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

+ W.P.(C) 128/2017

SUNIL BHASKARAN Petitioner

Through: Mr. Abhishek Kumar, Advocate

versus

UNION OF INDIA & ORS Respondents

Through: Mr. Akshay Makhija, CGSC

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

% **09.01.2017**

CM No.630/2017

Allowed, subject to all just exceptions.

The application is disposed of.

WP(C) No.128/2017

Learned counsel for the respondents, who is present on advance notice, accepts notice and gives his consent for disposal of the writ petition at the admission stage in today's date, without filing any reply/counter-affidavit.

The impugned order dated 22.11.2016 dismisses OA No.1344/2015 filed by the petitioner- Sunil Bhaskaran on the ground of lack of territorial

jurisdiction. The impugned order does not advert to the merits.

The petitioner was working as an Assistant Professor (*Ad hoc*) in the Indian Military Academy ('IMA') at Dehradun. He had earlier filed OA No.1348/2001, which was decided by the Principal Bench of the Central Administrative Tribunal, New Delhi vide decision dated 13.12.2001.

Certain controversies arose thereafter and the petitioner in OA No.1344/2015 had challenged the letter dated July, 2014, written by the Under Secretary, Ministry of Defence, New Delhi. This is clear from para 8 (a) of the OA, which relates to the relief or prayer made.

As per rule 6 of the CAT(Procedure) Rules, 1987, an original application shall be ordinarily filed by the applicant with the Registrar of the Bench (i) within whose jurisdiction the applicant is posted for the time being or (ii) the cause of action, wholly or in part, has arisen.

The case made out by the petitioner is that, in the present case, the cause of action had, wholly or in part, arisen in Delhi, as the impugned letter dated July, 2014 was written by the Under Secretary, Ministry of Defence, located at New Delhi.

Learned counsel for the respondents is unable to contradict and deny the said factual position, which he accepts.

In these circumstances, we do not think that the impugned order dated 22.11.2015 can be sustained, for the reason stated therein. In this case, the petitioner has not impugned any action of the Commandant or the Commander or the authorities in the IMA, Dehradun. The impugned order dated July, 2014, under challenge, was passed by the Under Secretary, Ministry of Defence at New Delhi.

The impugned order dismissing OA No. 1344/2015 on the ground of lack of territorial jurisdiction is accordingly set aside, with an order of remand to the Tribunal to examine the prayers on merits. To cut short the delay, the parties are directed to appear before the Tribunal on 1.2.2017, when a date for further proceedings would be fixed. We clarify that we have not expressed any opinion on the merits.

The petition is disposed of, without costs.

SANJIV KHANNA, J

CHANDER SHEKHAR, J

JANUARY 09, 2017

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