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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 8714/2014**

SAPPER MANOJ KUMAR Petitioner
Through : Mr. S.M. Dalal, Advocate

versus

UNION OF INDIA & ORS Respondents
Through : Dr. Ashwani Bhardwaj, Advocate

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
% **21.03.2016**

1. The present petition has been filed by the petitioner assailing the order dated 1.4.2014, passed by the Summary Court Martial conducted against him, whereunder he was inflicted a punishment of rigorous imprisonment for a period of three months in military custody.
2. At the outset, learned counsel for the respondents states that the petitioner has an equally efficacious alternative remedy of preferring an appeal against the order dated 1.4.2014, as provided for in Section 164 of the Army Act, 1950, but without exhausting the said route, he has rushed to the court, which is impermissible.
3. Counsel for the petitioner concedes that the petitioner has not filed a statutory appeal against the order dated 1.4.2014. He states that the petitioner may be permitted to withdraw the present petition, while reserving his right to file a statutory appeal within one week, as permissible in law.

4. Upon the petitioner filing a statutory appeal within one week from today, the same shall be considered by the competent authority in accordance with law and orders shall be passed on merits without detaining itself on the aspect of delay.
5. If the petitioner is aggrieved by the said order, he shall be entitled to seek his remedies in accordance with law, within the stipulated timeline.
6. The writ petition is disposed of.

MARCH 21, 2016
sk/ap

HIMA KOHLI, J

SUNIL GAUR, J

