
(2001) 01 SC CK 0070

In the Supreme Court Of India

Case No : Civil Appeal No. 92 of 2001 Arising out of SLP (C) No. 3442 of 2000

Dinesh Chandra Gahtori

APPELLANT

Vs

Chief of Army Staff and Another

RESPONDENT

Date of Decision : 19-01-2001

Acts Referred:

Citation : (2001) 1 ACR 694 : AIR 2001 SC 994 : (2001) AIRSCW 660 : (2001) 1 ALD(Cri) 571 : (2001) 1 ALT(Cri) 154 : (2001) CriLJ 1164 : (2001) 2 JT 491 : (2001) 1 MPJR 368 : (2001) 1 SCALE 645 : (2001) 3 SCC 33 : (2001) 1 Supreme 549 : (2001) 1 UC 466 : (2001) 1 UJ

Hon'ble Judges : Y. K. Sabharwal, J;S. P. Bharucha, J;Doraiswamy Raju, J

Bench : Full Bench

Final Decision : Disposed Off

Judgement

1. Leave granted.

2. 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.

3. 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."

4. 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.

5. The appeal is allowed. The order under appeal is set aside. The writ petition (CMWP No. 39209 of 1992) is restored to the file of the High Court to be heard and disposed of on merits, expeditiously.

6. No order as to costs.