

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9982 of 2011

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Md. Musha son of late Abdul Hamid, resident of Village+P.O. Sikti
Bhikham, P.S. Mashrak, District Chapra (Saran)

.... Petitioner/s

Versus

1. The Union of India through Chief Provident Fund Commissioner,
Employees Provident Fund Organization, Ministry of Labour,
Bhavishya Nidhi Bhavan, 14, Bhikajee Cama Place, New Delhi.
2. The Assistant Provident Fund Commissioner, Employees Provident
Fund Organization, Govt. of India, Ministry of Labour, Sub-Regional
Office, Barrackpore, 14/15, B. T. Road, 3rd Floor, 24 Pargana (North),
Titagarh, West Bengal.
3. The Regional Provident Fund Commissioner, Employees Provident
Fund Organization, Govt. of India, Ministry of Labour, R. Block, Patna.
4. The Regional Provident Fund Commissioner-II, Employees Provident
Fund Organization, Govt. of India, Ministry of Labour, Sub-Regional
Office, Surya Complex, Laxmi Chowk, P.O. MIT, Distt. Muzaffarpur.
5. The General Manager, M/s Shri Gauri Shanker Jute Mills Ltd.,
Ghospara, Shyamnagar, Garullia, 24 Pargana (North), West Bengal.
6. The Secretary, Board of Trustees, M/s Shri Gauri Shanker Jute Mills
Ltd., Ghospara, Shyamnagar, Garullia, 24 Pargana (North), West Bengal
7. The President, Board of Trustees, M/s Shri Gauri Shanker Jute Mills
Ltd., Ghospara, Shyamnagar, Garullia, 24 Pargana (North), West Bengal

8. The Chief Executive, M/s Shri Gauri Shanker Jute Mills Ltd., Ghospara, Shyamnagar, Garullia, 24 Pargana (North), West Bengal.

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Pradeep Kumar Sinha, Advocate

For the Respondent No. 1 : Mr. Rajesh Kumar Verma, Advocate

For the EPFO : Mr. R. S. Pradhan, Sr. Advocate with
Mr. Jainendra Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

4 21-01-2015 Heard learned counsel for the petitioner, Mr. Rajesh Kumar Verma, learned counsel for the Union of India and learned counsel for the Employees' Provident Fund Organisation.

The petitioner has approached the Court seeking a direction for payment of his terminal dues including provident fund, leave encashment, gratuity etc. having superannuated under the employment of M/s Shree Gauri Shankar Jute Mills Ltd., Ghospara, Shyamnagar, Garullia, 24 Pargana (North), West Bengal.

The respondents have raised a preliminary objection submitting that the Jute Mill being situated in the State of West



Bengal without having any office or connection with the State of Bihar, is not amenable to the writ jurisdiction of this Court and thus the petition be dismissed on the ground of lack of territorial jurisdiction. Learned counsel have also referred to a decision rendered by the Division bench of this Court in **LPA No. 647 of 2011** in the case of **Abdul Rauf vs. The Union of India and Others** dated 20.04.2011 by which a similarly situated employee of the same Jute Mill who had approached the Court, the writ petition was dismissed on the ground of lack of territorial jurisdiction.

Learned counsel for the petitioner has relied upon an unreported decision of the Hon'ble Supreme Court dated 07.08.2014 in **Civil Appeal No. 7414 of 2014 (arising out of SLP (C) No. 19549 of 2013)** in the case of **Nawal Kishore Sharma vs. Union of India and Others** by which the writ petition filed by the appellant of the said case was dismissed by the Patna High Court for want of territorial jurisdiction and the Hon'ble Supreme Court had remitted the matter to the High Court for deciding the writ petition on merits.

The Court has gone through the order of the Hon'ble Supreme Court in the said case. The relevant facts were that the



appellant was permanently declared unfit for sea service due to a disease of heart muscles by the Shipping Corporation of India Adani Port at Mundra and thereafter the Shipping Department of the Government of India had issued order dated 12.04.2011 cancelling the registration of the appellant as a seaman and copy was sent to the appellant at his native place in Bihar where he was staying after he was found medically unfit. Further, the appellant had sent a representation from his home in the State of Bihar to the respondent claiming disability compensation. The representation was replied by the respondent and addressed to his home address in Gaya, Bihar rejecting his claim for disability compensation. Further, the Hon'ble Supreme Court had noted that initially after hearing the parties the High Court had passed an interim order. Pursuant to the same, the Shipping Corporation remitted certain amount to the account of the appellant. However, when the petition was taken up for hearing the High Court had taken the view that no cause of action had been within its territorial jurisdiction. In that background, the Hon'ble Supreme Court had remitted the matter to the High Court for deciding the writ petition on merits. In the case at hand, the preliminary objection of maintainability of the writ petition before this Court was taken on

the very first hearing on 29.06.2011. Moreover, in the present case, there was no dispute till the petitioner superannuated from the concerned Jute Mill in the State of West Bengal. Just because he being a resident of the State of Bihar made certain communication with Jute Mill for the purposes of getting his retiral benefits, in the considered view of this Court, will not confer jurisdiction of this Court in the facts and circumstances of the present case and thus the aforesaid case decided by the Hon'ble Supreme Court is distinguishable from the facts and circumstances of the present case.

In view of the aforesaid, the present application stands disposed off as not maintainable before this Court with liberty to the petitioner to approach the proper forum.

(Ahsanuddin Amanullah, J)

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