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SLP(C)No. 3442 OF 2000

ITEM No.208

Court No. 2

SECTION XI
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.3442/2000

(From the judgement and order dated 15/12/1999 in CMWP 39209/92
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

DINESH CHANDRA GAHTORI

Petitioner (s)

VERSUS

CHIEF OF ARMY STAFF & ANR.
(For Final Disposal)

Respondent (s)

Date : 19/01/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.P. BHARUCHA
HON'BLE MR. JUSTICE DORAISWAMY RAJU
HON'BLE MR. JUSTICE Y.K. SABHARWAL

For Petitioner (s) Mr. Vijay Bahuguna, Sr.Adv.
Mr. Dinesh Kumar Garg,Adv.
Mrs. Renu George, Mrs.Ritu Puri, Adv.

For Respondent (s) Ms. Kiran Bhardwaj, Adv.
Ms. Varuna Bhandari, Adv.
Mr. B.V. Balaram Das,Adv.

UPON hearing counsel the Court made the following
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Leave granted.
The civil appeal is allowed.
No order as to costs.

.SP1 (N. Annapurna) (Shelly Sengupta)
Court Master Court Master

(Signed order is placed on the file.)

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IN THE SUPREME COURT OF INDIA@@
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CIVIL APPELLATE JURISDICTION@@
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CIVIL APPEAL NO. OF 2001@@
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(Arising out of S.L.P.(C) No.3442/2000)

Dinesh Chandra GahtoriAppellant(s)

versus

Chief of Army Staff & Anr. ...Respondent(s)

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Leave granted.

The notice on the special leave petition stated that the matter might be disposed of at this stage by an order setting aside the order under challenge and restoring the writ petition to the file of the High Court to be heard and disposed of on merits.

The appellant filed a writ petition before the High Court at Allahabad to quash a communication sent to his wife which stated that the appellant had been tried by a Summary Court Martial and had been found guilty of using criminal force against his superior officer and awarded the sentence of dismissal from service. The High Court dismissed the writ petition at the admission stage by holding, "In view of the fact that the Summary Court Martial proceedings were conducted in the State of Punjab and orders were also passed in Punjab by the West Command, we are of the view that this Court has got no territorial jurisdiction to entertain this writ petition."

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The writ petition was filed in 1992. The impugned order was passed in 1999. This is a fact that the High Court should have taken into consideration. More importantly, it should have taken into consideration the fact that the Chief of Army Staff may be sued anywhere in the country. Placing reliance only on the cause of action, as the High Court did, was not justified.

The appeal is allowed. The order under appeal is set aside. The writ petition (CMWP No.39209/92) is restored to the file of the High Court to be heard and disposed of on merits, expeditiously.

No order as to costs.

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.....J.
(S.P. Bharucha)

.....J.
(Doraiswamy Raju)

.....J.
(Y.K. Sabharwal)

New Delhi,
January 19, 2001.