P: ISSN NO.: 2321-290X RNI : UPBIL/2013/55327 VOL-9* ISSUE-4* December- 2021
E: ISSN NO.: 2349-980X **Shrinkhla Ek Shodhparak Vaicharik Patrika**

Scope of Judicial Review in Court Martial Proceedings By The Supreme Court and Article 136(2) of Constitution of India

Paper Submission: 12/12/2021, Date of Acceptance: 23/12/2021, Date of Publication: 24/12/2021

Legislature enacted The Armed Forces Tribunal Act with purpose to ensure a speedy disposal of cases by the Armed Forces Tribunal in relation to appointment, enrolment, commission, and the condition of the service of the personnel subject to the Army Act, 1950, the Air Force Act 1950 and the Navy Act, 1957 as well as the retired/ released/ removed personnel who appoint their representative, dependent and beneficiaries for representing the case in relation to service matters. The act provides for appeals from the orders/ Judgements of the Tribunal[1]. Under the provision of the act, scope of jurisdiction of the High Court in the matter pertaining to Court Martial is made confined as a rule of law and extraordinary jurisdiction of the high court in court martial cases are limited as rule of prudence[2]. Appeal against the order of Court Martial can be filed to the Armed Forces Tribunal only under the provision of the Act[3]. Now in such a scenario, exploring the scope of Special Leave Petition in Court Martial Cases of specific nature can be of some relevance in administration of military justice. Article 136 (2) of the Constitution of India, debars the lodging of SLP against the orders/ judgements of military tribunals/ courts.

In this article, the author will be exploring the scope of Special Leave Petition in specific types of Court Martial cases in the light of various statutory provisions, Supreme Court Judgements, Common Law Jurisprudence.

Keywords: Court Martial, Appeal, Armed Forces Tribunal, the Armed Forces Tribunal Act, 2007, Special Leave Petition, Rule of prudence, Rule of law.

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Introduction

The AFT act provides for an appeal against the final decision or order passed by the Tribunal with the limitation period of ninety days but there is no provision for appeal against an interlocutory order of the Tribunal[4]. Section 30(2) states that an appeal shall lie to the Supreme Court as of right from any order or decision of the Tribunal in the exercise of its jurisdiction to punish for contempt.[5]

The appellant needs special permission to be heard, by filing an appeal before the Hon'ble Supreme court. The court shall entertain such appeals unless it is certified by the tribunal that the "question of law" in the appeal needs further interpretation of law or involves "general public importance".[6] The Hon'ble Supreme Court in "*Union of India* v. *Brigadier P.S. Gill*" has analysed the method for preferring an appeal against a final judgement or order passed by the Tribunal to the Supreme Court. The court also held that the parties must obtain the special permission to challenge the order passed by the tribunal in the superior court[7].

The question one must focus on is whether the aggrieved party under the act has the right to appeal before the Hon'ble Supreme Court without following the procedure prescribed under the Act? While analysing the procedural necessities for filing an appeal to the Hon'ble Supreme Court, the court held as under.

Ss. 31(3), (1) & (2) - Direct recourse to Supreme Court without first exhausting possibility of obtaining certificate to appeal from Tribunal when urgent orders required - Contention that there could be circumstances requiring urgent orders in which event application for grant of certificate before Tribunal may prevent aggrieved party from seeking such orders from Supreme Court - Held, an appeal is presumed to be pending until an application for leave to appeal is disposed of; and if the leave is granted, until the appeal is disposed of - An application for leave to appeal is deemed to have been disposed of at expiration of time within which it may have been made but is not made within that time, in this case within 30 days of application being made to Tribunal, after which aggrieved party may approach Supreme Court seeking leave to appeal - Moreover, an application for grant of certificate before Tribunal can be made even orally and in case Tribunal is not inclined to grant certificate prayed for, request can be rejected straightaway in which event aggrieved party can approach the Supreme Court for grant of leave to file an appeal under the second part of S.

31(1) - Once such an application is filed, appeal is treated as pending till such time the same is disposed of [8].

Objective of the Study

1. To examine the scope of appeal in court martial cases in supreme court under AFT Act, 2007
2. To analyse the limitation imposed under the provision of AFT Act and article 136(2) of the Constitution in court martial appeal to supreme court.
3. To explore the possibility of balancing the legislative intention of maintaining discipline in the armed forces,requirement of access to justice for soldiers and the requirement of fast disposal of cases.

Appeals to the Supreme Court of India from Judgment / Orders of Armed Forces Tribunal

A plain comprehension reading of Section 30 would convey that the same starts with the expression "subject to the provision of Section 31", given their literal meaning there is no denying that an appeal against the order or judgements of Armed Forces Tribunal shall lie to the Apex Court only as per the provisions of Section 31 of Armed Forces Tribunal Act, 2007. The Parliament has made an unambiguous distinction between cases where an appeal lies as a matter of right such as in contempt cases and others, where it is subject to the conditions prescribed under Section 31.

Section 31 of the Act specifically facilitates an appeal to the Supreme Court but stipulates two distinctive routes for such an appeal. The first one is sanctioned by the Tribunal allowing leave for filing such an appeal. Section 31(1) forbids grant of leave to appeal to the Supreme Court unless the Armed Forces Tribunal certifies that a point of law of general public importance is involved in the decision. It implies that Section 31 does not facilitate for a vested, indefeasible, or absolute right to appeal to the Supreme Court against a final order or decision of the Tribunal. Such an appeal must be filed after getting the leave of the Tribunal and such a leave must be granted in the form of a certificate by the Tribunal mentioning that “a question of law needs further interpretation of law” or “point of law of general public importance” is involved in the appeal.

The second and the only alternate way to access this Court is also described in Section 31(1) itself. The expression "or it appears to the Supreme Court that the point is one which ought to be considered by that Court" authorizes the Supreme Court to allow the filing of an appeal against any such order or final decision of the Tribunal.

A conjoined reading of Sections 30 and 31 lead to only one conclusion, i.e there is no vested right to appeal against the final order or decision of the Tribunal to the Apex Court other than those mentioned under Section 30(2) of the Act. The only method to bring up the issue to the Supreme Court in appeal is either by way of certificate obtained from the Tribunal that decided the matter or by obtaining leave of this Court under Section 31 for filing an appeal depending upon whether this Court considers the point involved in the case to be one that ought to be considered by this Court.[9]

An accompanying question that arises, “whether an application for grant of permission for filing an appeal under the provision of Section 31 can be moved before the Supreme Court without first approaching the Tribunal for the certificate in terms of Section 31(1) of the Act”. In the normal course an aggrieved party could perhaps take one of the two methods to bring up the issue to this Court but that does not seem to be the intention of law makers which is evident from Section 31(2).

A careful reading of section 31(2) shows that it not only specifies the period for preferring an application to the Armed Forces Tribunal for grant of leave for preferring appeal to the Apex Court. It is noteworthy that the period postulated for filing application to the Supreme Court starts running from the date begins from the date the application preferred to the Tribunal requesting grant of certificate is disallowed by the Tribunal. It implies that the affected party cannot approach the Supreme Court by bypassing the Tribunal for grant of leave for filing an appeal under the provision of Section 31(1) recited with Section 31(2) of the AFT Act. According to the scheme of Section 31, an application for grant of a certificate must be moved before the Tribunal prior to approaching the Supreme Court for allowing leave to file an appeal. The aim underlying the provision seems to be that if the Tribunal itself gives a certificate to file an appeal, it would be pointless for the affected party to approach the Supreme Court for grant of leave to file an appeal. An appeal after getting a certificate would be maintainable as a matter of right under the scheme of Section 30 which uses the

words "an appeal shall lie to the Supreme Court". The expression made under section 30(1) "subject to the provisions of Section 31" cannot be reduced to a surplusage as one of the fundamental rules of interpretation is," the legislature does not waste words"[10]. Each word illustrated in the statute must be allowed to express itself howsoever significant or insignificant the word may be in attaining the legislative intent and promoting objective. Although it is needless to refer to any judgement on the subject, we may concisely recount a few pronouncements of the Supreme Court in which the word "subject to" has been interpreted.

In *K.R.C.S. Balakrishna Chetty & Sons & Co.* v. *State of Madras,*[11] this Court was interpreting Section 5 of the Madras General Sales Tax Act, 1939 in which the words "subject to" were used by the legislature. This Court held that the use of words "subject to" had reference to effectuating the intention of law and the correct meaning of the expression was "conditional upon".[12] To the same effect is the decision of this Court *in South India Corporation (P) Ltd*. v. *The Secretary, Board of Revenue* where this Court held that the expression "subject to" conveyed the idea of a provision yielding place to another provision or other provisions to which it is made subject.[13] In *State of Bihar* v. *Bal Mukund Sah*, this Court once again reiterated that the words "subject to the provisions of this Constitution" used in Article 309, necessarily means that if in the Constitution there is any other provision specifically dealing with the topics mentioned in the said Article 309, then Article 309 will be subject to those provisions of the Constitution.[14] In *B.S. Vadera* v. *Union of India*, this Court interpreted the words "subject to the provisions of any Act", appearing in proviso to Article 309 and observed:

"It is also significant to note the proviso to art. 309, clearly lays down that 'any rules so made shall have effect, subject to the provisions of any such Act'. The clear and unambiguous expression, used in the Constitution, must be given their full and unrestricted meaning, unless hedged-in, by any limitations. The rules, which have to be 'subject to the provisions of the Constitution', shall have effect, 'subject to the provisions of any such Act'. That is, if the appropriate Legislature has passed an Act, under Art. 309, the rules, framed under the Proviso, will have effect, subject to that Act; but, in the absence of any Act, of the appropriate Legislature, on the matter, in our opinion, the rules, made by the President, or by such person as he may direct, are to have full effect, both prospectively and, retrospectively."[15]In *Chandavarkar S.R. Rao* v. *Ashalata S. Guram*, this Court declared that the words "notwithstanding" is in contradistinction to the phrase 'subject to' the latter conveying the idea of a provision yielding place to another provision or other provisions to which it is made subject.[16]

After analysing the above judgements and due to application of the expression "subject to the provisions of Section 31" in the wordings of section 30 of AFT Act, it is apparent that Section 30 of the Act is positioned subordinate to Section 31.The question is "whether an appeal against the order of Tribunal would lie and if yes, then in what circumstances"? This cannot be addressed appropriately without going into the arrangement of Section 31 and preferring its prevalence over Section 30. That is undeniably the objective to be achieved. The right to appeal against the order of the Tribunal under Section 30 may be availed only in the manner and to the extent as prescribed under Section 31 to which the right to appeal is made subject.

It is relevant that under some other statutes, there are provisions for appeal to the Supreme Court which are expressed in different wordings. For example, Section 116A of the "Representation of the People Act, 1951" stipulates for an appeal to the Supreme Court and states as under:

(1) Notwithstanding anything contained in any other law for the time being in force, an appeal shall lie to the Supreme Court on any question (whether of law or fact) from every order made by a High Court under Section 98 or Section 99."

So also the Consumer Protection Act, 1986 provides for an appeal to this Court under Section 23 thereof which reads as under: -

"23. Appeal - Any person, aggrieved by an order made by the National Consumer in exercise of its powers by sub-clause (i) of clause (a) of Section 21, may prefer an appeal against such order to the Supreme Court within a period of thirty days from the date of the order."

Even “the Terrorists Affected Areas (Special Courts) Act, 1984” providing for an appeal to the Supreme Court under Section 14, starts with a non obstante clause and creates an indefeasible right of appeal against any judgment, sentence or order passed by such Court both on facts and law.[17]

It follows that whether an option of appeal is available to the Supreme Court and, if yes, then in what conditions and against which category of orders and on what circumstances is an issue that would have to be analysed keeping in mind the provisions of each such statute having regard to the context and the other clauses of the Act. It is one of the settled law of interpretation of statutes that every clause of a statute should be read and interpreted with respect to the context and the other clauses of the Act, so far as possible to make a consistent enactment of the whole statute or series relating to the subject.[18] In Gammon India Ltd. the Supreme Court observed:

"Every clause of a statute is to be construed with reference to the context and other provisions of the Act to make a consistent and harmonious meaning of the statute relating to the subject-matter. The interpretation of the words will be by looking at the context, the collocation of the words and the object of the words relating to the mattes." [19]

In *V. Tulasamma* V. *Sesha Reddy* where Supreme Court observed:

"It is an elementary rule of construction that no provision of a statute should be construed in isolation but it should be construed with reference to the context and in the light of other provisions of the Statute so as, as far as possible, to make a consistent enactment of the whole statue..."[20]

In a landmark judgement, the Supreme Court has held that appeals against Armed Forces Tribunal orders cannot be filed before this court as a matter of right. It ruled that permission from the AFT is mandatory before approaching SC directly, though the refusal for permission can be challenged in the apex court. Section 30 of AFT Act deals with the issue of appeals to the Supreme Court. The section 31 of the Act which deals with leave to appeal says that an appeal to the Supreme Court shall lie with the leave of the Tribunal; and such leave shall not be granted unless it is certified by the Tribunal that a point of law of general public importance is involved in the decision.[21]

Bail and appeal to interlocutory orders, challenges

Notice on soldier’s bail plea in Nyoma Mutiny case highlights problems in AFT Act and compel us to re-explore the option of SLP and review of related provision under section 30(1) of AFT Act which put a bar on appeal against an interlocutory order of the Tribunal.

The Punjab and Haryana High Court issued notice to the Central Government after the Armed Forces Tribunal (AFT) rejected the bail plea of a soldier who was awarded 10-year rigorous imprisonment by a court martial for his alleged role in the officer-jawan clash at Nyoma (Ladakh) in 2012.The notice brought out attention on provisions of the AFT Act and related judgments on it thereof, which have restricted the scope of remedial measures available to the petitioner to appeal against the order passed by the AFT. A larger Bench of the Supreme Court is adjudicating on the issue and the matter is pending for settlement.Though, the appeal was pending before the Armed Forces Tribunal, Petitioner was refused bail in spite of being in detention for approx three-and-a-half years.[22] He contended that the AFT Act specifically bars an appeal against interlocutory or interim orders passed by the

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Tribunal even to the Supreme Court, and bail being an interlocutory order, there is no option but to approach the High Court under Article 226 of the Constitution.

Though the High Courts were granting relief till March 2015 to soldiers and ex-servicemen hurt by the AFT's orders, this stopped after an SC order, which stated that since an appeal was provided to the Supreme Court under the AFT Act, final orders of the Tribunal should only be challenged before the apex court only.[23] The situation caused a problem as it rendered litigants remediless because there was a statutory bar under Section 31 and Section 33 of the AFT Act in approaching the Supreme Court. A leave to appeal can be granted by AFT only in matters involving a '*point of law of general public importance'*. However, writ jurisdiction of High Court against the judgement of AFT, was restored by the Supreme Court in 2020.[24]

While civilians have a 3-tier appeal mechanism comprising the lower courts, high courts and the Supreme Court, but practically speaking, the Armed Forces Tribunal became the first and last court/forum for the defence community as the scope of writ jurisdiction of High Court on the matter of court martial is very limited. In view of these statutory limitations for appeal to the Supreme Court in Court Martial cases, we need to analyse the provision of article 136(2).

Special leave petition and court martial

Article 136

1. "Notwithstanding anything in this Chapter, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree, determination, sentence or order in any cause or matter passed or made by any court or tribunal in the territory of India."[25]
2. "Nothing in clause (1) shall apply to any judgment, determination, sentence, or order passed or made by any court or tribunal constituted by or under any law relating to the Armed Forces."[26]

Article 112, Draft Constitution, 1948

'The Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree or final order in any cause or matter, passed or made by any court or tribunal in the territory of India except the States for the time being specified in Part III of the First Schedule, in cases where the provisions of article 110 or article 111 of this Constitution do not apply.'[27]

'112. (1) The Supreme court may, in its discretion, grant special leave to appeal from any judgement, decree, determination, sentence or order in any cause or matter passed or made by any Court or tribunal in the territory of India.[28]

(2) Nothing in clause (1) of this article shall apply to any judgement, determination, sentence or order passed or made by any court of tribunal constituted by or under any law relating to the Armed Forces.'

"Those who are responsible for the national security must be the sole judges of what the national security requires"[29]sounds reasonable when it comes to address the issues pertaining to deployment of Armed Forces but not so when it comes to administration of military justice. Clause (2) of article 112 was included at the behest of the Defence Ministry, who had referred to the examples of countries such as the UK following an analogous practice of excluding decisions of court-martials from the purview of the Supreme Court. Article 98 of the constitution of United Kingdom confers original jurisdiction in addition to appellate jurisdiction.[30] Requirement of leave to appeal is commonly provided in relation to the last appellate body (e.g., Administration of Justice (Appeal) Act 1934 clause 40 with respect to appeals for the court of appeal to the House of Lords[31]. Article 98(3) permits the use of a similar shifting process to be applied by law in respect of any category of appeal to the Supreme Court, except cases where an Act of Parliament has been held wholly or partly void, when a right to appeal is expressly granted

Article 98.3.1 of British Constitution confers the right of appeal to the Supreme Court, without leave, from any decision of a superior court in any part of the United Kingdom holding an Act of Parliament (but not subordinate legislation thereunder) wholly or partly void. Article 98.3.2 states that in any other matter in which the Supreme Court has appellate jurisdiction, the Act of Parliament or Rules of Court may require that leave be given for all or any category of appeals.

Clause (2) of article 112 invited strong opposition in the Assembly. One member contended that the person convicted to death sentence by military tribunal should have the right to appeal because the procedures followed in such tribunals was 'against all laws of jurisprudence'.[32] Another contended that the civilians who committed offences under the jurisdiction of these tribunals would be unfairly deprived of their right to appeal.[[33]]The Chairman of the Drafting Committee, who had earlier taken a different stance on this matter, stated that he had been convinced by the Defence Ministry that this clause was necessary to maintain discipline in the army.[34] He also clarified that the Supreme Court was not fully stripped of its power with regard to the armed forces, as it could still examine whether a specific court martial exceeded its jurisdiction, or whether proceedings were completely arbitrary.[35]The amendment was accepted by the Assembly, and the amended Draft Article was adopted on 16th October 1949. Here the Ministry of Defence had not explained why they wanted exclusion of judgement of military court or tribunals from the purview of Special Leave Petition. In place of providing justification for inclusion of article 136(2), they are more inclined to pacify the opposition saying the Supreme Court is not completely stripped off from its power with regard to armed forces and never explained how this clause will help in maintaining discipline in the Armed Forces. The assertion was not exhaustive and not supported by any authentic data pertaining to the claim showing the negative impact of access to justice over the discipline in the armed forces. Protection of individuals' rights and ensuring fair administration of justice may help in maintaining the high morals of the forces and the government should never try to buy discipline at the cost of morals, which is the ultimate weapon of victory for the army of any country. Balancing both against each other for fulfilling the prime objective of victory in war is the essence of military administration which needs to be kept in mind while framing any statute pertaining to the Armed Forces.

Mr Shibban Lal Saxena, one of the members of the Constituent Assembly, expressed the importance of this article in the entire Constitution. He said that If there is a Supreme Court, it must have supreme powers.[36] "The Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree or final order in any cause or matter, passed or made by any court or tribunal in the territory of India."[37] Due to the scheme of this article, the Supreme Court can entertain any appeal against any decree, judgment or final order of any court or tribunal. Although it can entertain any appeal, it will have to decide that appeal according to the law of the land. It cannot go beyond those laws. He suggested "the Supreme Court should be enabled to give judgments on the issues pertaining to natural justice which may not be within the letter of the law. It must be enabled to give any judgment to satisfy the requirements of the cases. Even now, the Privy Council entertains appeals of this kind. Where natural justice is involved, they take appeals and give decisions which are not bound by the law of the land I therefore wish that under article 112 where we give power to the Supreme Court to entertains any appeal, we should also enable it to decide those appeals on the principles of jurisprudence and considerations of natural justice".[38]

The provisions of article 112 of the draft constitution are particularly important and comprehensive. It lays down the fundamental principle of Constitution and has given a status to the judiciary, equivalent and in no way subordinate to the executive and legislature which was not found earlier in the Government of India Act where Judiciary and Legislature were kept subordinate to the Executive.

In the words of Pandit Thakur Das Bhargava, article 112 is exceptionally wide. He debated that the jurisdiction of this article is almost divine in its nature, because the Supreme Court will be able to deliver any judgment which can do complete justice between the State and the persons before it. If we refer to article 118 of draft constitution, it says:- "The Supreme Court in the exercise of its jurisdiction may pass such decree or make such order as is necessary for doing complete justice in any cause or matter pending before it, and any decree passed or order so made shall be enforceable throughout the territory of India in such manner as may be prescribed by or under any law made by Parliament".[39] He said, "The Privy Council also even had very wide powers and advanced to dispense cases according to the principles of natural justice. What is this natural justice? This natural justice in the words of the Privy Council is above the law of the land, and therefore, our Supreme Court will also be above law in this matter, in this sense that it shall have full right to pass any order which it considers just; and reasonable. This is an especially important section and

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gives almost unlimited powers to the Apex Court."[40] The right of appeal is absolute in articles 110 and 111, but so far as the special appeal Supreme Court jurisdiction is concerned, it is of a special nature, and it is above law. Even if there is no right to appeal, the Supreme Court may intervene in any matter where principles of justice necessitate it to do so. The Supreme Court shall exercise such powers and should not be discouraged from doing justice by the provision of any rule or law, executive circular, regulation, executive practice or etc. Thus, the Supreme Court will be in this sense above law. Thus, the jurisdiction which has been enjoyed by the Privy Council may be relished and enlarged by the Supreme Court in the interest of justice and not restricted by r any provision of law.[41]

Alladi Krishnaswami Ayyar asserted in the constituent assembly and said "There is nothing to prevent the Supreme Court from developing its own rules, its own conventions and exercising its jurisdiction in an unfettered manner so far as this country is concerned. The self-imposed restrictions of the Judicial Committee are traceable to the doctrine that the King is the fountainhead of all justice and it is not in the larger interests, as it was conceived, to extend his hand in every criminal case. No such fetter need be imposed on the exercise of that jurisdiction under article 112. For example, there is nothing to prevent the Supreme Court from interfering even in a criminal case where there is miscarriage of justice, where a court has misdirected itself or where there is a serious error of law".[42]

As H. V. Pataskar highlighted the circumstances under which the Supreme Court may exercise the grant of special leave. He said in the debate, "the Supreme Court is not likely to grant special leave in any matter whatsoever unless it finds that it involves a serious breach of some principle in the administration of justice, or breach of certain principles which strike at the very root of administration of justice as between man and man. I think article 112 as it stands is a very right one and should be there".[43]

One member proposed deleting the language which restricted the Supreme Court from hearing any case on appeal from a court or tribunal of the Military. He argued,"If there is a Supreme Court, there must have Supreme Powers, the Supreme Court may, in its discretion, grant special leave to appeal from any judgment, decree or final order in any cause or matter, passed or made by any court or tribunal in the territory of India."[44] Considering above statement, Provision of article 136(2) is against the independence of Apex Court of the country. Secondly, in the words of Pandit Thakur Das Bhargava,"so far as the special appeal jurisdiction of the Supreme Court is concerned, it is of a special nature and it is above law. Even if there is no right to appeal, the Supreme Court may intervene in any matter where principles of justice necessitate it to do so"[45]

While including clause 2 of article 136, Hon'ble Chairman of Drafting Committee forgot to take the account of two possible situations. First one is prosecution faced by defence civilians who are subjected to Army Act/ Airforce Act or Navy Act and Second one is the limitation of appellate jurisdiction of the Supreme Court on the issue of Court Martial and procedural hurdles involved in the appeal. If we examine the provision of section 31(1) of AFT Act, An appeal to the Apex Court lie with the leave of the Tribunal and such leave shall not be granted unless it is certified by the Tribunal that a point of law of "general public importance" is involved in the decision, or it appears to the court that "the point is one which ought to be considered by that Court"[46]. If tribunal denies the required certificate or the Supreme Court take a view on a case that the point is one which deserves no consideration by that that Court, then there is no remedy left with the affected party/ parties.The reason stated by the drafting committee for inclusion of article 136 (2) is nothing more than the mere copy of the contemporary constitutional provisions of United Kingdom.

Conclusion

Keeping above illustrated arguments and the requirement of high standard of justice in the Armed Forces of the Union, it is felt that there is a need to construct article 136(2) in such a way that it must balance all three factors, i.e the legislative intention of maintaining discipline in the armed forces, requirement of high level of justice for soldiers and the requirement of fast disposal of cases. An exception to article 136(2) can be added which may confer power to the Apex Court to accept the SLP in court martial cases but limited to death penalty, bail and interlocutory orders affecting the individuals right to life and liberty. it is also recommended to have a dedicated bench within the framework of the Supreme Court for fast disposal of SLPs in the matter of

court martials by their own judges or a seperate set up in the registry itself to be established which can decide on the admissibility of the SLP pertaining to court martial appeal on its merit. Curtailing scope of SLP on the award of death penalty, bail and on such ancillary matters pertaining to court martial, are unreasonable, unjust and against the principle of natural justice. There is no right to appeal in bail matters and against the interlocutory orders passed by the Armed Forces Tribunal which is contrary to the principle of natural justice. Appeal to the Supreme Court in court martial cases have its own procedural constraint as imposed under the AFT Act, therefore, the provision of SLP in such cases will be a saving grace for the erroneously court martialed soldiers.

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