

Supreme Court of India

Union Of India vs Ranjit Thakur on 10 August, 1988

Equivalent citations: JT 1988 (4) SC 167, 1988 (2) SCALE 1618, (1989) 2 SCC 438

Bench: A Sen, M Venkatachaliah

ORDER

1. In the appellate-Judgment dated 15-10-1987 of this Court, the contention of me appellant therein noticed and dealt with as contention a(i) proceeds the premises that Section 130 of the Indian Army Act, 1950 (Act) stood attracted to the proceedings of the Court Martial which culminated in the imposition of the penalty on the appellant. There is, however, an obvious error in this assumption as to the nature of the proceedings of the Court Martial in this case. Section 130 of the 'Act' would be attracted, inter alia, if the Court Martial was a Summary General Court-Martial.

2. It is pointed out in this Review Petition by the Union of India, and in our opinion quite rightly, that the Court Martial in question was not a "Summary General Court Martial" to which Section 130 would be so attracted, But was only a "Summary Court Martial" to which by virtue of Section 116(1) of the Act, the applicability of Section 130 is clearly excluded. This position requires to be clarified and the Judgment dated 15.10.1987 corrected accordingly. The need for this correction was also indicated in our order dated 20.1.1988. However, the principles enunciated would apply to a "Summary General Court Martial". But it is not disputed that the Court Martial in this case was a "Summary Court Martial" the Constitution of which was regulated by Section 116(1) of the Act.

3. The purpose of the Review Petition would be served if the contention at point a (i) as also the finding on that point in the Judgment dated 15.10.1987 is deleted. They are, accordingly, deleted. But, this will not make any difference to the operative Part of the Judgment. All the other findings, including the quashing of the penalty imposed, . would remain undisturbed.

4. The Review petition is disposed of accordingly.