

* **HIGH COURT OF DELHI : NEW DELHI**

Judgment reserved on: July14, 2009
Judgment pronounced on: July22, 2009

+ **W.P. (C) No. 1494 of 2007**

% Sanjay Kumar Gandhi Petitioner
Through: Mr. Rajiv Saxena, Advocate
versus

- (1) Union of India ...Respondent No.1
Through: Nemo
(2) Institute of Pesticide Formulation Technology
...Respondent No.2
Through: Ms. Jyoti Singh and Mr. Ankur
Chhibbar, Advocates

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

SUNIL GAUR, J.

1. Non-functional scale of Rs. 8,000 - Rs.13,500 in terms of Office Memorandum of 24th June, 2005, issued by the respondents, is sought by the petitioner in this writ petition.

Petitioner – Sanjay Kumar Gandhi, is a Private Secretary to the Director of Institute of Pesticides Formulation

Technology, an autonomous body under the Government of India.

2. It is the case of the petitioner that in the year 1998, respondent No.1- State/Department had constituted a Committee for pay fixation of employees of respondent no. 2- Institute of Pesticide Formulation Technology on CDA pattern and the said Committee decided to offer the post of Senior Data Operator (Clerical Cadre) to the petitioner and vide order, Annexure-I, the pay of the petitioner was provisionally fixed at Rs.4,500/- in the scale of Rs.4,500-125-7000 with effect from 1st October, 1998.

3. The stand of the petitioner is that on 24th June, 2005, the Department of Personnel and Training had issued a Circular, (Annexure-O), for grant of pay scale of Rs.8,000-13,500 to Stenographers, Grade A & B of Central Secretariat Stenographer Service with effect from 1st January, 1996, on notional basis with actual benefits with effect from 3rd October, 2003 and vide order of 25th January, 2006, (Annexure-P), the aforesaid circular, (Annexure-O), was made applicable to respondent No. 2 as well. Petitioner asserts that in March, 2006, respondent no. 1 constituted a Committee for reconstructing the administrative setup of respondent No. 2. Petitioner is not only seeking the grant of

non-functional scale but is also praying for a direction to the respondent to consider the case of the petitioner for promotion to the post of Establishment Officer.

4. There is no appearance on behalf of respondent No.1 nor any counter has been filed by respondent No.1 -UOI.

5. Respondent No. 2, in its counter affidavit, has taken preliminary objection of the territorial jurisdiction and has taken a stand that respondent no.2 is a registered Society under the Department of Chemicals of Government of India and respondent no. 2- Institute of Pesticide Formulation Technology (hereinafter referred to as the 'Institute') is situated at Gurgaon, Haryana, outside the territorial jurisdiction of this court. On merits, stand taken by respondent no. 2- Institute is that the Office Memorandum of 11th April, 2001, is only for Stenographers in Non-Secretariat Central Government Offices and is not applicable to autonomous institutions and has no relevance to respondent no.2, where there is only one post of Personal Secretary to Director. Regarding Circular of 24th June, 2005, of Department of Personnel and Training, it has been stated by respondent no. 2-Institute that the same is applicable to Stenographers in Central Secretariat and is not applicable to Stenos/Personal Secretaries of autonomous bodies.

Respondent no. 2-Institute, has clarified in its counter affidavit that the post of Private Secretary to Director (on which the petitioner is working) has not been touched at all during the Cadre review exercise and the petitioner was not considered for the post of Establishment Officer as he did not possess the required experience in the field.

6. In the rejoinder to the counter of respondent no.2-Institute, the stand taken by the petitioner in the writ petition is reiterated.

7. After having heard counsel for the parties and upon perusal of the material on record, I shall be dealing with the question of territorial jurisdiction in the first instance.

8. Petitioner is resident of Gurgaon, Haryana. Respondent no.2- Institute is located in Gurgaon, Haryana, and it is stated that it has not got any other branch or office in India and its Principal Executive Officer is its Director, who is stationed in this Institute at Gurgaon, Haryana. The management of this Institute is in the hands of its Director. Respondent No.2- Institute relies upon a decision of this court in W.P.(C) No. 6536 of 2005 "*Dr. S.K. Das vs. UOI & Others*", decided on 21st April, 2005, wherein it has been declared that in a matter pertaining to respondent no. 2, Delhi Courts do not have any territorial jurisdiction.

Respondent no.2- Institute claims that its Annual Report is also released from the Institute, which is located outside the territorial jurisdiction of this court i.e. at Gurgaon, Haryana.

9. On the contrary, petitioner relies upon decisions reported in **135 (2006) Delhi Law Times 414 (DB); (1994) 4 SCC 711** and **AIR 2004 SC 2321** to contend that this court can exercise its powers under Article 226 of Constitution of India and issue directions to the respondents as part of the cause of action has arisen within the territorial jurisdiction of this court, as the registered office of respondent No.2- Institute is at New Delhi and the Representation made by the petitioner to the respondent, was considered by the respondent at New Delhi and the circulars relied upon by the petitioner have been also issued from Delhi.

10. There is nothing on record to show that the registered office of Respondent no.2 is located at Delhi or that relief prayed for, has to be granted by Respondent no.1.

11. After having gone through the decisions relied upon by the petitioner, I find that the principles of law governing the territorial jurisdiction highlighted therein, are not in dispute, but there is a direct judgment of this Court "*Dr. S.K. Das vs. UOI & Others*" W.P.(C) No. 6536 of 2005, wherein this Court

has clearly held that the matters pertaining to respondent No.2 are outside the territorial jurisdiction of this court and the relevant observations made by this Court are as under:-

"I am of the view that this court does not possess territorial jurisdiction since the cause of action has arisen outside Delhi. The fact that the Petitioner resides in Delhi does not clothe this Court with jurisdiction. There is also no merit in the specious argument that since the Respondent Society is under the Department of Chemical and Petrochemicals, merely by impleading the Union of India through its Secretary, Ministry of Chemicals and Fertilizers, this court will stand sufficiently possessed with territorial jurisdiction".

12. I find myself in complete agreement with the aforesaid observations made in the case of Dr. S.K. Das (supra) and I hold that this court lacks territorial jurisdiction to entertain this matter.

13. Since this court does not possess the territorial jurisdiction to entertain this matter, therefore, this writ petition is disposed of with direction to the petitioner to approach the competent court of territorial jurisdiction to seek the redressal of the grievance made herein.

14. With the aforesaid directions, this petition and pending application, if any, stands disposed of.

15. No costs.

July 22, 2009
rs

Sunil Gaur, J.