

LEGALITY OF JUDICIAL TRIAL IN CENTRAL RESERVE POLICE FORCE

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Abstract

The Central Government in pursuance of Section 16 (2) of the Central Reserve Police Force (CRPF) Act, 1949, hereinafter referred as the Act, has invested the Commandant and a Second-in-Command (earlier Assistant Commandant) with the powers of a Judicial Magistrate First Class for the purpose of inquiring into or trying any offence committed by member of the Force and punishable under the said Act, or any offence committed by a member of the Force against the person or property of another member. A Commandant and a Second-in-Command of CRPF are mainly the executive officers responsible for general administration, control and supervision of the Force for maintenance of public order.

CRPF is the largest armed Central Armed Police Force of the country, which is governed by the CRPF Act, 1949. The aim of this Article is to examine whether the Judicial Trial conducted by the Commandant and Second-in-Command Magistrates of CRPF is legally tenable or not. Because, its provisions are not in accordance with the provisions of Article 50 of the Constitution of India providing for the separation of the judiciary from the Executive in public services and also the principle of separation of judicial powers under the Cr.P.C., 1973.

Keywords: Judicial Trial, Judicial Power, Executive Power, Commandant Magistrate, Assistant Commandant Magistrate (Second-in-Command Magistrate), Sentence, Till rising of the Court.

INTRODUCTION

The Central Reserve Police Force (CRPF) was raised on 27th July, 1939 at NIMACH (North India Mounted Artillery and Cavalry Headquarters) in the then Princely State of Gwalior as Crown Representative's Police (CRP). It was raised to tackle the political unrest and the agitations in the then princely States of India following the Madras Resolution of the All-India Congress Committee in 1936. The Crown Representative wanted to help the vast majority of the native States to preserve law and order as a part of the imperial policy. After independence CRP was renamed as Central Reserve Police Force (CRPF) by an Act of Parliament on 28th December, 1939. The Act was made applicable with retrospective effect from 15 August, 1947.¹

The Central Reserve Police Force is an armed force maintained by the Central Government.² It comes under Union List under Schedule VII, Entry 2 of List I of Article 246.³

The provisions of the CRPF Act extends to the whole of India, and applies to member of the force, wherever they may be.⁴

Member of the Force

Member of the force means a person who has been appointed to the Force by the Commandant, whether before or after the commencement of the Act.⁵

The authority to make appointments to the various non gazetted ranks shall be the Commandant, provided that, in the case of Sub-Inspectors and Subedar (Inspectors) prior approval of the Deputy Inspector General of Police and of the Inspector General respectively shall be obtained.⁶

¹ <https://crpf.gov.in/history-crpf>

² Sub Section (1) of Section 3 of the CRPF Act, 1949.

³ The Constitution of India.

⁴ Sub Section (2) of Section 1 of CRPF Act, 1949.

⁵ Sub Section (d) of Section 2 of the CRPF Act, 1949.

⁶ Sub Rule (b) of Rule 7 of the CRPF Rules, 1955.

Therefore, when Sub Section (d) of Section 2 of the CRPF Act, 1949 and Sub Rule (b) of Rule 7 of the CRPF Rules, 1955 are read together, it becomes clear that all Non Gazetted Officials (NGOs), i.e., from Constable to Inspector, can be termed as “member of the force”.

Offences and Punishments in CRPF

The criminal offences which may be committed by the members of the Force have been classified as (a) More heinous offences and (b) Less heinous offences.

(a) More heinous offences

Section 9 of the Act, which describes the heinous crimes, which may be committed by member/s of the force, and prescribes the punishment for such crimes.

Every member of the Force who begins, excites, causes or conspires to cause or joins in any mutiny or uses or attempts to use criminal force to or commits an assault on his superior officer or shamefully abandons or delivers up any post or guard which is committed to his charge or directly or indirectly holds correspondence with, or assists or relieves any person in arms against the State, or omits to discover immediately to his superior officer any such correspondence coming to his knowledge is said to have committed more heinous offence.

In addition to the above, every member of the Force who, while on active duty, disobeys the lawful command of his superior officer or deserts the Force or being a sentry, sleeps upon his post or quits it without being regularly relieved or without leave or leaves his commanding officer, or his post or party, to go in search of plunder or quits his guard, picquet, party or patrol without being regularly relieved or without leave or uses criminal force to, or commits an assault on any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard or breaks into any house or other place for plunder, or plunders, destroys or damages property of any kind or intentionally causes or spreads a false alarm in action or in camp, garrison or quarters or displays cowardice in the execution of his duty is considered to have committed more heinous offence.

The prescribed punishment for more heinous offence is transportation for life for a term of not less than seven years or imprisonment for a term which may extend to fourteen years or fine which may extend to three months' pay or fine to that extent in addition to such sentence of transportation or imprisonment.⁷

The punishment prescribed for offences punishable under Section 9 of the Act makes these offences exclusively triable by the Court of Sessions.⁸

(b) Less heinous offences

A less heinous crime is said to have been committed by a member of the Force when he is in a state of intoxication or strikes or attempts to force any sentry or being in command of a guard, picquet or patrol, refuses to receive any prisoner or person duly committed to his charge, or without proper authority releases any person or prisoner placed under his charge, or negligently suffers any such prisoner or person to escape or being under arrest or in confinement, leaves his arrest or confinement or is grossly insubordinate or insolent to his superior officer or refuses to superintend or assist in the making of any field-work or other work or strikes or otherwise ill-uses any member of the Force subordinate to him in rank or position or designedly or through neglect injures or loses or fraudulently disposes of his arms, clothes, tools, equipments, ammunition or accoutrements, or any such articles entrusted to him or belonging to any other person or malingers or feigns or produces disease or infirmity in himself, or intentionally delays his cure, or aggravates his disease or infirmity or with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person or does not forthwith deliver up, or duly account for, all or any arms, ammunition, stores, accoutrements or other property issued or supplied to him or in his custody or possession as such member; or knowingly furnishes a false return or report of the number or state of any men under his command or charge or of any money, arms, ammunition, clothing, equipments, stores or other property in his charge, whether belonging to such men or to the Government or to any member of, or any person attached to the Force, or who, through design or culpable neglect, omits or refuses to make or send any return or report of the matters aforesaid or absents himself without leave, or without sufficient cause overstays leave granted to him or is guilty of any act or omission which, though not specified in this Act, is prejudicial to good order and discipline or contravenes any provision of this Act for which no punishment is expressly provided.

Secondly, a member of the Force who, while not on active duty, is also considered to have committed less heinous offence if he is disobeying the lawful command of superior officer or deserting the Force or being a sentry, sleeping upon his post or quitting it without being regularly relieved or leaving the commanding officer or post or party, to go in search of plunder or quitting guard, picquet, party or patrol without being regularly relieved or without leave or using criminal force to, or committing an assault on any person bringing provisions or other necessaries to camp or quarters, or forcing a safeguard or breaking into any house or other place for plunder, or plunders, destroying or damaging property of any kind or intentionally causing or spreading a false alarm in action or in camp, garrison or quarters or displaying cowardice in the execution of duty.

⁷ Section 9 of the CRPF Act, 1949.

⁸ Para- 6.4.3 of Group Centre and Battalion (GC and Bn) Officers Manual for CRPF.

The less heinous offences are punishable with imprisonment for a term which may extend to one year, or with fine which may extend to three months' pay, or with both.⁹

In view of the quantum of punishment prescribed for less heinous offences they can be tried by a Judicial Magistrate First Class.

Magisterial Power to Commandant and Second-in-Command (earlier Assistant Commandant)

As per Sub-section (2) of Section 16 of the Act, notwithstanding anything contained in the Code of Criminal Procedure, 1898 (5 of 1898) the Central Government may invest the Commandant or an Assistant Commandant (now Second-in-Command) with the powers of a Magistrate of any class for the purpose of inquiring into or trying any offence committed by member of the Force and punishable under this Act, or any offence committed by a member of the Force against the person or property of another member.

However, when the offender is on leave or absent from duty, or when the offence is not connected with the offender's duties as a member of the Force, or when it is a petty offence, even if connected with the offender's duties as a member of the Force, the offence may, if the prescribed authority within the limits of whose jurisdiction the offence has been committed, so directs, be inquired into or tried by an ordinary Criminal Court having jurisdiction in the matter.¹⁰

In exercise of the powers conferred by the above provision, the Ministry of Home Affairs, Government of India, vide Notification No. J.II-9/2009-Law-CRPF, New Delhi-110001, dated the 18th December, 2009, in supersession of the Notification of the Government of India in the Ministry of Home Affairs, No.GSR-43 (E), dated 25th January, 1978, has invested the Commandant or a Second-in-Command of CRPF with the following powers of a Magistrate for the purpose of inquiring into or trying any offence committed by member of the Force and punishable under this Act, or any offence committed by a member of the Force against the person or property of another member:

(a) The Commandant and a Second-in-Command in a Unit (including General Duty Officers of the equal ranks posted in Static Establishments in the Force and declared as "Head" of respective Office and exercising supervision and administrative control over personnel posted in the said Establishment/ Office) with all powers of:

- (i) a Metropolitan Magistrate, in relation to a Metropolitan area; and
- (ii) a Judicial Magistrate of the First Class in relation to any area outside the Metropolitan area under the Code of Criminal Procedure 1973 (2 of 1974) (hereinafter referred to as the said Code);

Provided that an Officer holding, for the time being, the rank of Second-in-Command, shall not pass a sentence of imprisonment for a term exceeding one year, or of fine exceeding one thousand rupees or the both, while convicting

and sentencing an accused person in any trial;

(b) The Commandant (including General Duty Officer posted in other Static Establishment/ Offices in the Force and declared as "Head" of respective Establishment/ Office and exercising supervision and administrative control over personnel posted in the said Establishment/ Office and exercising supervision and administrative control over personnel posted in the said Establishment/ Office) with the powers of Chief Metropolitan Magistrate or a Chief Judicial Magistrate, as the case may be, under the said Code, with respect to the powers to require the Postal or Telegraph Authority to cause search to be made and to detain any documents parcel or thing under Section 92 of CrPC; to issue search Warrant under Section 93 of CrPC; to make over cases after taking cognizance for inquiry or trial to another Magistrate under Section 192 of CrPC; to try summarily under Section 260 of CrPC; to tender pardon to Accomplice under Section 306 of CrPC and to withdraw or Recall cases under Section 410 of CrPC.¹¹

As per Sub Section (2) of Section 29 of the CrPC, 1973, the Court of a Magistrate of the First Class may pass a sentence of imprisonment for a term not exceeding three years, or of fine not exceeding ten thousand rupees, or of both. Therefore, Commandant and Second-in-Command, who have been conferred the powers of a Judicial Magistrate First Class, can try only the offences committed by any member of the force under Section 10 of the CRPF Act, 1949. The trial of such offences has to be conducted in accordance with the procedure laid down in the Code of Criminal Procedure, 1973. Because according to Sub Rule (a) of Rule 36 under heading "Judicial Trials", all trials in relation to any one of the offences specified in Section 9 or Section 10 shall be held in accordance with the procedure laid down in the Code of Criminal Procedure, 1898. (1973).

The Court of Commandant in its capacity as Metropolitan Magistrate or Judicial Magistrate I Class can pass a sentence of imprisonment for a term not exceeding three years or of fine not exceeding Rs.10,000 or both.¹²

Therefore, the Commandant as a Metropolitan Magistrate or a Judicial Magistrate of the First Class can inquire into or try any offence committed by a member of the Force which is punishable under Section 10 of the CRPF Act and also any offence committed by a member of the Force against the person or property of another member

⁹ Section 10 of the CRPF Act, 1949.

¹⁰ Section 16 of the CRPF Act, 1949.

¹¹ Ministry of Home Affairs, Government of India, Notification No. J.II-9/2009-Law-CRPF, dated 18.12.2009, in supersession of the earlier Notification No.GSR-43 (E), dated 25.01.1978.

¹² Para- 6.5.1 of GC and Bn Officers Manual for CRPF.

punishable with imprisonment for a term not exceeding three years, or of fine not exceeding Rs.10,000, or of both under Indian Penal Code, 1860 or any other law.¹³

The Court of Second-in-Command (Judicial Magistrate 1st Class) may pass sentence of imprisonment for a term not exceeding one year or of fine not exceeding Rs.1000 or both.¹⁴

Therefore, the Second-in-Command as a Metropolitan Magistrate or a Judicial Magistrate of the First Class can inquire into or try any offence committed by a member of the Force which is punishable under Section 10 of the CRPF Act and also any offence committed by a member of the Force against the person or property of another member punishable with imprisonment for a term not exceeding one year, or of fine not exceeding Rs.1000, or of both under Indian Penal Code, 1860 or any other law.¹⁵

However, when a member of the Force commits any offence while on leave or absent from duty, or when the offence committed by a member of the Force is not connected with his duties as a member of the Force, or when it is a petty offence, even if connected with his duties as a member of the Force, the offence may be inquired into or tried by an ordinary Criminal Court having jurisdiction in the matter, if the prescribed authority, within the limits of whose jurisdiction the offence has been committed, so directs.¹⁶

Prescribed authority for the purpose of the proviso to Sub Section (2) of Section 16 of CRPF Act, 1949, who may direct inquiry into, or trial of an offence by an ordinary criminal court referred to in that proviso, shall be the Commandant.¹⁷

Judiciary on the judicial power of Executive Officer of CRPF

The power of Judicial Magistrate of Executive Officer of CRPF has come under the scrutiny of the Hon'ble Courts. In the case of *State (Union Of India) v. Ram Saran*, the respondent Ram Saran, while functioning as a Constable (Sweeper) in the III Battalion, ITBP, Nahan did not join duty after expiry of the leave granted to him. Though he was granted leave for the period from 09.04.1987 to 24.05.1987, he did not join after expiry of the period. There was no intimation to the competent authority or request for extension of leave. The respondent accepted that he had stayed beyond the period of leave, but indicated several reasons as to why the same was necessitated. Complaint was lodged by the concerned authorities and the Assistant Commandant exercising powers of Judicial Magistrate, Ist Class in terms of Section 10 (m) of the Central Reserve Police Force Act, 1949 Act (in short the 'Act'), issued notice in terms of Section 251 of the Code and after trial found him guilty and sentenced him to undergo imprisonment for three months.

It is pertinent to mention that before enactment of ITBP Act, 1992, the Force used to be governed by CRPF Act, 1949.

The Hon'ble Apex Court has held that the Assistant Commandant who passed the order undisputedly acted as a Judicial Magistrate in view of the powers conferred on him under the Act. As long as the specific provision in Act exists enabling the competent Authority to pass the order under challenge, the same will have full force and efficacy. The punishments to be imposed under the Act for various offences are defined by Sections 9 and 10, which have been created by statute.

The Hon'ble Court further observed that since CRPF Act is a special Act, its provisions are protected under Section 4 (2) and Section 5 of the CrPC, 1973. Additionally, Section 16 (2) of the Act begins with a non obstante clause relating to the Code.

Therefore, the Supreme Court concluded that the Assistant Commandant was clothed with necessary jurisdiction for trial of the matter.¹⁸

In the case of *Commandant & Ors. v. Surinder Kumar*, the said Surinder Kumar, respondent was working as a Constable in the Central Reserve Police Force (for short the CRPF). A complaint was lodged against the respondent. It was alleged in the complaint that he was detailed with vehicle no. 25 to carry patrolling party on Chandel Palel Road but he left the vehicle unattended and absented himself without permission of his superior officer and reported on his own after 20 minutes. It was also alleged in the complaint that while he was on duty, he consumed illicit alcohol and in an inebriated state of mind misbehaved with his superior officer H.N. Singh, snatched his AK-47 rifle and pointed the barrel of the rifle to him and on the intervention of Lachhi Ram, Assistant Commandant, the barrel of the rifle was pointed upward and an untoward incident was avoided. A copy of the complaint was served on the respondent and a disciplinary enquiry was conducted and the Assistant Commandant-cum-Magistrate First Class in his order dated 10.06.1993 found the respondent guilty of charges and convicted him and sentenced him to imprisonment till the rising of the Court. By a separate order dated 10.06.1993, the Commandant also dismissed the respondent from service.

¹³ Sub section (2) of Section 29 in CrPC, 1973 read with Sub section (2) of Section 16 of CRPF Act, 1949.

¹⁴ Para- 6.5.2 of GC and Bn Officers Manual for CRPF.

¹⁵ Notification No. J.II-9/2009-Law-CRPF, New Delhi-110001 of Gol in the MHA, dated the 18th December, 2009 read with Sub section (2) of Section 16 of CRPF Act, 1949.

¹⁶ Proviso to Sub section (2) of Section 16 of CRPF Act, 1949.

¹⁷ Rule 36A of CRPF Rules, 1955.

¹⁸ Supreme Court in *State (Union of India) v. Ram Saran* {Appeal (Crl.) 410 of 1997, on 4 December, 2003}.

The Supreme Court held that the Division Bench of the High Court failed to appreciate that for less heinous offences enumerated in Section 10 of the Act, a person was liable for punishment with imprisonment and under Section 12 (1) of the Act every person sentenced under the Act to imprisonment was liable to be dismissed from the CRPF. In other words, the legislative intent was that once a member of the CRPF was sentenced for imprisonment under the Act, he was also liable for dismissal from service.

The acts of indiscipline for which the respondent had been sentenced for imprisonment were serious and grave for a disciplined force. Therefore, the competent authority was right in imposing the punishment of dismissal from service.¹⁹

In the case of *Dharamraj Kumar Singh v. Union Of India (UoI) And Ors.*, the said Constable Dharamraj was tried judicially by the Commandant Judicial Magistrate of 27th Bn, CRPF on the following three charges:

(i) He committed an offence under Section 10 (n) of CRPF Act, 1949, in that he abused No. 931152042, CT Dinesh Singh on 04.09.2001 at about 1830 hours which is prejudicial to good order and discipline of the Force.

(ii) He committed an offence in his capacity as a member of the Force under Section 10 (n) of CRPF Act, 1949, in that on 04.09.2001 at about 1830 hours after consuming liquor used abusive language and misbehaved with his platoon Commander No. 65013277, SI Gardayal Singh and No. 931152042, CT Dinesh Singh of that Coy which is prejudicial to good order and discipline of the Force.

(iii) He committed an offence in his capacity as a member of the Force under Section 10 (n) of CRPF Act, 1949, in that on 04.09.2001 at about 2330 hours when he was brought to Bn HQs., Joynagar (Sibsagar) Assam by Shri R.R. Yadav, 21/C (Second-in-Command), from Central Market post of A/27 Coy due to his uncontrollable behaviour and ordered to be sent to Civil Hospital, Joyanagar for medical examination he again misbehaved and abused Shri R.J. Ranpatil, Asstt. Commandant, Officer Commanding, A/27 Coy, CRPF and challenged Shri R.R. Yadav, 21/C to dismiss him from service and threatened the 21/C stating that he will shoot him if he was dismissed which is prejudicial to good order and discipline of the Force.

Thereafter, upon completion of the trial, the writ petitioner/ appellant was convicted and sentenced to undergo simple imprisonment for 3 (three) days w.e.f. 20.09.2001 to 22.09.2001 in the Quarter Guard of the said Battalion vide order dated 20.09.2001 passed by the Learned C.J.M-cum-Commandant. The writ petitioner/ appellant was dismissed by the disciplinary/ administrative authority vide order dated 20.09.2001 (Annexure-3 to the writ appeal) from service w.e.f. 20.09.2001, i.e., the date when he was convicted and sentenced by the Commandant, 27th Bn, CRPF and by treating the period of judicial custody as dies-non and all medals and decorations earned by him were forfeited.

The Guwahati High Court held that the Magistrate-cum-Commandant has to follow the procedures laid down for criminal trial and also has to act in accordance with the said procedure to do justice to the accused official. In the instant case, the CJM-cum-Commandant passed the order of conviction and sentenced for the offence committed by the appellant/ writ petitioner under Section 10 (n) after a full trial, but the order of dismissal is passed by the Disciplinary/ Administrative authority under Sub-section (1) of Section 12 of the Act against the appellant/ writ petitioner as because he was convicted and sentenced to imprisonment under the provisions of the CRPF Act. Therefore, the provisions of Section 10 (n) and provisions of Sub-section (1) of Section 12 of the CRPF Act are totally different, one is for criminal trial by the Court and another is for the Disciplinary/ Administrative action by the authority. The accused official has no right to blame the disciplinary authority for any order of the criminal court in criminal case.²⁰

Critical Analysis

“.....They (the constables of CRPF) have a right not to be tried and convicted by a **Kangaroo court**, where the rudimentary principles of criminal jurisprudence and its fair procedure established by law are thrown to the winds.....”

The above remarks have been made by Hon'ble Mr. Justice Rajiv Narain Raina of Punjab-Haryana High Court while passing the judgement in *Zuber Ahmed v. Union Of India Etc.*²¹ in CWP No.15348 of 1999, on 30 April, 2015. The Hon'ble Punjab & Haryana High Court in the above case has held that the acting of the Commandant as both Chief Judicial Magistrate and Disciplinary Authority (Executive Authority) may not be legally impermissible but at the same time it raises a cause of serious concern of impartiality and bias in the mind of the Court of such dual exercise of jurisdiction.

Therefore, the Hon'ble Punjab & Haryana High Court has suggested for an appropriate reference to the Law Commission of India for suggesting suitable amendments to the CRPF Act, 1949 and the CRPF Rules, 1955 so that these provisions can be brought at par with the provisions of the CrPC, 1973.

¹⁹ Supreme Court in *Commandant & Ors. v. Surinder Kumar* (Civil Appeal No. 2177 of 2006, on 20 October, 2011).

²⁰ Guwahati High Court in *Dharamraj Kumar Singh v. Union of India (UoI) And Ors.* {2007 (3) GLT 579}.

²¹ Punjab & Haryana High Court in *Zuber Ahmed v. Union of India Etc.* CWP No. 15348 of 1999, on 30 April, 2015.

CONCLUSION

Investing the Commandant and Second-in-Command (earlier Assistant Commandant) with the power of Judicial Magistrate is legally tenable since the same has been provided in the CRPF Act itself which is a special statute. CRPF is an armed force of the Union in which high level of discipline is required to be maintained all the time. Therefore, the principle of separation of power, i.e., separation of judicial functions from the executive functions, as provided in Article 50 of the Constitution of India and the CrPC, 1973, may not be followed strictly.

Secondly, the quantum of punishment awarded to the delinquent by Commandant or Second-in-Command Magistrate under Section 10 of the CRPF Act should be proportionate to the gravity of offence. A sentence till the rising of the Court should normally be awarded only for trivial offences. If offence is not considered trivial or is heinous then there must be reason recorded in writing as to why the least punishment was chosen from the range available in law in which minimum punishment might have been prescribed. If the offence is trivial in nature and sentencing would justify the severest penalty of dismissal from service then the minimal sentence should be avoided as not one authorised by law in CRPF Act. Because in that case punishment would amount to be disproportionate and strikingly excessive to the gravity of the offence charged or misconduct imputed, as the case may be, and duly proved for.

Thirdly, Section 12 of the Act is directory in nature vide which the Commandant and Second-in-Command Magistrate must use discretion to decide whether the delinquent should be awarded minor punishment or be dismissed from service depending on the nature and gravity of offence for which he has been convicted under Section 10. However, before awarding any punishment by the Commandant as part of administrative action, the delinquent must be given an opportunity of being heard and for that Section 11 read with 27 must be followed. But the extreme punishment of dismissal from service can be awarded only if the conditions as mentioned in Rule 27 (cc) are fulfilled. In this regard the following observations of the Hon'ble Punjab & Haryana High Court at Para- 30 of the judgement in *Zuber Ahmed v. The Union of India and Others* (CWP No. 15348 of 1999, on 30 April, 2015) are important:

30.CRPF Act is a special law and a complete code in itself governing the relationship between the parties, where in the rules lies enacted substantive law in its procedural part in Rule 27 (cc) echoing the theme of Article 311 of the Constitution which is rare to find. It is also not known or understood as to how the disciplinary authority views the word 'may' in Section 12 and why the Commandant would not suffer limitations prescribed by Rule 27 and whether he could completely sidetrack, bypass or circumvent the provision. The rule is part of the Act and is supplemental in nature. It appears to fill a gap left in Section 12. Rule 27 by itself creates a substantive procedural right to due process incorporating a valuable safeguard against arbitrary action. Criminal conviction and disciplinary action are severable and are not ipso facto mother and child that cannot be separated in their relationship except by event of death. Having conducted the trial and concluded it and recorded sentence of imprisonment till the rising of the Court, fairness-in-action then demanded that the petitioner should have been heard before dismissal on his rights protected by Rule 27. While passing the dismissal order on his administrative side, the 6th respondent was acting as a disciplinary authority and not as Chief Judicial Magistrate. He would, therefore, suffer restrictions on his powers as are imposed by law or available to him to exercise in a reasonable manner. He could act only within the limitations of the statutory framework of which he was a creature, both as court and administrator.

It is, therefore, suggested that in pursuance of the provisions of CrPC, 1973, a scheme may be devised to separate administrative power of the Commandant from judicial power in CRPF. This can be possible if the judicial power is exercised by the Second-in-Command (earlier Assistant Commandant) Judicial Magistrate and Administrative power is exercised by the Commandant.

REFERENCES

- [1] <https://crpf.gov.in/history-crpf>
- [2] Sub Section (1) of Section 3 of the CRPF Act, 1949.
- [3] The Constitution of India.
- [4] Sub Section (2) of Section 1 of Central Reserve Police Force Act, 1949.
- [5] Sub Section (d) of Section 2 of the CRPF Act, 1949.
- [6] Sub Rule (b) of Rule 7 of the Central Reserve Police Force (CRPF) Rules, 1955.
- [7] Section 9 of the CRPF Act, 1949.
- [8] Para- 6.4.3 of Group Centre and Battalion (GC and Bn) Officers Manual for CRPF.
- [9] Section 10 of the CRPF Act, 1949.
- [10] Section 16 of the CRPF Act, 1949.
- [11] Ministry of Home Affairs, Government of India, Notification No. J.II-9/2009-Law-CRPF, dated 18.12.2009, in supersession of the earlier Notification No.GSR-43 (E), dated 25.01.1978.
- [12] Para- 6.5.1 of GC and Bn Officers Manual for CRPF.
- [13] Sub section (2) of Section 29 in CrPC, 1973 read with Sub section (2) of Section 16 of CRPF Act, 1949.
- [14] Para- 6.5.2 of GC and Bn Officers Manual for CRPF.

- [15] Notification No. J.II-9/2009-Law-CRPF, New Delhi-110001 of GoI in the MHA, dated the 18th December, 2009 read with Sub section (2) of Section 16 of CRPF Act, 1949.
- [16] Proviso to Sub section (2) of Section 16 of CRPF Act, 1949.
- [17] Rule 36A of CRPF Rules, 1955.
- [18] Supreme Court in State (Union of India) v. Ram Saran {Appeal (Crl.) 410 of 1997, on 4 December, 2003}.
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