

**IN THE HIGH COURT OF JAMMU & KASHMIR AND
LADAKH AT JAMMU**

Reserved on: 29.08.2026

Pronounced on: 26.09.2026

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*Whether the operative part
or full judgment is
pronounced: **Full***

SWP No.2110/2004

TARANJIT SINGH

...PETITIONER(S)/ APPELLANT(S)

*Through: - Ms. Surinder Kour, Sr. Advocate, with
Mr. Michal Dogra, Advocate.*

Vs.

UNION OF INDIA & ORS.

...RESPONDENT(S)

*Through: - Mr. Vishal Sharma, DSGI, with
Mr. Karan Sharma, CGSC.*

CORAM: HON'BLE MR. JUSTICE RAJNESH OSWAL, JUDGE

JUDGMENT

1) The petitioner was serving as a Constable in the Border Security Force (BSF). He was tried by the Summary Security Force Court (SSFC) for commission of offences under Section 19(a) and Section 26 of the BSF Act. Finally, in terms of order dated 5th November, 2004, issued by respondent No. 5, the petitioner was punished with dismissal from service.

2) The petitioner has filed the present petition for quashing the order dated 5th November, 2004, and also for quashing the proceedings conducted by the Summary

Security Force Court and the charges framed against him. The petitioner has also sought a direction to the respondents to consider his case for reinstatement and to restrain them from implementing the order dated 5th November, 2004.

3) The respondents have opposed the contentions raised by the petitioner. Despite not pleading the issue in their written response, the learned DSGI has raised a preliminary objection regarding the lack of territorial jurisdiction of this Court. The learned DSGI contends that this Court lacks territorial jurisdiction because the alleged offences, the Summary Security Force Court trial, and the pronouncement of the punishment all occurred at the Battalion Headquarters, Khasiamangal.

4) Ms. Surinder Kaur, learned senior counsel appearing for the petitioner, has though not raised any dispute regarding the lack of territorial jurisdiction of this Court to adjudicate the present controversy, but she has vehemently submitted that the respondents neither in their response nor at the time of admission of the writ petition raised such plea, therefore, at this belated stage, when the petition is pending for final consideration, the respondents are estopped from raising this plea.

5) Heard and perused the record.

6) It is not in dispute that this Court lacks territorial jurisdiction to adjudicate the controversy at hand but it is urged by Ms. Kour, learned senior counsel appearing for the petitioner, that once the respondents did not raise the plea with regard to the lack of territorial jurisdiction in their response or at the time of admission of the writ petition, they are estopped from raising any such plea at the belated stage of final consideration of the writ petition. In support of her submissions, she has placed reliance upon the judgments of the Coordinate Bench of this Court in the cases of **Altaf Ahmad Mir v. Union of India**, reported in 2016 (2) SLJ 875, **Nazir Ahmed Najar v. Union of India and Others** (SWP No. 2319/2015 decided on 23rd November, 2023).

7) It is true that in both judgments relied upon by the learned senior counsel for the petitioner, it was observed that the respondents cannot raise the plea of lack of territorial jurisdiction at the fag end of the proceedings. However, in both decisions, the learned Coordinate Bench proceeded to determine the question of territorial jurisdiction on merits and, after examining the factual matrix of those cases, concluded that a part of the cause of

action had indeed accrued within this Court's territorial jurisdiction.

8) In the present case, however, it is not disputed by the learned senior counsel for the petitioner that the alleged offences were committed beyond the territorial jurisdiction of this Court, and that the trial was likewise conducted at a place outside its territorial limits. Consequently, it stands established that this Court lacks the territorial jurisdiction to adjudicate the controversy involved in the present petition.

9) The only question that remains for consideration is whether the respondents are estopped from raising the issue of territorial jurisdiction at the stage of final hearing, given that no such plea was taken in their response or at the time the writ petition was admitted.

10) It is a settled proposition of law that parties cannot, by their conduct or consent, confer jurisdiction upon a court that otherwise lacks it. The issue of territorial jurisdiction goes to the very root of the matter; hence, even if the respondents failed to raise the plea in their response, they are not estopped from raising it at a subsequent stage.

11) Notwithstanding the absence of any objection by the respondents, it remains the duty of this Court to independently examine whether any part of the cause of action has accrued within its territorial jurisdiction.

12) A similar view has been taken by the Coordinate Bench of this Court in **Shahnawaz Ahmad v. Union of India & Ors., JKJ ONLINE 84560**, wherein the Coordinate Bench has held as under:

16. In the above context, I am supported by the judgment of this Court in the case of **Zahoor Ahmad Baba v. Union of India & Ors. 2012 (3) JKI 119[HC]**, wherein this Court has held that only the Court having territorial jurisdiction over the place where the dismissal order was made can entertain the writ petition challenging such dismissal order. It was further held that the mere fact that the petitioner had received copy of the impugned order at Ganderbal within the jurisdiction of this Court does not confer jurisdiction upon this Court to entertain and deal with the petition. The ratio laid down in the aforesaid judgment is squarely applicable to the present case. Therefore, this Court does not have jurisdiction to entertain the writ petition.

17. So far as contention of the learned counsel for the petitioner that the respondents are barred from urging the plea regarding maintainability of the writ petition on the ground of territorial jurisdiction in view of their conduct, is concerned, the same appears to be without any merit. It is a settled law that the parties by their conduct and acquiescence cannot confer jurisdiction on a Court which otherwise does not possess the same. The matter regarding territorial jurisdiction of a court fundamentally relates to taking of cognizance of a case. If a Court, which lacks territorial jurisdiction, entertains a writ petition,

it would be an inherent defect which cannot be cured even by consent of the parties. Therefore, even if it is assumed, though it is not correct, that the respondents acquiesced and submitted to the jurisdiction of this Court, still then, because this Court lacks inherent jurisdiction to entertain the writ petition, it cannot adjudicate upon the merits of this case.

(emphasis added)

13) In view of the above, this Court is of the considered view that this Court lacks territorial jurisdiction to adjudicate the petition at hand and, accordingly, the same is dismissed, leaving the petitioner free to approach the jurisdictional Court for redressal of his grievances.

Srinagar,
26.09.2026

“Bhat Altaf-Secretary”

(Rajnish Oswal)
Judge

Whether the **judgment** is reportable: **NO**