

Indo-tibetan Border Police Force Act, 1992

Chapter IX - Confirmation and Revision

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

Section 122 - Power to confirm finding and sentence of General Force Court

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

Section 123 - Power to confirm finding and sentence of Petty Force Court

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

Section 124 - Limitation of powers of confirming authority

A warrant issued under section 122 or section 123 may contain such restrictions, reservations or conditions as the authority issuing it may think fit.

Section 125 - 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 122 or section 123, a confirming authority may, when confirming the sentence of a Force Court, mitigate or remit the punishment thereby awarded or commute the punishment for any punishment or punishments lower in the scale laid down in section 51.

Section 126 - Confirming of findings and sentences on board a ship

When any person subject to this Act is tried and sentenced by a 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 127 - Revision of finding or sentence

- (1) Any finding or sentence of a 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 proceed with the revision, provided that, if a General Force Court, if still consists of five officers, or, if a Petty Force Court, of three officers.
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Section 128 - Finding and sentence of a Summary Force Court

The finding and sentence of a Summary Force Court shall not require to be confirmed, but may be carried out forthwith.

Section 129 - Transmission of proceedings of Summary Force Court

The proceedings of every Summary Force Court shall, without delay be forwarded to the officer not below the rank of Additional 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 130 - Alteration of finding or sentence in certain cases

(1) Where a finding of guilty of a 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 142 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 Force Court on the charge and unless it appears that the Force Court must have been satisfied of the facts establishing the said offence.

(2) Where a sentence passed by a 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 purpose of this Act and the rules, have effect as if it were a finding or sentence, as the case may be, of a Force Court.

Section 131 - Remedy against order, finding or sentence of Force Court

(1) Any person subject to this Act who considers himself aggrieved by any order passed by any Force Court may present a petition to the officer or authority empowered to confirm any finding or sentence of such 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 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 thereon as it or he thinks fit.

Section 132 - Annulment of proceedings

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