

  
**HIGH COURT OF JUDICATURE FOR RAJASTHAN**  
**BENCH AT JAIPUR**

D.B. Civil Writ Petition No. 82/2025

Ex. Me-1 Yashpal Yadav (Navy No. 2217074T), Resident Of  
Village And Po Khatuwas, Tehsil Behror, District Alwar,  
Rajasthan.

----Petitioner

Versus

1. UOI, Through The Secretary, Ministry Of Defence,  
Govt. Of India, New Delhi.
2. Chief Of Naval Staff, Ihq Of Ministry Of Defence  
(Navy), New Delhi - 110011
3. Commanding Officer, Ins Savitri, C/o Fleet Mail  
Office, Visakhapatnam- 530014
4. Lt Commander Brajesh Kumar (Navy No. 42457T),  
C/o Chief Of Naval Staff, IHQ Of Mod (Navy), New  
Delhi -110011

----Respondents

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For Petitioner(s) : Mr. R.P. Singh, Sr. Adv. assisted  
by Mr. Ashish Poonia  
Mr. O. P. Sheoran  
Mr. Rituraj Kaur Bhullar

For Respondent(s) : Mr. Bharat Vyas, (Sr. Adv.) ASG  
assisted by Mr. P.C. Sharma,  
CGPC and Ms. Anima Chaturvedi  
Commander Akarshan  
Commander Lalit

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**HON'BLE MR. JUSTICE INDERJEET SINGH**  
**HON'BLE MR. JUSTICE RAVI CHIRANIA**

**Order**

1.	Date of conclusion of Arguments	19.02.2026
2.	Date on which the judgment was reserved	19.02.2026
3.	Whether the full judgment or only operative part is pronounced	Full
4.	Date of pronouncement	24.03.2026

**REPORTABLE****Per, Hon'ble Ravi Chirania, J**

*"Discipline at the workplace is the sine qua non for the efficient working of the organization."*

1. The present case involves the issue of serious insubordination and causing of physical injuries by a subordinate to his senior officer while on duty serving as a Sailor in the Indian Navy and whether the punishment awarded is disproportionate in the given facts and circumstances.
2. In the present case, the petitioner - Yash Pal Yadav has approached this Court by filing the present writ petition under Articles 226 and 227 of the Constitution of India, challenging the order dated 05.11.2024 passed by learned Armed Forces Tribunal, Regional Bench Jaipur (hereinafter referred to as '**learned Tribunal**' for short), in Original Application No. 137/2014 (hereinafter referred as '**O.A.**') along with Misc. Application Nos. 74/2015 and 373/2016.
3. By the impugned order dated 05.11.2024, the learned Tribunal, by dismissing the O.A., upheld the punishment order dated 31.10.2013, which had been imposed pursuant to a summary trial conducted by the respondents herein.
4. Counsel for the petitioner, Mr. R.P. Singh, Senior Counsel, assisted by learned counsel, Mr. Ashish Poonia, Mr. O.P. Sheoran and Ms. Rituraj Kaur Bhullar, briefly stated that the petitioner-applicant (herein referred to '**petitioner**') enrolled as a Sailor (ME-I) in the Indian Navy on 29.07.2009. It is further submitted that from the date of

his enrollment till the occurrence of the alleged unfortunate incident on 27.05.2013, the petitioner maintained an unblemished and dedicated service record and accordingly, his performance was consistently referred as "Very Good" and his conduct was found to be good by his senior officers. It is further submitted that, considering his meritorious service and good conduct, he was awarded the **First Good Conduct Badge** by the respondent.

5. The learned Senior Counsel, Mr. R.P. Singh, submitted that on the unfortunate day, i.e., 27.05.2013, while the petitioner was on duty at INS Savitri, he was called by his superior officer, Lieutenant Commander Brajesh Kumar to his cabin. It was further contended that upon entering the cabin, the said officer allegedly shouted at the petitioner, used highly abusive and vulgar language, and provoked him without any fault or justification on his part. He further contended that the petitioner being aware of his duty to maintain discipline as required in the forces and in order to avoid any kind of confrontation, sought permission to leave the cabin, however, as stated, while the petitioner was in the process of leaving, he was kicked by the said officer on the upper part of his hip. This alleged act of intentional provocation and physical assault was initiated by the said officer which led to a scuffle between the petitioner and Lt. Cdr. Brajesh Kumar, on account of which both persons sustained injuries.

6. For the said incident, a One Man Inquiry was initiated against the petitioner by the Commanding Officer for a charge under Section 45(a) of the Navy Act, 1957 (hereinafter referred to as 'the Act of 1957'), hereinafter **One Man Enquiry was conducted and after that summary court martial proceedings were conducted against the petitioner** pertaining to striking a superior officer, was levelled against him. Learned Senior Counsel further submitted that although the petitioner's statement was recorded by the Board of Enquiry, but a copy of the same was not supplied to him. Learned Senior Counsel further submitted that the petitioner had been suffering from a serious backache problem prior to the incident and had sought a few medical leaves for the same, which were denied and further, because of the intentional assault by the said officer and the scuffle that took place, the petitioner sustained serious internal injuries and therefore, he remained hospitalized at INHS Kalyani from 14.06.2013 to 28.08.2013 which according to the petitioner, was a direct consequence of the injuries as suffered by him in an unfortunate incident occurred on 27.05.2013.

7. Learned Senior Counsel further submitted that the inquiry was conducted against the petitioner in a forceful manner thereafter, summary court martial proceedings were conducted also in illegal manner in which the punishment of rigorous imprisonment for 90 days, dismissal from Naval Services and deprivation of the First Good Conduct Badge

with effect from 31.10.2013 was imposed upon him. He further submitted that the Summary Court Martial proceedings as conducted against him, were illegal and in serious violation of the principles of natural justice.

8. Aggrieved by the punishment order dated 31.10.2013, the petitioner preferred a statutory petition under Sections 162 and 163 of the Navy Act, 1957 before the Chief of Naval Staff on 01.05.2014. In the said petition, various grounds were raised challenging the punishment order, however, the said petition has not been decided till date and has not been replied.

9. Learned Senior Counsel further submitted that, aggrieved by the punishment order dated 31.10.2013 and the inaction of respondents of not deciding the statutory petition submitted under the Navy Act, 1957, the petitioner availed the remedy provided under Section 14 of the AFT Act, 2007, by filing an O.A. along with the two Misc. Applications, before the learned Tribunal. It was further submitted that the learned Tribunal issued notices to the respondents and after hearing the parties, dismissed the O.A. without making any interference with the impugned punishment order dated 31.10.2013. Learned Senior Counsel further contended that the learned Tribunal dismissed the O.A. by placing reliance upon certain judgments passed by the Hon'ble Apex Court, which are not directly applicable to the facts of the present case.

10. Learned Senior Counsel, Mr. R.P. Singh, further submitted that the conduct of Lt. Cdr. Brajesh Kumar was also found to be inappropriate in withdrawing petitioner's identity card and denying him leave without following the due procedure. The learned Tribunal failed to consider that it was the said officer who first intentionally provoked the petitioner and then physically assaulted him, which led to the scuffle between the two in which both persons sustained injuries. However, the learned Tribunal, acting in a mechanical manner, failed to consider the fact that the punishment awarded to petitioner by the respondents, was seriously disproportionate to the alleged misconduct. Being aggrieved by the above said orders, the petitioner has approached this Court by filing the present writ petition under Articles 226 and 227 of the Constitution of India.

11. Learned Senior Counsel submitted that the law with regard to interference by the Constitutional Courts, while exercising powers of judicial review in matters arising out of disciplinary proceedings, is well settled. In view of the settled legal position, learned Senior Counsel confined his arguments with regard to the quantum of punishment awarded by the respondent, which is highly disproportionate to the nature of the alleged misconduct and is highly unreasonable and unjustified in the facts and circumstances of the present case.

12. To buttress his arguments with regard to disproportionate punishment, the learned Senior Counsel

first referred to the facts related to the incident that occurred on 27.05.2013. He submitted that as it is evident from the statements recorded by the One-Man Inquiry that the alleged incident took place at around 1000 hours (10:00 a.m.), when the petitioner entered the cabin of his superior officer, Lt Cdr Brajesh Kumar. It was contended that upon entering the cabin, the petitioner was severely abused and was physically assaulted by the said officer, which led to a scuffle between them, in which both persons sustained injuries. Learned Senior Counsel further submitted that the statement of petitioner as recorded during the proceedings, clearly shows that the petitioner also suffered injuries and it was the high-handed and intentional provocative conduct of the said officer, which led to the alleged incident. The statement of the petitioner, as recorded in the Board of Enquiry proceedings, is reproduced as under:-

**"STATEMENT OF YASHPAL YADAV, ME-I,  
221074**

मैं आज Sick parade गया कल से काफी Back Pain हो रहा था PMO Sir ने मुझे बोला DO के साइन करवा के लाओ मैं SICK PARADE BOOK ले के EO सर की cabin में गया EO सर ने मेरे को बोला किस लिए आया है मैंने बोला सर Sick Parade के लिए EO Sir ने मेरे को बोला तेरे ज्यादा गांड मस्ती है तु डेली Sick Parade जाता है मैंने बोला Sir मुझे real problem है मुझे काफी Back Pain हो रहा है मेरे को बोला मैं साइन नहीं करूंगा fuck of from here और बोला मैं इधर तेरी गांड मार सकता हूँ तू मेरा क्या कर सकता है और बोला तू हरियाणा का है तो मैं पंजाब का गुंडा हूँ मैंने बोला Sir Please गाली मत दो तो उन्होंने मेरा गला पकड़ लिया और बोला तेरे मां-बाप ऐसे ही हैं तेरे को Manner नहीं सिखाया फिर उन्होंने मेरा हाथ पकड़ लिया फिर मैं उधर से Self Defence के लिए झटका मार के नीचे भाग आया जिसमें मेरी शर्ट फट गई और मेरे अंगूठे में दर्द हो रहा है"

13. Despite the fact that the statement being specific, clear and sufficiently shows the serious conduct of the senior officer himself, arbitrarily denying him leave and then abusing him seriously by using vulgar and abusive language which led to the alleged incident, the learned Tribunal without considering the same, accepted one-side of the story on the basis of the statement Lt. Cdr. Brajesh Kumar and other interested witnesses who deposed in his support. The witnesses who appeared in support of the prosecution case were, firstly, Lt. Commander Brajesh Kumar (42457-T) himself, Surg. Lt. Sudarshan Naik (76085-W), S.A.I. Mohit Kumar (218575-N), CHME Fulchand Yadav (172687-Y) and Lt. Avinash Singh (06737-K).

14. Learned Senior Counsel further submitted that despite the fact that there was no eyewitness present inside the cabin who could narrate the correct facts about the incident alleged to have occurred on that unfortunate day, the complete one-sided version was accepted and severe punishment impugned in the present petition was imposed on the petitioner. He further submitted that the petitioner is a Sailor who had never been involved in any misconduct prior to this incident. His unblemished service record in the past clearly demonstrates that he had a good conduct and therefore, was awarded the **First Good Conduct Badge** by the respondents themselves.

15. Learned Senior Counsel further submitted that both the statutory petitions as well as the O.A. were dismissed in

a mechanical manner, without considering the critically important issue of the quantum of punishment. He further contended that the punishment imposed on the petitioner was seriously disproportionate, unreasonable and unjustified, more so when the conduct of the Lt. Cdr. Brajesh Kumar was also found improper and inappropriate by the respondents themselves. As the learned Senior Counsel has pressed the present writ petition and the order impugned majorly on the ground that the punishment as imposed was seriously disproportionate, therefore, he referred to the punishments awarded to similarly situated personnel at the same time in two separate similar proceedings conducted at two different locations i.e., Chennai and Lucknow parallel to the present one, where similar allegations of insubordination and assault on a superior officer were involved and except the present one, in the two cases, i.e., at Chennai in the case of **R. Karthik** and in Lucknow in the case of **Nitesh Rai**, the punishment orders were quashed and issue attained finality after examination by the Hon'ble Apex Court and thereafter, the personnel were reinstated with all relevant service benefits.

16. The learned Senior Counsel first cited the case of R. Karthik, who was also a Sailor and charged with striking a superior officer. According to the learned Senior Counsel, R. Karthik had joined the service in the year 2008 and was approximately 19 years of age (a young Sailor) at the time of the alleged incident. It was further submitted that an

unfortunate incident occurred on 29.05.2013, when his superior officer, Lt. Abhishek Vardhan, lodged a complaint seeking strict disciplinary action against R. Karthik. The contents of the complaint made against the Sailor **R. Karthik** reads as under:-

"The ship left harbour on 29 May 13 at about 0830 hrs. We were to receive Seaking C-560 onboard at 1000 hrs so flying stations was piped & Aviation Core Team was mustered on helo deck. Being the Aviation Officer of the ship, I went to helo deck to prepare the deck for flying. When I mustered the Aviations Core Team, Karthik, WTR I was missing. I called up bridge and requested SSD OOW to announce for him. After about 15-20 minutes and 2 more announcements Karthik, Writer, I, finally came to helo deck. When I asked him about the delay, he said that he had closed for SSD. When I told him that Aviation Core Team was mustered & he should have come, he said that his name is not in Aviations Core Team & that he is standby for Prasad, Cook II. I asked him if he was aware that Prasad was on leave. He said he was aware of it. I asked him again that as he was standby for Prasad and he knew he was on leave, he should have closed up. To this he replied that Chief Writer has told him that as there are only 2 writers onboard, they will not do any duty. I told him to get Chief Writer to helo deck. He then replied that Chief Writer is not onboard & is admitted in hospital. Then I told him to remain on helo deck & once Aviations Core Team is secured, write a statement saying "he came late to helo hanger because Chief Writer had told him not to do any duty." He then became more aggressive & shouted upon me that "I will not write any statement, Chief Writer is hospitalized.". I told him again that it does not make any difference whether Chief Writer is onboard or not, he must write a statement at end of Flying Stations. He now shouted on the top of his voice saying "Chief Sahab is admitted". I then lost my cool and shouted back at him abusing him. He then hit me with his fist

on my left cheek & abused me. I did not shout at him further or even touch him, I called a Regulating Sailor who was in Helo Hanger & told him to take Karthik, Writer to Executive Officer in bridge. I told the whole episode to the Executive Officer & EXO took us to Commanding Officer and I apprised him of the situation. After this I was asked to go to helo deck by EXO & ensure safe recovery of SC-560. I composed myself & went to the helo deck for recovering SC-560. After this when at 1400 hrs. Aviation Core Team was asked to muster in helo deck again, Karthik, Writer I did not come to helo deck once against. I asked POA (AH) Gupta to announce for him & went to oversee the ground run of SC-560. Post ground run, I was told by POA(AH) Gupta that Karthik, Writer did not come for Aviation Core Team again. I do not think that such an offence should be accepted by anyone and the most strict possible action be taken against the sailor. It was with this faith in Indian Navy that I did not hit the sailor back and I hope that my faith in the system remains so."

17. Learned Senior Counsel further submitted that on the basis of above said complaint, R. Karthik faced investigation and a formal inquiry was conducted for charges under Section 45(a) of the Act of 1957. As a result, after summary court martial proceedings, he was punished with imprisonment for 60 days, deprivation of his First Good Conduct Badge and dismissal from service. Due to the above serious conduct and having a charge of Section 45(a) of the Act of 1957, the Chief of Naval Staff, in the statutory petition filed under Section 162 and 163 of the Act of 1957, did not make any interference with the punishment. However, when the order of punishment was challenged before the learned AFT, the learned Tribunal, after considering the facts and circumstances of the case, held

that the sentence of dismissal from service was disproportionate. Consequently, the learned Tribunal maintained the punishment of imprisonment of 75 days, as R. Karthik had already undergone and therefore, allowed the O.A., by quashing the punishment of dismissal from service being disproportionate. The order of learned Tribunal was challenged before the High Court and thereafter before the Hon'ble Apex Court by filing the Criminal Appeal No. 831/2015 titled as Union of India & Ors. vs. R. Karthik. The issue attained finality as the Hon'ble Apex Court vide order dated 21.01. 2020 dismissed the said appeal of Union of India.

The relevant paragraph of the judgment passed by learned AFT passed in **R. Karthik** (supra), as cited by the learned Senior Counsel reads as under:-

“11. We find that the Commanding Officer who was on the high seas with the Sailor and the superior officer was aware of the extent of misconduct of the Sailor. None of the three witnesses have deposed regarding striking of the superior officer by the Sailor. The superior officer has not made himself available before the Investigating Officer or the Executive Officer.

12. Even though, the superior officer has used abusive language but the Sailor was not expected to retort and hit the superior officer. The conduct of the Sailor cannot be condoned in any manner.

13. In terms of provisions of the AFT Act, the Tribunal is competent to substitute the findings in the disciplinary proceedings leading to dismissal of the Sailor and to substitute and/or mitigate the punishment awarded. Therefore, the order passed

by the Tribunal to set aside the dismissal is within the jurisdiction of the Tribunal finding that the punishment imposed is disproportionate to the misconduct. This Court in appellate jurisdiction under Section 30 of the AFT Act would be slow in interfering with the substituted punishment, unless the order passed by the Tribunal is found to be arbitrary, unreasonable or capricious. We find that the view taken by the Tribunal is not patently illegal warranting interference in the present appeal. The appeal is accordingly dismissed.

14. However, it is directed that the respondent shall be reinstated within two months but shall not be entitled to any back wages from the date of dismissal till reinstatement but he shall be entitled to computation of all consequential benefits including pay fixation.”

18. Learned Senior Counsel further submitted that despite the charge under Section 45(a) of the Act of 1957, the learned AFT had declared the punishment of dismissal from service to be disproportionate, and consequently, the said person was reinstated in service by the respondents herein.

19. Learned Senior Counsel further referred to the case of the Sailor **Nitesh Rai**, who was also charged in respect of a similar unfortunate incident in May 2013, like R Karthik. In the said case, Sailor Nitesh Rai, who was enrolled in Navy in the year 2011, was charged under Section 45 (a) of the Act of 1957 in respect of an incident that occurred on 09.05.2013. After conducting the proceedings, he was also punished with dismissal from service. The order of dismissal was initially challenged by way of a statutory petition, which

was dismissed. Thereafter, the learned AFT, while deciding the O.A. filed by Sailor Nitesh Rai, allowed the O.A. observing that the incident occurred on account of the fact that the Sailor retaliated under extreme provocation in self defense and that the punishment of dismissal was disproportionate and extremely harsh. Further, he had already served the punishment of imprisonment and therefore, while allowing the O.A., Sailor Nitesh Rai was ordered to be reinstated in the service.

20. Learned Senior Counsel further submitted that the order passed by the learned AFT, Lucknow, in the case of Nitesh Rai, was also challenged before the Hon'ble Supreme Court, in Criminal Misc. Petition No.16083/2016 in Criminal Appeal Diary No.32883/2016, and the Court dismissed the appeal of the Union of India vide its order dated 29.09.2016, holding that there was no substantial question of law and made no interference in the appeal and accordingly, the same was dismissed.

21. Learned Senior Counsel further submitted that in both the cases of R. Karthik and Nitesh Rai, the charges were of striking a superior officer under section 45(a) of the Act of 1957, and the two learned AFTs i.e., Chennai and Lucknow, in respect of the incidents as occurred in both the cases, at the same time, made interference in the order of punishment on the ground that they were disproportionate. Noting the fact that both the personnel had already undergone the period of imprisonment, the learned Tribunal

quashed the punishment of dismissal from service and ordered for reinstatement. Both matters attained finality after the Hon'ble Supreme Court refused to interfere with the orders of respective learned AFTs.

22. Learned Senior Counsel further submitted that the punishments imposed in the cases of R. Karthik and Nitesh Rai, which involved charges similar to the present case, also reflects excessive and disproportionate punishment in the facts and circumstances of the case. He further contended that the present case requires interference of this Court in the same manner as was done by the Hon'ble Apex Court in the cases of R. Karthik and Nitesh Rai. Therefore the punishment of dismissal from service imposed vide impugned order dated 31.10.2013 deserves to be modified/quashed and the petitioner needs to be reinstated in service, similar to aforementioned two cases.

23. In response, the learned Additional Solicitor General, Mr. Bharat Vyas, assisted by Senior Panel Counsel, Mr. P.C. Sharma, Ms. Anima Chaturvedi and Ms. Arpita Joshi strongly opposed the submissions made by the learned Senior Counsel for the petitioner, Mr. R.P. Singh. Learned ASG Mr. Vyas submitted that the present case does not warrant any interference by this Court under Articles 226 and 227 of the Constitution of India in the peculiar facts and circumstances of the case.

24. Learned ASG further contended that the learned Senior Counsel for the petitioner has confined his

arguments regarding the quantum of punishment by relying upon the cases of R. Karthik and Nitesh Rai. However, both the cases are not comparable with the present matter, as the circumstances and facts of the present case are different. The conduct of the petitioner, as noted by the One Man Inquiry in the Summary Court Martial Proceedings and considered by the learned Tribunal, after examining all materials, including the evidence of the petitioner and other material witnesses, leaves no doubt about the serious conduct of the petitioner and therefore, he was rightly punished.

25. Learned Senior Counsel Mr. Vyas further contended that, although the charge under Section 45(a) of the Act of 1957 was same in the case of R. Karthik and Nitesh Rai, however the petitioner, cannot claim parity just being the charges are same, as every case must to be examined and decided on its own merits.

26. To show the conduct of the petitioner herein, the learned ASG specifically referred to the medical report of the said superior officer, Lt. Cdr. Brajesh Kumar which is as under:-

**"MEDICAL REPORT Lt. Cdr. Brajesh Kumar – 113**

**CONFIDENTIAL**

<u>CASUALTY/PATIENT's PARTICULAR</u>	<u>BROUGHT BY</u>
Name: Lt Car Brajesh Kumar	Name      Self
Rank: Lt Cdr	Age
Age: 33yr	Unit
Unit: INS Savitri	P.No.
ID Marks: Scar mark on Left	

Eyebrow

P.NO.42577

**Diagnosis: Blunt injury nose bleeding, blunt injury left cheek, left shoulder.**

33yr old serving officer, reposted on board sickbay (in his carter) with h/o alleged hit by a sailor over nose & cheek at his cabin at around 1000HR

C/o pain over nose, cheek (r) side

H/o **bleeding from both nostril (r)**

Pain (R) shoulder,

No H/o **Loss of conscious, ear bleed**

**Blood stain in mouth (R)**

**o/E Restless**, moderately built x nourished

Conscious, No sign PICCLE

P-110/min BP-160/04 mmhg RR 30bpm

RS NIBS (r) Rpt. 138/84mmtta

Cvs-S1 S2® Trachpyndra (R)

General Features - **Bleeding from nostril both (R)**

**Blood in mouth bleeding from nose plraid**

Bruise over Nose c

Bruise x swelling over L Cheek and beside eye and tympanum & temporal bone

Blunt injury (L) shoulder

Rom-fell painful

**Ice pack application nose & Shoulder(L), lympanyx**

**Control of bleeding from nostril**

Inj Voveran 3ml 1msht

Pt detains > Discharged D/o tomorrow"

27. Learned Senior Counsel submitted that the Medical Officer was examined in respect of the injuries sustained by superior officer. The Medical Officer, in his statement before One Man Inquiry, clearly stated about injuries as suffered by the superior officer. The statement of the doctor, as recorded by the One-Man Inquiry, being relevant, referred by the learned ASG, reads as under:

**"Statement of Surgeon Lt. Sudarshan Naik  
76085-W**

1. I hereby state that on 27 May 2013 at about 0900hr Yashpal Yadav, MEI, No. 221074-T reported sick directly without approval from his Divisional Officer Lt Cdr Brajesh Kumar, No. 424556-T. I asked him to get the initial of his DO on sick parade book. At about 1000hr I heard a prolonged shout. I came out my cabin to investigate the same. At this point, I saw a person in uniform running down the ladder between Engineering Officer cabin and Electrical officer cabin. As I followed the person, I heard an announcement for me to report in Engineering Officers cabin. **When I reached the cabin, I saw a pool of blood on the floor and some sailors helping Lt-Cdr Brajesh Kumar (424556-T) to lie down on his bed in his cabin. There was heavy bleed from his nose. The officer was not able to breath properly, not able to speak. On examination it revealed contusion and bruises on his left temporal bone, cheek, on the side of the eyes associated with swelling. I resuscitated him, bleeding was controlled with light nose pack and ice pack application. His blood pressure was found to be high (160/94 mmHg) which got reduced after the treatment. Later when he was able, he complained of pain in opening mouth and pain in left shoulder. His injuries were sever in nature and these injuries would have been caused because of strike by a hard object may be a punch.**

2. Between 1130hr to 1200hr on 27 May 13 Yashpal Yadav, MEI 221074-T was brought to me for medical examination after the reported incident of man handling. On his medical examination it was revealed abrasion of left forearm and abrasion on left middle finger (may be a nail mark). He also complained of pain in right thumb which after X-ray suggested no abnormalities. These were only superficial."

28. The above quoted statement indicates that the said Medical Officer noted that the Lt. Cdr Brajesh Kumar was bleeding severely and was unable to breath due to the injuries sustained. In view of the specific and clear statement of the Medical Officer, it is evident that the petitioner committed serious insubordination and caused serious injuries to the Senior Officer, Lt. Cdr. Brajesh Kumar. Such conduct cannot be taken lightly, as the Armed Forces are known for their strict discipline and subordination.

29. Learned Senior Counsel further submitted that the cases of Nitesh Rai and R. Karthik are not comparable to the present case, as in both cases, the superior officers did not suffer injuries of the nature as sustained by the superior officer in the present case. Learned Senior Counsel further contended that the facts of the cases of R. Karthik and Nitesh Rai did not impress the learned Tribunal to interfere with the order of punishment as passed in the present case. In the present case, the learned Tribunal considered all the relevant statements including the medical report and thereafter, concluded that no interference(variation) in the order of punishment passed against the petitioner can be made.

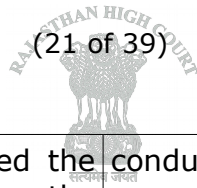
30. The learned Senior Counsel, Mr. Vyas further referred to the Section 45(a) of the Navy Act, 1957, which specifically provides for the charge of striking a superior officer, following the procedure laid down under the Act. The punishment was imposed on the petitioner after due

consideration of all the facts and circumstances. He further argued that the power of this Court in judicial review, while examining court martial proceedings, is very limited and the law in this regard is well settled by the Hon'ble Apex Court. Learned Senior Counsel relied upon the following judgments:-

1. Hari Vishnu Kamath Vs. Syed Ahmad Ishaque (AIR 1955 SC 233)
2. Surya Dev Rai Vs. Ram Chander Rai (AIR 2003 SC 3004)
3. Radhey Shyam Vs. Chhabi Nath (AIR 2015 SC 3269)
4. K. Valarmathi Vs. Kkumaresan (2025 INSC 606)

31. Learned ASG Mr. Bharat Vyas further submitted that it is only on the basis of cases of R. Karthik and Nitesh Rai that the learned Senior Counsel for the petitioner has tried to draw parity with regard to the punishment, on the ground that charge in both the cases were also under Section 45(a) of the Act of 1957. The learned Senior Counsel has also tried to distinguish the case of R. Karthik and Nitesh Rai from the case of present petitioner. Learned ASG has set out the following distinctions between present petitioner and R. Karthik, which is as under:-

<b>FACTUAL DISTINCTION BETWEEN OA NO. 137 OF 2014 YASHPAL YADAV VS UOI (AFT JAIPUR) AND OA NO 45 OF 2014 R KARTHIK VS UOI (AFT CHENNAI)</b>	
<b>YASHPAL YADAV</b> (Petitioner herein)	<b>R KARTIK</b>
The evidence available on record that is the statement of the complainant was Lt. Cdr. Brajesh Kumar, the Medical Officer, Surg Lt. Cdr. Sudarshan Nayak and	In the case of R Kartik, the complainant was Lt. Abhishek Wardhan. Based on the complaint received from Lt. Abhishek Wardhan the investigations were



<p>other witnesses who reached the scene Immediately after the incident on hearing the officers cry for help supported by the medical documents clearly establish the offence of striking superior officer beyond doubt.</p>	<p>conducted accordingly.</p> <p>As per Para 3 of Hon'ble Supreme Court Judgment "only three witnesses were examined (Ganesh Kumar Tiwari, Tara Chand Nehra and Vikash Sharma). As per the observations of the Hon'ble Court the three witnesses were examined before the investigating officer, executive officer and all <b>three witnesses denied the Incident as alleged in the complaint submitted by Lt. Abhishek Wardhan.</b>"</p> <p><b>Lt. Abhishek Wardhan was neither cited as a witness nor was examined either by the investigating officer or the executive officer.</b></p> <p>As per para 9 of the Hon'ble Supreme Court judgment "<b>none of the three witnesses deposed regarding hitting of superior officer by the sailor.</b> <u>The superior officer Lt. Abhishek Wardhan was examined neither before the investigating officer or the executive officer nor he has been made available for cross examination as per the proceedings produced before the Hon'ble Supreme Court.</u>"</p>
<p>From the perusal of the medical document along with the statement of medical officer and other witnesses it was evident that the <b>accused used physical aggression and force towards his superior officer intentionally.</b> Though, there was no direct evidence of witnesses having witnessed the incident of striking, however the perusal of the medical report was indicative that the injury occurred to the officer was due to striking by the accused. Further, the <b>evidence indicated that the accused ran out of the cabin of the officer which was noticed by other witnesses.</b> This revealed the guilty mind of the accused.</p>	<p>As per Para 12 &amp; 13 of the L'd AFT (RB), Chennai order, the L'd AFT has categorically mentioned that "It is clear that the complainant had given a statement and that complainant himself was not brought before the accused for cross examination. <b>All other witnesses who were brought before the Trial have denied having seen or heard anything of the incident except to say that Lt Vardhan and Karthik were talking to each other,</b> Therefore, the only admissible evidence produced was the acceptance of guilt by the applicant himself through his statement that he was provoked by the officer for using abusive language and that was why he had lost his cool and hit the officer.</p>

	<p>It appears that the <b>inquiry has been done in a hammered manner and it ought to have been done more deliberately to bring the facts of the case before the commanding officer."</b></p>
<p>The evidence on record was circumstantial in nature and indicative of a serious offence committed by the accused by using physical aggression and striking a superior officer.</p> <p>By various accounts, the sailor's performance onboard had been less than satisfactory. He was argumentative, rude and aggressive in nature. He had picked up arguments with his superiors in the past and had, on occasions, flared up for seemingly minor issues. Towards this Yashpal Yadav, ME I, 221074-T was continuously briefed by the Departmental Regulator and counselled for improving his behaviour.</p>	
<p>As per the service records of the sailor he has been stubborn and argumentative in his approach and on numerous counts he displayed insubordination and disobeyed his superiors. (Para 7 of the AFT Order is relevant)</p> <p>He was counselled by his divisional officer on 17 May 12 and 03 Sep 12 and was advised to improve his conduct.</p>	<p>As per para 5 of the order "the Tribunal found that the use of force by the sailor was not premeditated or deliberate but was a consequence of provocation in the form of use of abusive language by a superior officer."</p>
<p>As per the endorsement by his divisional officers in his service document (Jun 12) it is stated that "Sailor has issues with behaviour and mannerism.</p>	
<p>The audacity of the accused to physically assault a superior officer does not behove marks of respect/adherence of discipline which is expected from uniformed person. On board a ship where a men are also used to be with arms, this kind of attitude or action is highly detrimental to the team spirit and uniformed cohesion. (Para 8 of the AFT Order is relevant)</p>	<p>As per para 12 of the said judgment the Honourable court has observed that "<i>even though the superior officer has used abusive language but the sailor was not expected to retort and hit the superior officer. The conduct of the sailor cannot be condoned in any manner.</i>"</p>
<p>Page 75 till 82 of the one-man</p>	

inquiry proceedings are relevant. The same consists of the findings, attributability of blame and the recommendations. (Para 7 of the AFT Order is relevant)

33. In view of the above clear differences between the two cases, learned ASG Mr. Vyas submitted that the facts of the cases of R. Karthik and Nitesh Rai (supra) are different from those of the present case and therefore, are not comparable. Consequently, the relief as granted in those cases cannot be granted to the present petitioner. In the peculiar facts and circumstances of the present case, the learned ASG, in conclusion, prayed for dismissal of the present writ petition.

34. Heard learned counsel for the parties and perused the record.

35. The facts of this case concerns the issue of serious insubordination in law by a person in uniform, resulting in grievous physical injuries to a senior officer while on duty. While making submissions, the learned Senior Counsel, Mr. R.P. Singh, specifically confined his arguments to the quantum of punishment by contending that it was seriously disproportionate and provided certain factual background to support his arguments. Learned Senior Counsel tried to draw comparison with the cases of **R. Karthik** (supra) and **Nitesh Rai** (supra) with the present case, as they were also Sailors and faced similar charges under Section 45(a) of the Act of 1957 at same time, i.e., in May 2013. In both cases, after being summarily tried, both the Sailors, similar to the

present petitioner, were punished with imprisonment for a certain period and dismissal from service. This Court noted that the punishment of imprisonment, for certain period, and dismissal from service, is same in all the three cases.

36. This Court, before proceeding further, has also examined the provisions of the Navy Act, 1957. Section 45(a) provides that every person subject to naval law and who strikes or attempts to strike his superior officer shall be punished with imprisonment. In case of active service, the punishment may extend to ten years or such other punishment as prescribed under the law. Section 45(a) of the Act of 1957, reads as under:-

**"45. Striking Superior officers**—Every person subject to naval law who commits any of the following offences that is to say,—

**(a)** strikes or attempts to strike his superior officer; or

**(b)** draws or lifts up any weapon against such officer; or

**(c)** uses or attempts to use any violence against such officer, shall be punished,— if the offence is committed on active service with imprisonment for a term which may extend to ten years or such other punishment as is hereinafter mentioned; and in any other case, with imprisonment for a term which may extend to five years or such other punishment as is hereinafter mentioned."

37. This Court further noted that the petitioner was working as a Sailor and the officer in question was

admittedly a very senior officer. The superior officer was treated for the injuries as suffered and the Medical Officer, who treated him specifically stated (as quoted in the above paras) that the officer was seriously bleeding and was unable to breathe. The petitioner did not deny the injuries suffered by the officer, however, he attempted to portray the entire incident as a scuffle between the two due to sudden provocation, claiming that he also suffered certain injuries.

38. This Court, however, noted that the injuries suffered by the officer were serious, whereas the petitioner did not suffer any serious injuries in that unfortunate incident dated 27.05.2013 though he remained in hospital for certain period. A One-Man Inquiry was conducted, which submitted its report dated 11.06.2013. The One-Man Inquiry Committee recorded the statements of the petitioner, the injured senior officer and other relevant witnesses.

39. After examining the statements of the petitioner, the injured officer, the Medical Officer, and the other witnesses and considering the facts of the case of R. Karthik (supra) and Nitesh Rai (supra) and the differences as pointed out by learned ASG which quoted in the paragraphs above, this Court noted that the superior officer in those two cases did not suffer any serious injuries. Even in one case, the superior officer did not make any statement against the sailor. The only similarity noted by this Court is the alleged use of abusive language, however, this Court fails to find

any other factual similarity between the present case and aforementioned two cases. The learned Senior Counsel Mr. R.P. Singh specifically pressed upon the punishment as disproportionate. The peculiar facts noted in R. Karthik and Nitesh Rai, which are different from the present case as noted from the evidence as recorded in those cases.

40. The above three incidents namely, R. Karthik, Nitesh Kumar and the present petitioner Yash Pal Yadav, all were Sailors and charged under Section 45(a) of the Act of 1957. After conducting Board of Inquiry, all three were punished with dismissal from service. Subsequently, each challenged the order of punishment before the respective learned Tribunal. At this point, certain facts are somewhat common in all three cases except the evidence of witnesses as recorded, however, the findings recorded by the learned Tribunal in the case of **R Karthik** (supra) notably which reads as under:-

15. "It is a settled principle that in every case, facts and circumstances vary and, therefore, a common punishment for a similar offence cannot be made as a rule which appears to have been the driving force in recommendation of eventual dismissal of the applicant from service. **In the extant case, the use of force by the applicant was not premeditated or deliberate but was a consequence of provocation in the form of use of abusive language by a superior officer. It is admitted that it was a reflex action to the provocation; the applicant had immediately cooled down and owned up his mistake voluntarily.** It is also admitted that the officer had handled the situation

poorly and the use of abusive language to subordinates is an unbecoming act of an officer. To that extent, the offence has to be viewed in the circumstances under which it was committed and the mitigating factors that have been brought before. It has also been admitted by the respondents that Lt Abhishek Vardhan was found guilty of an act of using profane/ abusive language against the applicant under Section 74 of Naval Act 1957 (offences against good order and discipline) and was given a punishment of "one month loss of seniority of Lieutenant".

16. It appears that the punishment given to the officer was light in nature and, therefore, given the extenuating circumstances under which the whole episode occurred, the applicant's plea for mitigation ought to have been considered."

41. The learned Tribunal in the case of **R. Karthik** quashed the punishment, on the basis of evidence as recorded, in the peculiar facts of the said case, which are clearly distinguishable with the facts of the present case. Thereafter, this Court noted the findings recorded by the learned Tribunal in the case of the **Nitesh Rai** (supra). In that case, although there was also insubordination and use of abusive language, the learned Tribunal after considering all the facts and circumstances including the prevailing conditions, while noticing the conduct, specifically, held that Sailor R. Kathik was unaware of the consequences of his misconduct. The witnesses of the said case failed to make specific depositions against the petitioner regarding striking the superior officer. The maximum fact established by the learned Tribunal was that the superior officer had not made himself available

before the Investigating Officer or the concerned officer.  
After examining the complete conduct, the learned Tribunal, quashed the order of dismissal from service, which was also maintained by the Hon'ble Supreme Court. However, in the present case, the learned Tribunal, while considering the Inquiry report, recorded the following findings in the impugned order dated 05.11.2024, reproduced here as under:-

"7. Perusal of One Man Inquiry Report reveals that of the more than nine witnesses who deposed before the Inquiry Committee, all of them have narrated the rude behavior of the applicant herein and none of them have deposed anything against the Divisional Officer against whom the applicant has made allegations. After extensive hearing, Lt. Cdr. Brajesh Kumar, the applicant and the independent witnesses, the One man Inquiry has made the following recommendations based on the statements of eye witnesses and documents produced as there was no eye witness in the Incident involving the incident between the applicant and the officer concerned:-

"Based on the circumstantial evidence Yashpal Yadav, MEI has been found blameworthy of attacking a Superior Officer and therefore, recommend strict disciplinary action against the Sailor.

Lt Cdr. Brajesh Kumar has also been found blameworthy of Inappropriately withdrawing the applicant's Identity Card and not allowing the laid down procedure for stopping a Sailor's leave, which could have made the applicant to harbor grievance against the said officer".

8.. It is evident from the foregoing that the applicant was convicted for striking his superior officer, viz, Lt. Cdr. Brajesh Kumar, on 27/5/2013 and was awarded the punishment of Rigorous Imprisonment for 90 days, dismissal from Naval service and deprivation of First Good Conduct Badge. The applicant has voluntarily joined the Navy to serve the nation. The primordial duty of the armed forces of the Nation for which the Indian Navy is a part, is to defend the country against external aggression. In order to keep the forces as a cohesive unit, **discipline is an implicit hallmark of the Armed Forces and a non negotiable condition of service to be followed in true letter and spirit.** Any violation of discipline in the Armed Forces shall create havoc and difficulty in its day to day functioning. Therefore, the misconduct of the applicant in striking his superior officer, Irrespective of the fact that there was a provocation, cannot be countenanced.

11. In view of the foregoing the action of the applicant clearly testifies to blatant disregard for discipline and Orders and Regulations and is tantamount to wilfully flouting basic tenets of good order and military discipline and deserves to be dealt with appropriately as has been held by the Judgments of Hon'ble Supreme Court (supra). We, therefore, find no Infirmity In the disciplinary process nor any reason for interference in the applicant's dismissal from service. The prayer of the applicant for reinstate in service has no merit and is rejected."

42. Though in the present case, the learned Tribunal recorded that there was no eye witness to the incident and also noted that the conduct of the officer, Lt. Cdr. Brajesh

Kumar, was found to be blameworthy for his disproportionate actions, including withholding approval of leave, however, the act of causing serious assault to superior officer, as noted from the medical report and the statement of the medical officer, clearly distinguishes the present case from the facts of **R Karthik** (supra) and **Nitesh Rai** (supra).

43. Considering the clear factual distinctions, as pointed out by the learned ASG Mr. Bharat Vyas, with the assistance of Senior Panel Counsel Mr. P.C. Sharma and as noted from the record placed for the perusal of the Court including the facts of the above cases, this Court has reached to a definite conclusion that the cases of **R Karthik** (supra) and **Nitesh Rai** (supra) are not comparable with the present case and the petitioner cannot claim any parity in regard to the punishment awarded and its quashment on the ground that charges were same.

44. The Hon'ble Supreme Court has settled the law regarding the power of judicial review in the disciplinary matters. It is well settled that interference cannot be made unless the punishment is disproportionate to the facts and circumstances of the case, the procedure has not been followed, or the authority imposing the punishment was not competent. As far as the procedure aspect is concerned, no infirmity has been pointed out. To say in other way, the procedure has not been questioned by the petitioner and

there is no allegation of denial of a proper opportunity of hearing.

45. The only issue which remains is with regard to the quantum of punishment, the above law specifically provides that it is not the duty of the Court to advise or suggest what punishment should be imposed by the disciplinary authorities while examining and deciding the disciplinary matters. It is the domain left by the Legislature with the authorities, and the same cannot be interfered with unless the situation so demands.

46. The Hon'ble Supreme Court in the case of ***Union of India and Ors. Vs. Ex-Constable Daya Shankar Rai in Civil Appeal No.3487/2018*** decided on 02.04.2018, has reiterated the settled principles governing judicial review in disciplinary matters, which held as under:-

"In view of the serious nature of injuries and the fact that the respondent belongs to a disciplined force, we are of the view that the High Court was far too liberal in reducing the penalty of dismissal to that of stoppage of three increments.

Learned Additional Solicitor General has drawn our attention to *Hombe Gowda Educational Trust and Another Vs. State of Karnataka and Others* [(2006) 1 SCC 430] where a superior officer had been assaulted (not in a disciplined force but in a school) with a chappal. On hearing the parties, this Court took the view that an assault on a superior officer should attract severe penalty.

We are in agreement with the view expressed, more particularly in a case where the present, as respondent belonged to a disciplined force and used the butt of the rifle for injuring a superior officer very

seriously. Under the circumstances, we set aside the order passed by the High Court and restore the departmental punishment of dismissal from service on the respondent.”

47. In the above case of **Ex-Constable Daya Shankar Rai** (supra), the Hon’ble Supreme Court, while quashing the order of the High Court, maintained the order of punishment of dismissal from service. The Court observed that where serious injuries are inflicted upon a superior official, a liberal or lenient approach cannot be adopted, particularly in matters relating to disciplined forces, so as to reduce the punishment of dismissal by substituting it with any lesser punishment. In the above case, Hon’ble Supreme Court relied upon the judgment passed in the case of **Hombe Gowda Educational Trust and Anr. Vs. State of Karnataka & Ors.**, reported in (2006) 1 SCC 430, decided on 16.12.2005, where the Court specifically held that when the assault is on a superior officer, the employee deserves to be severely punished as such misconduct cannot be condoned. The relevant paras of the judgment as passed in the case of **Hombe Gowda** (supra) reads as under:-

“19. Assaulting a superior at a workplace amounts to an act of gross indiscipline. The respondent is a teacher. Even under grave provocation a teacher is not expected to abuse the head of the institution in a filthy language and assault him with a chappal. Punishment of dismissal from services, therefore, cannot be said to be wholly disproportionate so as to shock one's conscience.

20. A person, when dismissed from service, is put to a great hardship but that would not mean that a grave misconduct should go unpunished. Although the doctrine of proportionality may be applicable in such matters, but a punishment of dismissal from service for such a misconduct cannot be said to be unheard of. Maintenance of discipline of an institution is equally important. Keeping the aforementioned principles in view, we may hereinafter notice a few recent decisions of this Court.

21. In *Krishnakali Tea Estate v. Akhil Bharatiya Chah Mazdoor Sangh* this Court held: (SCC pp. 212-13, para 29)

"29. This leaves us to consider whether the punishment of dismissal awarded to the workmen concerned de hors the allegation of extortion is disproportionate to the misconduct proved against them. From the evidence proved, we find the workmen concerned entered the Estate armed with deadly weapons with a view to gherao the manager and others, in that process they caused damage to the property of the Estate and wrongfully confined the manager and others from 8.30 p.m. on 12<sup>th</sup> of October to 3 a.m. on the next day. These charges, in our opinion, are grave enough to attract the punishment of dismissal even without the aid of the allegation of extortion. The fact that the management entered into settlement with some of the workmen who were also found guilty of the charge would not, in any manner, reduce the gravity of the misconduct in regard to the workmen concerned in this appeal because these workmen did not agree with the settlement to which others agreed, instead chose to question the punishment."

22. Yet again in *Muriadih Colliery v. Bihar Colliery Kamgar Union* the law has been laid down in the following terms: (SCC p. 335, para 13)

"13. It is well-established principle in law that in a given circumstance it is open to the Industrial Tribunal acting under Section 11-A of the Industrial Disputes Act, 1947 has the jurisdiction to interfere with the punishment awarded in the domestic inquiry for good and valid reasons. If the Tribunal decides to Interfere with such punishment it should bear in mind the principle of proportionality between the gravity of the offence and the stringency of the punishment. In the instant case it is the finding of the Tribunal which is not disturbed by the writ courts that the two workmen involved in this appeal along with the others formed themselves into an unlawful assembly, armed with deadly weapons, went to the office of the General Manager and assaulted him and his colleagues causing them injuries. The injuries suffered by the General Manager were caused by lathi on the head. The fact that the victim did not die is not a mitigating circumstance to reduce the sentence of dismissal."

23. In *V. Ramana v. A.P. SRTC* relying upon a large number of decisions, this Court opined: (SCC p. 348, paras 11-12)

"11. The common thread running through in all these decisions is that the court should not interfere with the administrator's decision unless it was illogical or suffers from procedural Impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of

what has been stated in *Wednesbury* cases the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision for that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision.

12. To put it differently unless the punishment imposed by the disciplinary authority or the Appellate Authority shocks the conscience of the court/tribunai, there is no scope for interference. Further to shorten litigation it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof. In a normal course if the punishment imposed is shockingly disproportionate it would be appropriate to direct the disciplinary authority or the Appellate Authority to reconsider the penalty imposed."

24. In *Bharat Forge Co. Ltd. v. Uttam Manohar Nakates* it was held: (SCC p. 499, paras 30-32)

"30. Furthermore, it is trite, the Labour Court or the Industrial Tribunal, as the case may be, in terms of the provisions of the Act, must act within the four corners thereof. The Industrial Courts would not sit in appeal over the decision of the employer unless there exists a statutory provision in this behalf. Although its jurisdiction is wide but the same must be applied in terms of the provisions of the statute and no other.

31. If the punishment is harsh, albeit a lesser punishment may be imposed, but such an order cannot be passed on an irrational or extraneous factor and certainly not on a compassionate ground.

32. In *Regional Manager, Rajasthan SRTC v. Sohan Lall* it has been held that it is not the normal jurisdiction of the superior courts to interfere with the quantum of sentence unless it is wholly disproportionate to the misconduct proved. Such is not the case herein. In the facts and circumstances of the case and having regard to the past conduct of the respondent as also his conduct during the domestic enquiry proceedings, we cannot say that the quantum of punishment imposed upon the respondent was wholly disproportionate to his act of misconduct or otherwise arbitrary."

25. In *M.P. Electricity Board v. Jagdish Chandra Sharma*" this Court held: (SCC P. 408, para 9)

"9. In the case on hand, the employee has been found guilty of hitting and injuring his superior officer at the workplace, obviously in the presence of other employees. This clearly amounted to breach of discipline in the organisation. Discipline at the workplace in an organisation like the employer herein, is the sine qua non for the efficient working of the organisation. When an employee breaches such discipline and the employer terminates his services, it is not open to a Labour Court or an Industrial Tribunal to take the view that the punishment awarded is shockingly disproportionate to the charge proved. We have already referred to the views of this Court. To quote Jack Chan,

'discipline is a form of civilly responsible behaviour which helps maintain social order and contributes to the preservation, if not advancement, of collective interests of society at large.'

Obviously this idea is more relevant in considering the working of an organisation like the employer herein or an industrial

undertaking Obedience to authority in a workplace is not slavery. It is not violative of one's natural rights. It is essential for the prosperity of the organisation as well as that of its employees. When in such a situation, a punishment of termination is awarded for hitting and injuring a superior officer supervising the work of the employee, with no extenuating circumstance established, it cannot be said to be not justified. It cannot certainly be termed unduly harsh or disproportionate. The Labour Court and the High Court in this case totally misdirected themselves while exercising their jurisdiction. The Industrial Court made the correct approach and came to the right conclusion."

48. In view of the above judgments and while considering the arguments advanced by learned Senior Counsel Mr. R.P. Singh that parity in punishment ought to be maintained when the charges are similar to the cases of R. Karthik and Nitesh Rai, this Court seriously disagree with the said argument as the petitioner is claiming parity in punishment, more so in a case of serious insubordination and striking a senior officer of the Uniformed Forces and causing serious injuries when the facts are not comparable. The forces are known for their strict discipline and any act of insubordination or violation of rules would disturb and frustrate the complete object for which the forces have been constituted, the tasks they are required to perform. There cannot be a liberal approach in cases involving striking a superior officer and causing serious injuries more

so after carefully noticing serious injuries caused to the said officer from the record, as caused by petitioner, noted from the medical report, which remains uncontroverted and proved on record.

49. In the given facts and circumstances of the case, we would not like to make any interference with the punishment as awarded. The learned Senior Counsel has sought to raise the issue that the conduct of the superior officer was also inappropriate and the same should have been considered by the learned Tribunal while examining the issue of disproportionate punishment. However, this Court is of the view that even if the superior officer was at fault to some extent in regard to his conduct, the same cannot confer any right to a subordinate person in the uniformed forces to cause any bodily injury to superior officer.

50. If the Courts start interfering with the punishment on the ground that the superior officer is at fault, it would give a right to the subordinate to strike the superior officer. This would further lead to serious disciplinary issues among the subordinate persons in the uniformed forces. As already stated, such forces are required to function under strict discipline and for maintaining the same, superior officers are required to act and maintain strict and tough disciplined environment. Any leniency or liberal approach with regard to punishment would create serious problems and would

make it difficult for the forces to discharge their duties towards the nation.

51. In view of the above discussion, we are not inclined to make any interference in the impugned order dated 05.11.2024 passed by the learned Tribunal and consequently the writ petition filed by the petitioner stands dismissed.

52. Pending Application(s) is any, also stands disposed of.

(RAVI CHIRANIA),J

(INDERJEET SINGH),J

PAYAL DHAWAN/65