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

+ W.P.(C) 404/2017

KAM DEO DAS Petitioner
Through Mr. Shaad Anwar, Advocate

versus

UNION OF INDIA & ORS Respondents
Through Mr. Prashant Sivarajan for Mr. Ankur
Chhibber, Advocate

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

ORDER

% **23.02.2017**

In this writ petition, the petitioner, an officer of the Assam Rifles of the rank of Deputy Commandant, has challenged an order dated 13th January, 2015 passed by the General Assam Rifles Court constituted under the Assam Rifles Act, 2006, whereby the petitioner has been sentenced to forfeit one year's service for the purpose of promotion; as also the order dated 26th October, 2015 in a revision application filed by the petitioner, confirming the punishment imposed by the General Assam Rifles Court.

A preliminary objection has been taken by the respondents to the territorial jurisdiction of this Court to entertain the writ petition. As per the averments in the writ petition, it is patently clear that Assam Rifles does not have its headquarters in Delhi. Assam Rifles does not even have any office in New Delhi. There is only a liaison office in Delhi which liaisons between Delhi and the Assam Rifles. The field of operation of Assam Rifles is in the

North-eastern states of Assam, Manipur, Meghalaya etc.

The petitioner was apparently posted as Deputy Commandant at Manipur. The Court inquiry was conducted in Manipur; the impugned order of the Court of inquiry was issued from Manipur; and the order on revision application was also issued from Manipur. No part of the cause of action appears to have arisen within the jurisdiction of this Court.

Ex facie, this Court lacks territorial jurisdiction to entertain the present writ petition. The liaison officer, stationed at Delhi only does liaison work. The Assam Rifles does not have its head quarters, head office, or for that matter, any office at New Delhi.

On behalf of the petitioner, it is submitted that dismissal requires approval of the Central Government which is to be given by the Ministry of Home Affairs from New Delhi. However, our attention has not been drawn to any rule or regulation which requires an approval of Central Government. Even assuming that the Ministry has a role, the High Court at Delhi is not the convenient forum.

We are informed that the proceedings were initiated in the High Court of Manipur, but the same were withdrawn by the petitioner. An order dated 18th July, 2016 has been annexed to the present writ petition. It appears that the petition was allowed to be withdrawn with liberty to the petitioner to file a fresh petition, if so advised.

We find that the withdrawal of the said writ petition was on request and not in pursuance of any observation with regard to jurisdiction of the Manipur High Court.

The fact that a writ petition may have been withdrawn from another Court does not, in itself, enable the petitioner to approach a forum which

lacks jurisdiction or a forum which is an inconvenient forum.

The writ petition is, therefore, dismissed.

The dismissal of the writ petition will not prevent the petitioner from approaching the appropriate Court having jurisdiction, if so advised.

INDIRA BANERJEE, J

ANIL KUMAR CHAWLA, J

FEBRUARY 23, 2017

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