

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Date of decision: 21.02.2017

CWP No.2447 of 2016

Sandeep Singh Yadav & another

...Petitioners

Vs.

Union of India & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Mandeep Sajjan, Advocate, for the petitioners.

Mr. Saurabh Goel, Advocate, for the respondents.

RAJIV NARAIN RAINA, J.

The Assam Rifles is the oldest paramilitary force of India. Since 2002, it has been guarding the Indo-Myanmar barrier as per the Government policy “one border one force”. Assam Rifles issued an employment notice advertising 64 posts of Rifleman (GD) in a special drive namely ‘Special Recruitment Rally for Compassionate Appointment - 2015’. The advertisement was placed in public media on 09.01.2015. The petitioners applied in response to the advertisement, travelled to Assam to participate in the recruitment process since they are applying for the post. The test was conducted in Shillong. After completion of various tests, they pleaded that their names figured in the select list. They were told that further correspondence would be at the home address and accordingly the petitioners returned to their native place in District Mahendergarh, Haryana. They received a letter from Assam Rifles on 03.07.2015 asking them to send documents/information on or before 10.08.2015. The requisite papers demanded were sent by post. When the final result was declared, their

names did not figure in the list. They felt aggrieved that the Screening Committee had selected them after test and clearance of medical examination. They contacted the respondents on phone, which led to no result, which led them to serve a legal notice through their counsel for redressal of the grievance that they had been illegally and wrongly rejected by the respondents. They alleged hanky panky in the recruitment process in order to accommodate kith and kin by infringing the rights of the petitioners, which is said to be unconstitutional, arbitrary and illegal.

A perusal of the papers placed on the paper-book reveals that the recruitment process has been conducted and completed at Shillong.

Notice of motion was issued on 10.05.2016 and Mr. Vivek Singla, Advocate, was asked to accept notice on behalf of the respondents/Union of India. He was asked to file a short reply regarding maintainability of the writ petition and regarding territorial jurisdiction of this Court.

A counter affidavit has been filed by the Second-in-Command, Administrative Officer, LOAR, New Delhi. They have taken the objection as to territorial jurisdiction stating that the entire process starting from advertisement till medical examination was conducted at Shillong, Meghalaya State. No part of recruitment process was conducted within the territorial jurisdiction of this Court.

It may be noticed that in the reply, it is stated that the fathers of the petitioners had served the Force, but they could not be selected due to want of vacancy and due to lower in the list. The priority list has been explained in Para.4. The supreme of which is 'killed in action'. The lower

events are ‘death while in service’; ‘retirement on medical grounds’; ‘medically boarded out and is unfit for civil employment’; and lastly, ‘cases of missing government servants’.

In Hari Vishnu Kamath Vs. Syed Ahmed Ishaque & others, AIR 1955 SC 233; 1955 (1) SCR 1104, a seven Judges’ Bench of the Supreme Court held that:

“Now it is clear that the jurisdiction conferred on the High Court by Article 226 does not depend upon the residence or location of the person applying to it for relief. It depends only on the person or authority against whom a writ is sought being within those territories. It seems to us, therefore, that it is not permissible to read in Article 226 the residence or location of the person affected by the order passed in order to determine the jurisdiction of the High Court.”

In Shrishti Gupta Vs. Amity University, 2014 (1) AD (Delhi) 761, the Delhi High Court observed as follows:

“The introduction of Article 226(2) widened the area in respect of which writs could be issued by the High Courts. As a result, while Article 226(1) empowers this Court to issue writs to a person, authority or Government within the National Capital Territory of Delhi, even if the cause of action does not arise in Delhi. Clause (2) of the said Article enables this Court to issue writ to the person, authority or the Government located outside Delhi in a case where a cause of action, either wholly or in partly arises within the National Capital Territory of Delhi.”

Reference can also be had to Oil & Natural Gas Commission Vs. Utpal Kumar Basu, 1994 (4) SCC 711, wherein the Supreme Court has held that the High Court has no jurisdiction to entertain a petition merely because the petitioner resides within the territorial jurisdiction of the Court

even though no cause of action arise within its jurisdiction. Reference may also be had to National Textile Corporation Ltd. & others Vs. M/s Haribox Swalram & others, (2004) 9 SCC 786; Raj Kumar Vs. Union of India & others, 2005 (2) SCT 589 and Om Prakash Srivastava Vs. Union of India & others, 2006 (3) RCR (Civil) 720.

In this case, neither the cause of action nor part of cause of action arises within the jurisdiction of this Court and, therefore, the writ is not maintainable. It is accordingly dismissed with liberty to the petitioners to approach the proper Forum for redressal of their grievance, if advised.

21.02.2017
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No