

Abstract

It is always said that offenders are to be dealt with strictly but fairly. A person commits an offence is generally known as an offender. In the Sri Lanka Navy there are basically two legal mechanisms are used to dealing with offenders. One is through judicial procedures as described in the Navy Act and the other one is through administrative procedure. Whichever may be the procedure adopted such should be exercised in a fair manner. In a legal perspective a person becomes an offender after conviction by a competent court. Till such time he is either a suspect or an accused. Fairness must apply for suspects/accused as well. According to the Navy Act, the Commanding Officer being the officer exercising judicial powers should decide the conviction of the sailors under his command. Therefore the responsibility entrusted on a Commanding Officer is immense in this regard and unfair decisions taken by them at this juncture are always vulnerable to be challenge in courts. Judicial power is an ex-officio authority an officer gets with his appointment as a Commanding Officer. This is immaterial of his rank, seniority, experience, age or maturity; but solely based on his appointment as Commanding Officer. This is a power, if abused, would directly affect the rights of sailors under him. Therefore, Commanding Officers should exercise this power fairly in a manner entrusted on them by the legal frame work laid down in the laws of the Sri Lanka as well as norms established under International Law. Apart from or instead of judicial punishments there could be instances where administrative decisions are taken in respect of offenders, such as; non judicial punishments, board of inquiry recommendations, etc, similar to judicial decisions this type of administrative decisions too will have a direct impact on ones' carrier and service life. As such, it is needles to reiterate on the fact that due process in dealing with offenders' demands fairness in related decision making. Whoever may be the decision maker; either an officer exercising judicial powers with warrant punishment or an administrative measure, the law demands such authority to adhere to certain rules in the concept of "right of a fair trial" and if the current system of commanding officers' judicial powers are not align with it, such would gradually result in losing faith and respect of the sailors towards the system.

Key Words: Navy Act, Commanding Officer, Judicial Powers of the Commanding Officer, Rights of a Fair Trial, Summary Trial, Warrant Punishments, Junior Sailors