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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ W.P.(C) 2342/2020 & CM APPL. 8235/2020  
SH. RAVI PRAKASH YADAV AND ANR. .... Petitioners  
Through Mr. Barun Kumar Sinha and Ms.  
Pratibha Sinha, Advs.

versus

UNION OF INDIA AND ANR. .... Respondents  
Through Mr. Vijay Joshi, Sr. Panel Counsel for  
R-1/UOI.  
Mr. K.K. Jha, Sr. Panel Counsel, GOI  
for R-2 and R-3.

**CORAM:**  
**HON'BLE MR. JUSTICE A. K. CHAWLA**

**ORDER**  
% **12.03.2020**

**W.P.(C) 2342/2020 & CM APPL. 8235/2020 (stay)**

At the onset, ld. counsel for respondent nos. 2 & 3 rakes up the issue of maintainability of the instant writ petition before this Court.

Heard on the question of maintainability.

By the instant petition, the petitioners, in effect, seek issuance of a writ of certiorari to quash the communication no. CHO(HR)/22/5/2011/6237 dated 05.02.2020 addressed to the respondent no. 3 by the respondent no. 2 and the resultant office note dated 19.02.2020 issued by the respondent no. 3 - situated in NOIDA, UP.

The impugned communication dated 05.02.2020 is an inter-departmental communication between respondent no. 2 and 3. It ensued on

account of the representation(s) made by the petitioner no. 2 rather than petitioner no. 1, who, presently is stated to be posted at Delhi. The impugned communication reads, as under:

“No. CHO(HR)/22/5/2011/6237

Date: 05.02.2020

To

The Chief General Manager,  
India Government Mint,  
Noida

**Sub: Pay fixation issues in respect of employees who joined on or after 27.06.2012 appointed through Direct Recruitment.**

Sir,

The Corporate Office has received various grievances from the employees who have joined on or after 27.06.2012 appointed through Direct Recruitment.

2. On scrutiny of the grievances, it has been observed that Shri Dhirendra Kumar, DM (IT) joined as Officer (IT) on 13.08.2012 at IGM, Hyderabad through direct recruitment and the Unit supposed to place him under corresponding IDA pay scale directly. However, it has been observed that Unit has wrongly extended the changeover benefit even after he joined in the Company after 27.06.2012 by protecting Basic + DA drawn in CDA pay for the month of August & September, 2012.

3. It is clarified that he was not entitled to get conversion benefit as he joined in the Company on 13.08.2012 i.e. after the notification of IDA pay scales w.e.f. 27.06.2012 vide SPMCIL letter dated 07.07.2012 in compliance of Presidential directives issued by the Administrative Ministry.

4. Further, it was clearly indicated in the Advertisement and Offer of Appointment letter issued to him that presently the scale is on Central DA Pattern but shall be changed over to scale of Rs. 16400-40500/- in Industrial DA Pattern. Hence,

*he was not on the rolls of the Company as on 27.06.2012 and protection of pay question doesn't arise.*

*5. In view of the above, Unit is requested to re-fix the pay in respect of Shri Dharendra Kumar as per SPMCIL guidelines issued from time to time and recovery of excess payment made to him during the said period may be recovered from his salary under intimation to him.*

*This issues with the approval of the Competent Authority.”*

A bare perusal of the foregoing communication would show that the petitioner no. 2 - who is employed with the respondent no. 3, had made a representation as regards the issues of the pay fixation with the respondent no. 3. Any decision taken by the respondent no. 3 on the advice of the respondent no. 2 would not change the character of the respondent no. 3, which is an autonomous body by itself. The facts so emerging leave no doubt that no part of the cause of action arose within the jurisdiction of this Court.

Ld. counsel for the petitioners advertent to Article 226(2) of the Constitution contends that this Court could exercise its jurisdiction notwithstanding the employer being not located within its territory and in support thereof places reliance upon (2004) 6 SCC 254 *Kusum Ingots & Alloys Ltd. vs. Union of India*.

In somewhat similar circumstances, a ld. Single Judge of this Court in (2015) 1 High Court Cases (Del) 465 *Noida Mint Employees Union & Ors. vs. Union of India and Ors.* advertent to the ratio of the judgment in *Kusum Ingots case (supra)* held that a mere situs of the maker of the decision will not confer the territorial jurisdiction once a decision has to be implemented

at a different place, which, in the given case would be Noida. Ratio of the judgment supra squarely applies to the facts and circumstances of the given case and this Court does not see any any reason to differ therefrom. Then, the principles of forum non conveniens cannot be ignored either. The Court therefore does not find merit in the submissions made by the ld. counsel for the petitioner.

For the foregoing reasons, the Court refrains to entertain the instant writ petition. Dismissed.

**A. K. CHAWLA, J**

**MARCH 12, 2020**

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