasons based on the merits of the case, but not on merely technical grounds, set aside the proceedings, or reduce the sentence to any other sentence which the court might have passed.

Section 116 - Alteration of finding or sentence in certain cases

(1) Where a finding of guilty by a Security Force Court, which has been confirmed or which does not require confirmation, is found for any reason to be invalid or cannot be supported by the evidence, the authority which would have had power under section 128 to commute the punishment awarded by the sentence, if the finding had been valid may substitute a new finding and pass a sentence for the offence specified or involved in such finding:

Provided that no such substitution shall be made unless such finding could have been validly made by the Security Force Court on the charge and unless it appears that the Security Force Court must have been satisfied of the facts establishing the said offence.

(2) Where a sentence passed by a Security Force Court which has been confirmed, or which does not require confirmation, not being a sentence passed in pursuance of a new finding substituted under sub-section (1), is found for any reason to be invalid, the authority referred to in sub-section (1) may pass a valid sentence.

(3) The punishment awarded by a sentence passed under sub-section (1) or sub-section (2) shall not be higher in the scale of punishments than, or in excess of, the punishment awarded by, the sentence for which a new sentence is substituted under this section.

(4) Any finding substituted, or any sentence passed, under this section shall, for the purposes of this Act and the rules, have effect as if it were a finding or sentence, as the case may be, of a Security Force Court.

Section 117 - Remedy against order, finding or sentence of Security Force Court

(1) Any person subject to this Act who considers himself aggrieved by any order passed by any Security Force Court may present a petition to the officer or authority empowered to confirm any finding or sentence of such Security Force Court, and the confirming authority may take such steps as may be considered necessary to satisfy itself as to the correctness, legality or propriety of the order passed or as to the regularity of any proceeding to which the order relates.

(2) Any person subject to this Act who considers himself aggrieved by a finding or sentence of any Security Force Court which has been confirmed, may present a petition to the Central Government, the Director-General, or any prescribed officer superior in command to the one who confirmed such finding or sentence, and the Central Government, the Director-General, or the prescribed officer, as the case may be, may pass such order theron as it or he thinks fit.

Section 118 - Annulment of proceedings

The Central Government, the Director-General, or any prescribed officer may annul the proceedings of any Security Force Court on the ground that they are illegal or unjust.