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

+ W.P.(C) 11850/2016

RAMPHAL

..... Petitioner

Through Mr.Girijesh Pandey, Adv.

versus

UNION OF INDIA & ORS.

..... Respondents

Through Mr.Manik Dogra, SCGC with
Mr.Sumit Mishra, Adv.

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

ORDER

% **19.12.2016**

In this writ petition, the petitioner has challenged the order No.V-15014/GCH/CISF/DISC-36/RF/2010/2408 dated 23rd April, 2011 whereby the petitioner was imposed penalty of reduction of pay of three stages for a period of three years with immediate effect.

A preliminary objection has been taken by the respondents to the territorial jurisdiction of this Court to entertain the writ petition.

It is not in dispute that the Head-Quarters of the Central Industrial Security Force (CISF) are located in New Delhi, within the jurisdiction of this Court. Furthermore, a review application, though, hopelessly belated, was rejected by the respondent No.2 in 2015 from his office in New Delhi, within the jurisdiction of this Court.

A conjoint reading of Articles 226(1) and 226(2) of the Constitution of India makes it amply clear that the High Court is entitled to issue writs

under Article 226 of the Constitution to any government, authority or person within the territories over which the High Court exercises jurisdiction.

Learned counsel appearing on behalf of the respondents has cited the Full Bench judgment of this Court in ***Sterling Agro Industries Ltd. Etc v. Union of India, reported in 2011 AIR (DEL) 174***. The judgment of Full Bench in Sterling Agro Industries Ltd. (supra) is not an authority for the proposition that a writ petition would not lie in the High Court within whose jurisdiction the authority against which the writ is sought, is located. Moreover, as observed above, review of this case was rejected in New Delhi. It cannot be said that this Court lacks jurisdiction. Having held that this Court has jurisdiction to adjudicate the writ petition, we now proceed to deal with the writ petition on merits.

According to the petitioner on 21st September, 2010, at about 06.00 hrs in the morning, when he was checking the rifle with magazine, the ammunition went off accidentally.

Thereafter, the petitioner was served with the charge-sheet to which he gave his reply. After considering the reply, an inquiry was conducted. The Assistant Commandant, CISF, IOC, Panipat was appointed Enquiry Officer.

On consideration of the Enquiry Report, the respondent No.4 passed the impugned order of punishment. The impugned order of punishment was apparently passed in Chandigarh, outside the jurisdiction of this Court.

The petitioner did not appeal against the aforesaid order. However, a hopelessly belated review application was filed before the respondent No.2 in 2015. The said review application has been rejected.

In proceedings under Article 226 of the Constitution of India,

this Court does not adjudicate factual disputes of whether there had been negligence on the part of the petitioner or not in handling the weapon given to him. Prima facie, it appears to this Court that the accident must have been the result of negligence on the part of the petitioner. In enquiry, the Enquiry Officer found that the accident took place by reason of the fault of the petitioner.

The allegation against the petitioner as laid down in the charge-sheet could have entailed the more serious punishment of dismissal from service. A lenient view was taken and punishment was imposed on the petitioner of reduction of pay of three stages. As observed above, there was no appeal within time prescribed by Rule 47 of Central Industrial Security Force Rules, 2001. Under the aforesaid rule no appeal is to be entertained unless the same is filed within 30 days. The writ petition is hopelessly belated. Even otherwise, we are not inclined to interfere with the impugned order. We do not deem it necessary to issue notice or call for a counter affidavit.

The writ petition is disposed of.

INDIRA BANERJEE, J

ANIL KUMAR CHAWLA, J

DECEMBER 19, 2016/vp