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Border Security Force Act, 1968

Section 116 - Alteration of Finding or Sentence in Certain Cases

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(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.

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