

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2998 of 2013

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Sunil Kumar Yadav S/O Sri Rambachan Yadav R/O Village- Rouza
Pokhar, P.S.- Chapra (Town), District- Saran

.... Petitioner/s

Versus

1. The Union Of India Through Secretary Home Department, New Delhi
2. The Union Of India, Central Industrial Security Force, Through Its Director, New Delhi
3. The Regional Director Staff Selection Commission, 1st Floor, E Wing, Kendriya Sadan Koramangola Bangalore-560034, Karnataka

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Javed Aslam

: Mr. Prem Shela Pandey

For the U.O.I. : Mr. S.D. Sanjay, Sr. Advocate, A.S.G.

: Mr. Anshuman Singh, C.G.C.

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

C.A.V. JUDGMENT

Date: 17/05/2016

In the present case, the petitioner is challenging the order dated 02.11.2012 issued by the Regional Director, Staff Selection Commission, Karnataka Kerala Region, Bangalore, whereby and whereunder the petitioner was informed that his name has been withdrawn from the select list as he has not submitted the O.B.C. certificate in format.

2. At the present stage, the respondent has raised the issue



with regard to territorial jurisdiction of this Court, claiming that no cause of action or part thereof or even fraction of cause of action has taken place in the State of Bihar within the territorial jurisdiction of this Court, and as such, the present Writ Application is not maintainable. Therefore, it is better to the petitioner to approach the appropriate Court, raising his grievance.

3. For deciding the issue of territorial jurisdiction and the issue of cause of action or the part thereof some relevant facts of this case has to be taken into consideration.

4. In the present case, the Staff Selection Commission of Bangalore has issued an advertisement, providing the qualification corresponding to the post mentioned in the said advertisement. The Notification surfaced in the State of Bihar and notified throughout the territory of India. The petitioner one of the aspiring candidates, applied for the post of Sub-Inspector (Fire) within the time, annexing his caste certificate, showing that he falls under the O.B.C. Category. Accordingly, the Admit Card was issued to the petitioner for Common Screening Test and fixed the examination centre at Prayag Mahila Vidyapith, Allahabad. After clearing the preliminary test, the petitioner was asked to appear in the final written test. The petitioner appeared in the final written test at the



centre located in the State of Uttar Pradesh at Lukhnow in Gurunanak Girls Degree College, Chargbagh. As the petitioner did not submit his caste certificate in a proper format, it was communicated through the impugned order dated 02.11.2011 (Annexure-7 to the Writ Application) that his name has been withdrawn from the select list as he has not submitted the O.B.C. certificate in format.

5. The claim has been made by the respondents that as the advertisement was issued from the Karnataka and Kerala centre at Banglore and the petitioner has appeared in the examination at Allahabad and later on the petitioner has appeared in the final written test at Lukhnow, mere communication of the impugned order will not create any cause of action in favour of the petitioner to approach this Court in extraordinary jurisdiction of Article 226 of the Constitution of India. Further, communication of the result or communication of letter withdrawing his name from the select list at his native place, will not in any manner create a semblance of cause of action and as such, this Court should not entertain this Writ Application and dismiss the same, giving liberty to the petitioner to approach the proper forum in accordance with law.

6. In support of his contentions, learned counsel for the

respondent has relied upon the following judgments:-

(i) 2014 (4), P.L.J.R., page 227, paragraph No.20.

(ii) 2015(7) S.C.C., page 130

(iii) 1961, S.C., page 533

(iv) 2001 (9) S.C.C., page 525

(v) 2007(11) S.C.C., page- 335

(vi) 1985 (3) S.C.C., page 217

(vii) 2002(1) S.C.C., page 567

(viii) 1988 (Allahabad), page 36

(ix) 2009(1) P.L.J.R., page 553

(x) 2003 (3) P.L.J.R., 479

(xi) 2002(4) P.L.J.R., page 36

(xii) 2001 (4) P.L.J.R., 678

7. In contra, learned counsel for the petitioner submits that this Court has very much territorial jurisdiction to entertain this Writ Application and giving relief to the petitioner. For creating the cause of action he has placed some facts indicating having a jurisdiction to pass an order in this Writ Application as he has submitted that the petitioner could know about the vacancy for the post of Sub-Inspector (Fire) through an advertisement; he has submitted application from his native place and so much so that

Admit Card was served on two occasions at his native place for appearing in the examination before the Centre either at Allahabad or at Lukhnow; the impugned order by which his name has been withdrawn from the selected list was also served upon him at his residence at Chapra in Bihar.

8. He further submits that Article 226 of volume 2 of the Constitution of India provides that the High Court will have a jurisdiction to entertain the application when any cause of action and part thereof has been taken place within its territorial jurisdiction. He placed reliance on a judgment in the case of *Nawal Kishor Sharma vs. Union of India and ors.*, reported in **2014(4) P.L.J.R., page-227**, where the order was communicated to Nawal Kishore Sharma at his native place and the Supreme Court has held that indisputably the cause of action has taken place within the territorial jurisdiction of this Court.

9. He has further placed reliance on the judgments reported in **2001(4) P.L.J.R., page-678** and **2003(2) P.L.J.R., 151**, where this Court has held that service of order of dismissal on the native place creates a cause of action for approaching to this Court. In those cases, the issue of territorial jurisdiction was raised as the order of dismissal was served within the territorial jurisdiction of

this Court. The Court has exercised the power and passed the order in favour of those petitioners.

10. In contra, learned counsel for the respondent has placed reliance on a judgment reported *in 2002(4) P.L.J.R., page 36*, there as per the learned counsel for the respondent earlier judgment reported in *2001(4) P.L.J.R., page-678* has been considered and delineated the cause of action depends on bundle of facts.

11. Having considered the rival contentions of the parties, this Court has to decide about the territorial jurisdiction of this Court in entertaining the present Writ Application. Few facts are admitted that the Notification was published from the Bangalore which is in the State of Karnataka; looking to the advertisement the petitioner has applied for the post of Sub-Inspector (Fire), whereupon, he was called upon to appear on two occasions at two different centers, which are situated in the State of Uttar Pradesh but the order which is under challenge has been communicated, thereby withdrawing the name of the petitioner from the select list of candidate.

12. The issue with respect to cause of action and part

thereof has been dealt with in long line of cases and this Court has to consider the factors for cause of action or part thereof and its applicability to ascertain as to whether any cause of action or part thereof has taken place within the territorial jurisdiction of this Court.

13. Before deciding the issue with regard to territorial jurisdiction of this Court, it will be necessary to make an inquiry about the power and function conferred to every High Court under Article 226 of the Constitution of India, which is an extraordinary power given to the High Court to exercise five types of writs maintained in Article 226 of the Constitution of India. The facets of jurisdiction to exercise the power of writ was quite different before 15th Amendment of Constitution of India, scope changed after the amendment. Before 15th Constitutional amendment Act, 1966, the original provision of Article 226 was as follows:-

“Notwithstanding anything in Article 32 every High Court shall have powers, throughout the territories in relation to which it exercise jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibitions, quo warranto and certiorari, or any of them, for the

*enforcement of any of the rights conferred by Part III
and for any other purpose”*



14. The parameter of exercise of power under Article 226 was drastically changed after the amendment amended through 42nd Constitutional Amendment, 1976, but the provision which was added by way of 15th Amendment was restored by 44th Amendment Act, 1978. The background and cause of this Constitutional amendment has to be inquired into, as before the amendment, the formulation of expression was hereunder, “every High Court shall have power, throughout the territories in relation to which it exercises the jurisdiction” used in this article has been interpreted by the Hon’ble Supreme Court in *Election Commission, India, vs. Saka Venkata Rao*, reported in *A.I.R., 1953, S.C., 210*, there the Madras High Court has issued the Writ of prohibition against the Election Commission having its permanent seat at New Delhi. The matter went to the Hon’ble Supreme Court and the Hon’ble Supreme Court in a judgment found fault with the judgment of the High Court as seat of the Election Commission was at New Delhi, the writ would have been entertained by the Punjab and Haryana High Court.

15. It will be necessary to quote some relevant paragraphs of

Saka Venkata Rao (supra), which read as under:-

“...We are unable to agree with the learned Judge below that if a tribunal or authority permanently located and normally carrying on its activities elsewhere exercises jurisdiction within those territorial limits so as to affect the rights of parties therein, such tribunal or authority must be regarded as "functioning" within the territorial limits of the High Court and being therefore amenable to its jurisdiction under Art. 226.

The rule that cause of action attracts jurisdiction in suits is based on statutory enactment and cannot apply to writs issuable under [article 226](#) which makes no reference to any cause of action or where it arises but insists on the presence of the person or authority within the territories" in relation to which the High Court exercises jurisdiction. Nor is much assistance to be derived from the observations quoted above...

9. It was said that it could not have been contemplated that an inhabitant of the State of Madras, feeling aggrieved by a threatened interference with the exercise of his rights in that State by an authority located in Delhi and acting without jurisdiction, should seek his remedy under Art. 226 in the Punjab High Court. It is a sufficient answer to this argument of inconvenience to say that, the language of the article being reasonably plain, it is idle to speculate as to what was or was not contemplated.”



16. The issue of territorial jurisdiction of the High Court under Article 226 came up for consideration before the Hon'ble Supreme Court in the case of *K.S. Rashid and Son vs. Income Tax Investigation Commission and Others*, reported in *A.I.R. 1954, S.C. 207 (Vol. 41, C.N. 46)*, the territorial jurisdiction of the High Court was challenged in relation to person/persons is/are located outside the territorial jurisdiction. The Hon'ble Court held, two limitations are thereon the exercise of power of a High Court, under Article 226 of the Constitution of India; one is, the power is to be exercised throughout the territories in relation to which it exercises jurisdiction as the right of the High Court cannot cross the boundary limits of territory where it locates and the High Court is only empowered to issue writs must be within those territories, other limitations is that the person and authority to whom writ is to be issued by the High Court must be within its territorial jurisdiction.

17. It will be useful to quote relevant paragraph of the aforesaid judgment, which reads as under:-

“There are only two limitations placed upon the exercise of these powers by a High Court under [article 226](#) of the Constitution; one is that-the power is to be exercised "throughout the territories in relation to which it exercises jurisdiction", that is to say, the writs



issued' by the court cannot run beyond the territories subject to its jurisdiction. The other limitation is that the person or authority to whom the High Court is empowered to issue writs "must be within those territories" and this implies that they must be amenable to its jurisdiction either by residence or location within those territories. It is with reference to these two conditions thus mentioned that the jurisdiction of the High Courts to issue writs under [article 226](#) of the Constitution is to be determined."(emphasis supplied)

18. The matter again came up for consideration in ***Lt. Col. Khajoor Singh vs. Union of India and another***, reported in ***A.I.R. 1961 S.C. 532***, there the petitioner-Khajoor Singh was a member of Armed forces of Jammu and Kashmir, which was amalgamated with the Defence Force, was holding the substantive rank of Lieutenant Colonel. After amalgamation, the Union of India vide letter dated 31st July, 1954, issued a notice of premature retirement of Khajoor Singh. He challenged the action of the respondents before the Jammu & Kashmir High Court. The High Court after taking into consideration of judgments of *Saka Venkata Rao (supra)* and the case of *K.S. Rashid and Son (supra)*, rejected the writ application on the ground of lack of territorial jurisdiction. The matter was first heard by the five Judges Bench, when a plea was taken to distinguish the aforesaid two judgments, the matter



was referred to the Larger Bench of seven Judges to examine the correctness of the aforesaid two judgments. Basically plea was taken by Khajoor Singh that the Government of India and its authorities are present throughout the territory of India and correct test would be whether or not the cause of action arises within the territorial limit of the High Court. It was replied by the Union of India that the Government of India functions through its officers and, therefore, the location contemplated means the place at which the orders impugned are ordinarily passed. The concept of cause of action as is found in adjudication of the suit is not applicable, in the concept of exercise of power under Article 226. It was further submitted by the Union of India that the expression "in appropriate cases" means that there may be cases where though the Officers of Union Government has passed the order and that Officer falls within the territorial jurisdiction of that High Court. The majority view was the same as was taken by the Supreme Court in two cases, but Justice K. Subba Rao, dissented, applied the concept of cause of action and dissenting view was taken, the Union Government has no constitutional situs in a particular place, but it exercises its executive powers in respect of matters to which Parliament has power to make laws and the power in this regard is exercisable throughout India. Further dissenting view has been



taken when by exercise of its powers the Union Government makes an order infringing the legal right or interest of a person residing within the territories in relation to which a particular High Court exercises jurisdiction, that High Court can issue a writ to the Union Government. In law, it must be deemed to be "within that State also". But the majority view has been taken as the seat of the office is located at Delhi, which does not fall within the limits of the High Court of Jammu and Kashmir. The same is not maintainable on the question of territorial jurisdiction and has found that proper High Court would be the Punjab and Haryana High Court.

19. It will be relevant to quote paragraph Nos. 14, 15 and 16 of the aforesaid judgment, which are as follows:-

“14. The seat of a Government is sometimes mentioned in the Constitutions of various countries but many a time the seat is not so mentioned. But whether the seat of a Government is mentioned in the Constitution or not, there is undoubtedly a seat from which the Government as 'such functions as a fact. What [Art. 226](#) requires is residence or location as a fact and if therefore there is a seat from which the Government functions as a fact even though that seat is not mentioned in the Constitution the High Court within whose territories that seat is located will be the



High Court having jurisdiction under AA. 226 so far as the orders of the Government as such are concerned. Therefore, the view taken 1953 SCR 1144:(AIR 1853 SC 210) (supra) and 1954 SCR 738 (AIR 1954 SC 207)(supra) that there is two-fold limitation on the power of the High Court to issue writs etc. under [Art. 226](#), namely, (i) the power is to be exercised 'throughout the territories in relation to which it exercises jurisdiction', that is to say, the writs issued by the Court cannot run beyond the territories subject to its jurisdiction, and (ii) the person or authority to whom the High Court is empowered to issue such writs must be "within those territories" which clearly implies that they must be amenable to its jurisdiction either by residence or location within those territories, is the correct one.

15. This brings us to the second point, namely, whether it is possible to introduce the concept of cause of action in [Art. 226](#) so that the High Court in whose jurisdiction the cause of action arose would be the proper one to pass an order thereunder. Reliance in this connection has been placed on the judgment of the Privy Council in 70 Ind. App 129: (AIR 1943 P.C. 164). In that case the Privy Council held that even though the impugned order was passed by the Board of Revenue which was located in Madras, the High Court would have no jurisdiction to issue a writ quashing that order, as it had no jurisdiction to issue a writ beyond the limits of the city of Madras except in



certain cases, and that particular matter was not within the exceptions. This decision of the Privy Council does apparently introduce an element of the place where the cause of action arose in considering the jurisdiction of the High Court, to issue a writ. The basis of the decision, however, was the peculiar history of the issue of writs by the three Presidency High Courts as successors of the Supreme Courts, though on the literal construction of cl. 8 of the Charter of 1800 conferring jurisdiction on, the Supreme Court of Madras, there could be little doubt that the Supreme Court would have the same jurisdiction as the Justices of the Court of King's Bench Division in England for the territories which then were or thereafter might be subject to or depend upon the Government of Madras. It will therefore not be correct to put too much stress on the decision in that case. The question whether the concept of cause of action could be introduced in [Art. 226](#) was also considered in Saka Venkata Subba Rao's case, 1953 SCR 1144: (AIR 1953 SC 210) and was repelled in these words:-

"The rule that cause of action attracts jurisdiction in suits is based on statutory enactment and cannot apply to writs issuable under [Art. 226](#) which makes no reference to any cause of action or where it arises but insists on the presence of the person or authority within the territories' in relation to which the High Court exercises jurisdiction."



16. [Article 226](#) as it stands does not refer anywhere to the accrual of cause of action and to the jurisdiction of the High Court depending on the place where the cause of action accrues being within its territorial jurisdiction. Proceedings under [Art. 226](#) are not suits; they provide for extraordinary remedies by a special procedure and give powers of correction to the High Court over persons and authorities and these special powers have to be exercised within the limits set for them. These two limitations have already been indicated by us above and one of them is that the person or authority concerned must be within the territories over which the High Court exercises jurisdiction. Is it possible then to overlook this constitutional limitation and say that the High Court can issue a writ against a person or authority even though it may not be within its territories simply because the cause of action has arisen within those territories? It seems to us that it would be going in the face of the express provision in [Art. 226](#) and doing away with an express limitation contained therein if the concept of cause of action were to be introduced in it. Nor do we think that it is right to say that because [Art. 300](#) specifically provides for suits by and against the Government of India, the proceedings under [Art. 226](#) are also covered by [Art. 300](#). It seems to us that [Art. 300](#) which is on the same line as s. L76 of the Government of India Act, 1935, dealt with suits as such and proceedings analogous to or consequent



upon suits and has no reference to the extraordinary remedies provided by [Art. 226](#) of the Constitution. The concept of cause of action cannot in our opinion be introduced in [Art. 226](#), for by doing so we shall be doing away with the express provision contained therein which requires that the person or authority to whom the writ is to be issued should be resident in or located within the territories over which the High Court has jurisdiction. It is true that this may result in some inconvenience to persons residing far away from Now Delhi who are aggrieved by some order of the Government of India as such, and that may be a reason for making a suitable constitutional amendment in [Art.226](#). But the argument of inconvenience, in our opinion, cannot affect the plain language of [Art. 226](#), nor can the concept of the place of cause of action be introduced into it for that would do away with the two limitations on the powers of the High Court contained in it.”

Basically found that the concept of cause of action is of suits and that concept cannot be imported while adjudicating the dispute in exercise of power under Article 226 of the Constitution of India.

20. As the matter was brought to the notice of the Parliament, looking to the inconvenient felt by the Citizen as the



person who is residing far from Panjab and Haryana high Court on account of the Constitutional constrain was forced to approach the Punjab and Haryana High Court with respect to the order passed by the Union of India at New Delhi. By 15th Amendment Act, through Section-8 of the Amendment Act became Clause 2 of Article 226; thereby the concept of cause of action was inserted. For convenience, it will be appropriate to quote Clause-2 of Article 226 of the constitution of India, which reads as follows:-

“The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories”

So the concept of cause of action was inserted in Article 226 of the constitution of India.

21. The question of territorial jurisdiction of the High Court to entertain the Writ Application in the context of the cause of action has been dealt with by the Hon’ble Supreme Court on number of occasions. It will be relevant to examine certain

decisions of Hon'ble Supreme Court, this Court and other High Courts for understanding the parameters and facets in what manner the power has to be exercised in relation to cause of action with respect to territorial jurisdiction under Article 226 of the Constitution of India.

22. The issue of exercise of jurisdiction under Article 226 of the Constitution of India in the context of cause of action with respect to the High Court came for consideration in *State of Rajasthan vs. Swastik Properties and another* reported in *1985 (3) SCC page 217*. In this case, the question was raised as to whether the service of Notice under sub-section 2 of Section 52 of Rajasthan Urban Improvement Act, 1959, served upon the Swastik Properties at the Calcutta office was an integral part of cause of action and was sufficient to invest the Calcutta High Court with the jurisdiction to entertain an petition under Article 226 of the Constitution of India. The said Swastik Company owned some lands in outskirts of Jaipur city, the Special Officer of Town Planning Jaipur, issued a notice under Section 52 of the Act for acquiring the land for public purposes under the development scheme. Notice was served on the respondents. In compliance thereof, they appeared before the Special Officer, Jaipur and denied the existence of public purpose



for acquisition as they were required to start a new business in the State of Rajasthan. On different dates representatives were appeared and ultimately rejected the prayer of the respondents for release of the land and recommended for acquisition of the entire land. The question was raised about the jurisdiction of Calcutta High Court entertaining the writ application, whereby the meaning of cause of action has been taken from Maulla's Code of Civil Procedure as the cause of action means which is, "if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the Court. The Court has held that mere service of notice is not an integral part of cause of action as entire cause of action culminating in acquisition of land arose in the State of Rajasthan within the territorial jurisdiction of the Rajasthan High Court at Jaipur.

23. It will be necessary to quote relevant paragraph of the said judgment, which reads as under:-

"...The mere service of notice under [Section 52\(2\)](#) of the Act on the respondents at their registered office at 18-B, Brabourne Road, Calcutta i.e. within the territorial limits of the State of West Bengal , could not give rise to a cause of action within that territory unless the service of such notice was an integral part of the cause of action. The entire cause of action culminating



in the acquisition of the land under [Section. 52\(1\)](#) of the Act arose within the State of Rajasthan i.e. within the territorial jurisdiction of the Rajasthan High Court at the Jaipur Bench. The answer to the question whether service of notice is an integral part of the cause of action within the meaning of [Article 226\(2\)](#) of the Constitution must depend upon the nature of the impugned order giving rise to a cause of action. The notification dated February 8 , 1984 issued by the State Government under [Section 52\(1\)](#) of the Act became effective the moment it was published in the official Gazette as thereupon the notified land became vested in the State Government free from all encumbrances. It was not necessary for the respondents to plead the service of notice on them by the Special Officer, Town Planning Department, Jaipur under [Section. 52\(2\)](#) for the grant of an appropriate writ, direction or order under [Article. 226](#) of the Constitution for quashing the notification issued by the State Government under [Section. 52\(1\)](#) of the Act...”

24. In the case of *Daya Shanker Bhardwaj vs. Chief of the Air Staff, New Delhi and Others*, reported in *AIR, 1988 Allahabad, 36*, the question of territorial jurisdiction came up for consideration before the Allahabad High Court. The High Court examined the Constitutional development that has taken place with respect to Article 226 of the Constitution of India held that cause



of action and fraction of cause of action would decide the citus of the High Court where the writ proceeding would be entertained. The Court further held that mere service of notice does not create integral cause of action. A person residing anywhere in the country being aggrieved by an order of the Central Government or State Government or Authority or person may have a right of action at law, but it can be enforced or the jurisdiction under Article 226 can be invoked of that High Court only within whose territorial limits the cause of action wholly or in part arises. The cause of action arises by action of the Government or authority and not by residence of the person aggrieved. In that case the petitioner was junior Warrant Officer in Air Force, was superseded when he was posted at Madras and he sought a direction by filing a writ petition at Allahabad to appointing authority to decide his representation as he was never posted in the State of U.P., no cause of action arose in the State of U.P., which could entitle him to approach High Court at Allahabad.

25. It will be relevant to place reliance on the judgment of the Hon'ble Supreme Court in *Oil and Natural Gas Commission vs. Utpal Kumar Basu and Others*, reported in *1994(4) SCC, 711*. Before dealing with this issue it will be appropriate to examine the



factual matrix of the case to understand the concept of the cause of action. In this case the Oil and Natural Gas Commission (ONGC) a Government of India undertaking has a gas processing plant at Hazira in the State of Gujarat. Engineering India Limited (E.I.L.) consultant of the O.N.G.C. issued an advertisement in all the leading newspapers including those circulating in the State of West Bangal. According to the said advertisement, tenders containing offer were to be communicated at E.I.L. office, New Delhi. NICCO, a Calcutta based Company on the basis of the advertisement published in the Times of India also submitted his tender. The E.I.L. opened all the tenders and rejected the bid of NICCO on the ground that it does not fulfill the criteria. The matter was referred to the Tender Committee. The Tender Committee did not agree with the E.I.L., the Tender Committee fixed a meeting for clarification proposed by the Company and ultimately, arrived to a finding that the NICCO has no requisite experience and finally the Steering Committee rejected the offer of NICCO and awarded the contract to M/s. SIMCO Limited. A writ was filed before the Calcutta High Court and the Calcutta High Court entertained the writ petition and passed positive order, giving direction to consider the offer of the CIMMCO, in the event offer is found to be valid and lowest, the same should be accepted by the ONGC. The matter went to the Hon'ble Supreme Court there



specific question was raised about the territorial jurisdiction of the Calcutta High Court and there the Hon'ble Supreme Court considered the meaning of the cause of action and held that it is well settled that cause of action means the bundle of facts which the petitioner must prove, if traversed, to entitle him to a judgment in his favour by the Court.

26. It will be necessary to quote relevant paragraphs, which are as follows:-

6. It is well settled that the expression "cause of action" means that bundle of facts which the petitioner must prove, if traversed, to entitle him to a judgment in his favour by the Court. In Chand Kour v. Partab Singh' Lord Watson said:

"... the cause of action has no relation whatever to the defence which may be set up by the defendant, nor does it depend upon the character of the relief prayed for by the plaintiff. It refers entirely to the ground set forth in the plaint as the cause of action, or, in other words, to the media upon which the plaintiff asks the Court to arrive at a conclusion in his favour."

27. Ultimately, the Hon'ble Supreme Court found that mere service of notice at Calcutta office does not create any cause of action and part thereof. It will also be necessary to quote relevant

portion of the same judgment, which reads as under:-

"...The question which arose for consideration in the backdrop of the said facts was whether the High Court of Calcutta had jurisdiction to entertain the petition and grant ex parte ad interim relief. This Court observed that upon the said facts, the cause of action neither wholly nor in part arose within the territorial limits of the Calcutta High Court and therefore the learned Judge had no jurisdiction to issue rule nisi or to grant the ad interim ex parte prohibitory order. After extracting the definition of the expression "cause of action" from Mulla's Code of Civil Procedure, this Court observed as under: (SCC p. 223, para 8)

"The mere service of notice under [Section 52\(2\)](#) of the Act on the respondents at their registered office at 18-B, Brabourne Road, Calcutta i.e. within the territorial limits of the State of West Bengal, could not give rise to a cause of action within that territory unless the service of such notice was an integral part of the cause of action. The entire cause of action culminating in the acquisition of the land under [Section 52\(1\)](#) of the Act arose within the State of Rajasthan i.e. within the territorial jurisdiction of the Rajasthan High Court at the Jaipur Bench."

12. Pointing out that after the issuance of the notification by the State Government under [Section 52\(1\)](#) of the Act, the notified land became vested in the State Government



free from all encumbrances and hence it was not necessary for the respondents to plead the service of notice under [Section 52\(2\)](#) for the grant of an appropriate direction or order under [Article 226](#) for quashing the notification acquiring the land. This Court, therefore, held that no part of the cause of action arose within the jurisdiction of the Calcutta High Court. This Court deeply regretted and deprecated the practice prevalent in the High Court of exercising jurisdiction and passing interlocutory orders in matters where it lacked territorial jurisdiction. Notwithstanding the strong observations made by this Court in the aforesaid decision and in the earlier decisions referred to therein, we are distressed that the High Court of Calcutta persists in exercising jurisdiction even in cases where no part of the cause of action arose within its territorial jurisdiction. It is indeed a great pity that one of the premier High Courts of the country should appear to have developed a tendency to assume jurisdiction on the sole ground that the petitioner before it resides in or carries on business from a registered office in the State of West Bengal. We feel all the more pained that notwithstanding the observations of Court made time and again, some of the learned Judges continue to betray that tendency. Only recently while disposing of appeals arising out of SLP Nos. 10065-66 of 1993, Aligarh Muslim University v, Vina.v Engineering Enterprises (P) Ltd.⁶, this Court observed:

"We are surprised, not a little, that the High Court of

Calcutta should have exercised jurisdiction in a case where it had absolutely no jurisdiction."

In that case, the contract in question was executed at Aligarh, the construction work was to be carried out at Aligarh, the contracts provided that in the event of dispute the Aligarh court alone will have jurisdiction, the arbitrator was appointed at Aligarh and was to function at Aligarh and yet merely because the respondent was a Calcutta-based firm, it instituted proceedings in the Calcutta High Court and the High Court exercised jurisdiction where it had none whatsoever. It must be remembered that the image and prestige of a court depends on how the members of that institution conduct themselves. If an impression gains ground that even in cases which fall outside the territorial jurisdiction of the court, certain members of the court would be willing to exercise jurisdiction on the plea that some event, however trivial and unconnected with the cause of action had occurred within the jurisdiction of the said court, litigants would seek to abuse the process by carrying the cause before such members giving rise to avoidable suspicion. That would lower the dignity of the institution and put the entire system to ridicule. We are greatly pained to say so but if we do not strongly deprecate the growing tendency we will, we are afraid, be failing in our duty to the institution and the system of administration of Justice. We do hope that we will not have another occasion to deal with such a situation."



28. In the same volume in *Aligarh Muslim University and another vs. Vinay Engineering Enterprises (p) Ltd. And another*, page No.710, the Hon'ble Supreme Court said that the Calcutta High Court should not have exercised its jurisdiction in a case where it had absolutely no jurisdiction. The contracts in question were executed at Aligarh, the construction work was carried out at Aligarh, even contract provided that in the event of dispute the Aligarh Court alone will have jurisdiction. The Arbitrator was from Aligarh and was to function there. No cause of action taken place within the limit of Calcutta High Court and the High Court of Calcutta should not have exercised the power and should not have entertained the writ application.

29. Another judgment in the case of *Dinesh Chandra Cahtori vs. Chief of Army Staff and Another*, reported in 2001(9) SCC 525, has been pressed into service by the learned counsel for petitioner for the purpose of showing the cause of action and claiming that the writ petition is maintainable. In the said judgment, the Hon'ble Supreme Court has not dealt with the issue as to what is the meaning of cause of action, but the peculiar facts and circumstances of that case and the period the petition remained pending was taken into consideration by the Hon'ble Supreme

Court and held as under:-

“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.”

30. But this judgment cannot be said to be an authority in terms of Article 141 of the Constitution of India as the issue of territorial jurisdiction has not been scanned and draft with, the Court held that the petition is maintainable. So this judgment cannot be an authority under Article 141 of the Constitution of India.

31. The issue of territorial jurisdiction of the High Court as provided under Article 226 (2) of the Constitution of India came for consideration before this Court in ***Sushil Kumar Pandey vs. Union of India & Ors.*** reported in **2001 (4) PLJR 678**, there the petitioner was serving in Indian Army located in Bihar Regiment was posted at Cooch Bihar (West Bangal). During Kargil War there was a Vijay Operation, the appellant was dispatched to participate in the said operation and was moved to Battalik Sector. One of his fellows Sepoy, Arvind Kumar Pandey belonging to the district of West



Champaran died during the combat. The appellant was asked to hand over the dead body of said Martyr Arvind Kumar Pandey to his parents at his native place was given the movement order with the direction to return back during the period mentioned in the movement order, but he did not return, a summary court marshal proceeding was initiated for his absence. The appellant participated in the said proceeding, his signature was obtained in the relevant documents and thereafter the order of dismissal was passed and all the Jawans of the Unit were informed that his service has been dispensed with. He was also handed over warrant from Jammu Tawi to his village home. Subsequently, a letter was sent to his mother informing her about the dismissal from service of her son. The appellant filed a writ application before this Court against the order of his termination from the Service. The Court after placing reliance on *O.N.G.C. case (supra)*, *State of Punjab vs. Amar Singh*, reported in AIR 1966, SCC 1313 and *State of Punjab v s. Khemi Ram*, reported in AIR 1970 SC, 214 taken a view that mere passing of an order on dismissal would not be effective unless it is published or communicated to the officer concerned. The Court also held that in case of suspension, once the order is issued and it is sent out to the Government servant concerned, it must be held to have been communicated to him, no matter when he actually received it,



but in case of dismissal actual knowledge by employee may be become necessary because of the consequences, but that will not be the situation in case of suspension as after the order of suspension was passed, there was no question of his doing any act or passing any order which is likely to be challenged. In that case the Court held that this Court has no territorial jurisdiction on account of fact that the order was passed in his presence so much so that he has also signed on the proceeding though the material on record sufficiently shows that the order of dismissal was became effective. The notice was sent to the mother only for the purposes of information that would not create any cause of action and part thereof. So, in that case, it was held that when and where it has been made effective is very important material to arrive to a conclusion at whose jurisdiction the cause of action or fraction of cause of action has taken place.

32. In *Union of India and Others vs. Adani Exports Ltd. and Others*, reported in *2002(1) SCC, 567* identical issue with regard to territorial jurisdiction came for consideration before the Hon'ble Supreme Court. In that case, the Adani Export was carrying on the business of import and export from Ahmedabad. The order for export and import was placed from and were executed



at Ahmedabad. The documents and payments for export and import were sent/made at Ahmedabad. The credit of duty claimed in respect of export was handled from Ahmedabad. Since the export order was received at Ahmedabad and also payment received at Ahmedabad, non-granting and denial of utilization of the credit in the said pass book would affect the business of the petitioner at Ahmedabad. The respondent Nos. 1, 2 and 3 having original office at Ahmedabad and on that basis claim was made that cause of action or the part thereof has taken place within the jurisdiction of Gujarat High Court, but the High Court refused to entertain the writ application on the issue of territorial jurisdiction. The Court recorded that the factum of respondents, having executed a bank guarantee and a Bond at Ahmedabad, will have no direct nexus or bearing on the disputes involved in these applications. It has been found that with regard to correctness of the valuation, separate proceedings have been initiated and against the findings in those proceedings, separate appeals are pending in the Court. It has been recorded that none of the respondents were living in the jurisdiction of the High Court of Ahmedabad as the pass-book in question, benefit of which the respondent were seeking, was issued by an authority who was stationed at Chennai and the authority, who was the competent person in respect of the matters concerning the Pass



Book Scheme and who discharged various functions under the Scheme was also stationed at Chennai. The entries in the pass-book under the concerned Scheme were to be made by the authorities at Chennai. The export of prawn made by the respondents and the import of the inputs benefit of which the respondents were seeking also will have to be made through the same Port i.e. Chennai. The Court also taken a view that consideration that arise in deciding the question of territorial jurisdiction in criminal cases may not always apply to cases involving civil disputes like the Special Civil applications and held that Ahmedabad High Court was right in refusing to entertain the Application on the issue of territorial jurisdiction, though the Court was of the view that while deciding the issue of cause of action the averment made in the body of the writ petition has to be looked into not the defence of the other side. The Court said that non-granting and denial of credit in the pass-book having an ultimate effect on the business of the respondents at Ahmedabad would not also give rise to any such cause of action to the Court at Ahmedabad to adjudicate on the actions complained against the appellants. In that view of the matter, the Hon'ble Supreme Court held that no cause of action or part thereof has taken place in the territorial jurisdiction of the Ahmedabad High Court.



33. In *Gita Devi & Anr. Vs. The Deputy General Manager, Allahabad Bank and Ors.* reported in 2002 (4) page 36, again the matter of territorial jurisdiction came up for consideration. The Court after placing reliance on the judgment of *O.N.G.C. case (supra)* held that mere residence of a person within the territorial jurisdiction of the High Court or his entering in the correspondence including receiving reply thereto would not confer jurisdiction to entertain the writ application by the High Court unless it forms an integral part of cause of action. An application sent for appointment from a place, the place as such does not become integral part or cause of action, for such an application can be sent from any place. If this fact were to constitute a cause of action, the result would be that a person would choose a particular place which he may consider convenient and from there he sent his application, thereby conferring territorial jurisdiction, but mere receiving the reply also does not create a cause of action.

34. It will be relevant to quote Paragraph No. 9 of the said judgment, which reads as under:-

“9. From the decisions and observations of the Supreme Court in the above noted two cases it is clear that the mere residence of the person within the territorial jurisdiction of the High Court or his



entering into correspondence, including receiving reply thereto would not confer jurisdiction to entertain the writ petition by the concerned High Court unless it forms an integral part of the cause of action. As is well known 'cause of action' comprises of bundle of facts which are necessary to prove in order to succeed in any action in a Court of law. Where an application is sent for appointment from a place, the place as such does not become integral part of cause of action, for such an application can be sent from any place. If this fact were to constitute a cause of action, the result would be that a person would choose a particular place which he may consider convenient, and from there send his application, thereby conferring territorial jurisdiction on the concerned High Court. The fact that reply is sent to the applicant at that place has no significance, for the replies are normally sent at the address which is mentioned in the application."

35. In the case of ***Ram Chandra Singh vs. The Union of India & Ors.*** reported in **2003(3) PLJR, 479**, the matter with regard to territorial jurisdiction of the High Court came up for consideration. In the aforesaid case, the person was employed in security force. A proceeding was initiated against him and ultimately he was awarded a punishment of rigorous imprisonment and was dismissed from service. The order was communicated to



the Commandant. The Court held at Head quarter of the BSF at Kupwara is in the State of Jammu & Kashmir. The petitioner of that case filed an appeal before Deputy Inspector General. The rigorous imprisonment was changed to simple imprisonment but the order of dismissal was maintained. Against that order, he preferred a statutory petition and was informed that his statutory petition has been rejected by the Director General of the Force. The Court considered several judgments such as *Naval Kishore Sharma vs. Union of India and Ors.* (1983 BBCJ 23, *Rameshwar Prasad Vs. the Union of India and Ors.* (2003 (2) PLJR 151) and *Sunil Kumar Pandey vs. Union of India and Ors* (2001(4) PLJR, 678) and held that mere filing of statutory petition from a place within the State of Bihar and the decision of the said petition being communicated within this state, shall not confer jurisdiction to this Court to entertain the petition.

36. It will be relevant to quote Paragraph No. 6 of the said judgment, which reads as under:-

“6. In my opinion, filing of statutory petition from a place within the State of Bihar and the decision on the said petition being communicated to him within this State, shall also not confer jurisdiction on this Court This point is not res integra and in fact subject matter of discussion in a large number of cases. In the case of



Nand Kishore Singh (supra), *this Court held that the act of merely filing an appeal against an adverse order would not be deemed to be a part of cause of action. Further in the case of **Sanjay Kumar Yadav v. Union of India and Ors.**, (C.W.J.C. No. 1006 of 2002) disposed of on 12.9.2002, this Court had the occasion to consider this question and on a review of various authorities observed as follows:*

"Adverting to the present case, the discharge of the petitioner was complete on or about 15-5-2000 when the order was issued and served on him at Bangalore. The fact that he filed representation from Begusarai and received rejection thereof at Begusarai cannot be construed as part of cause of action, for it was open to him to make such representation from any place. The point at issue in my opinion is covered by the above said decisions of the Supreme Court as well as this Court. I have, therefore, no difficulty in holding that this writ petition is not maintainable before this Court on account of lack of territorial jurisdiction."

37. The question of territorial jurisdiction also came for consideration in the case of **Kusum Ingots & Alloys Ltd. vs. Union of India and Another**, reported in (2004) 6 SCC, 254. The background fact of that case was the petitioner-Company was registered under the Companies Act, having its registered office at



Mumbai, took a loan from the Bhopal Branch of State Bank of India. The Bank issued a notice for repayment of the said loan from Bhopal purported to be in terms of the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act). The jurisdiction of Delhi High Court on the ground of lack of territorial jurisdiction came for consideration. The Hon'ble Supreme Court held that Cause of action implies a right to sue. The material facts which are imperative for the suitor to allege and prove constitute the cause of action. Cause of action has not been defined in any statute. It has, however, been judicially interpreted to mean that every fact which would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the Court. In Contrast, it would mean that everything which, if not proved, gives the defendant an immediate right to judgment, would be part of cause of action for every action, there has to be a cause of action, if not, the plaint or the writ petition, as the case may be, shall be rejected summarily. The Hon'ble Supreme Court has rejected the argument that the SARFAESI Act has been legislated by the Parliament at Delhi and that would create a cause of action to the Delhi High Court to entertain the application and held that passing of legislation does not confer any such right to file a writ application unless a cause of

action arises thereof. The Hon'ble Supreme Court also held that there is distinction between the legislation and executive action, it should be kept in mind while determining the said question and finally held that Khajoor Singh's case (supra) is no applicability.

38. It will be relevant to quote paragraph No.27 of the said judgment, which reads as under:-

“When an order, however, is passed by a Court or Tribunal or an executive authority whether under provisions of a statute or otherwise, a part of cause of action arises at that place. Even in a given case, when the original authority is constituted at one place and the appellate authority is constituted at another, a writ petition would be maintainable at both the places. In other words as order of the appellate authority constitutes a part of cause of action, a writ petition would be maintainable in the High Court within whose jurisdiction it is situate having regard to the fact that the order of the appellate authority is also required to be set aside and as the order of the original authority merges with that of the appellate authority.”

39. In the case of ***National Textile Corporation vs. Hari Box Swalram*** reported in **2004 (9) SCC 786**, there the Court said, mere the fact that the writ petitioner carries on business at Calcutta

or that the reply to the correspondence made by it was received at Calcutta is not an integral part of the cause of action and the Calcutta High Court had no jurisdiction to entertain the writ petition.

40. In *Om Prakash Srivastava vs. Union of India and Another*, reported in (2006) 6 SCC 207, the meaning of cause of action as well as the jurisdiction of High Court in connection with territorial jurisdiction came for consideration. The Hon'ble Supreme Court held that the cause of action means every fact, which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the Court. In other words, a bundle of facts, which it is necessary for the plaintiff to prove in order to succeed in the suit.

41. It will be relevant to quote paragraph Nos.8,12 and 17 of the judgment, which read as under:-

8. Two clauses of [Article 226](#) of the Constitution on plain reading give clear indication that the High Court can exercise power to issue direction, order or writs for the enforcement of any of the fundamental rights conferred by Part III of the Constitution or for any other purpose if the cause of action wholly or in part had arisen within the territories in relation to which it exercises jurisdiction notwithstanding that the seat of

the Government or authority or the residence of the person against whom the direction, order or writ is issued is not within the said territories. ([See ONGC v. Utpal Kumar Basu](#))

12. The expression "cause of action" has acquired a judicially settled meaning. In the restricted sense "cause of action" means the circumstances forming the infraction of the right or the immediate occasion for the reaction. In the wider sense, it means the necessary conditions for the maintenance of the suit, including not only the infraction of the right, but also the infraction coupled with the right itself. Compendiously, as noted above the expression means every fact, which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the Court. Every fact, which is necessary to be proved, as distinguished from every piece of evidence, which is necessary to prove each fact, comprises in "cause of action". (See Rajasthan High Court Advocates' Assn. v. Union of India).

17. It would be appropriate to quote para 61 of the said judgment, which reads as follows:- (Mohd. Khalil Khan v. Mahbub Ali Mian, (AIR 1949 P.C.,78)

"61.(1) The correct test in cases falling under Order 2 Rule 2, is 'whether the claim in the new suit is in fact founded upon a cause of action distinct from that which was the foundation of the former suit' (Moonshee Buzloor Fuheer v.

Shumroonnissa Begum).

(2) The cause of action means every fact which will be necessary for the plaintiff to prove it traversed to order to support his right to the judgment (Real v. Brown).

(3) If the evidence to support the two claims is different. (Brunsoon v. Nurnphroy)

(4) The causes of action in the two suits may be considered to be away if in substance they are identical (Brunsoon v, Numphroy).

(5) The cause of action has no relation whether to the defence that may be act up by the defendant nor does it depend upon the character of the relief prayed for the plaintiff. It refers... to media upon which the plaintiff sake the Court to arrive at a conclusion in his favour. (Chand Kour v. Pratap Singh). This observation was made by Lord Watson in a case under [Section 43](#) of the Act of 1882 (corresponding to Order 2, Rule 2) where plaintiff made various claim in the same suit." (IA pp.139-40)".

42. The same issue came up for consideration in ***Alchemist Ltd. and Another vs. State Bank of Sikkim and Others***, reported in ***(2007) 11 SCC 335***. The brief facts of that case was that the petitioner-company having its registered Office at Chandigarh. The



State Bank of Sikkim was desirous of disinvesting 49% of its equity capital to a strategic partner with transfer of management issued an advertisement in Economic Times, invited offers for strategic partnership. It was stipulated in the advertisement that offer made by the parties would be subject matter of scrutiny by the Board of Directors of the first respondent-bank and also made clear that right to accept or reject the offer without assigning any reason was reserved by the Board of Directors. Alchemist Limited-petitioner also sent his proposal, the Director of the Bank visited Chandigarh for further negotiations. The Bank asked the Appellant to deposit a sum of Rs. 4.50 crores with the State Bank of India in a fixed deposit to show it's bona fide. The company deposited the amount and ultimately the letter was sent to the appellant-company, which was communicated at Chandigarh, by which the respondent-bank informed the appellant-company that the Government of Sikkim had not approved the proposal submitted by the appellant-company and sought to withdraw the communication dated 20.2.2014. The writ was filed at Punjab and Haryana High Court by which action of Bank was challenged. The question was raised that Punjab and Haryana High Court has no territorial jurisdiction to examine the matter. The Hon'ble Court did not interfere with the order and rejected the appeal. The Court has defined the meaning of "cause of



action” and held that the writ will not be maintainable. This Hon’ble Court considered the parameters and essential element of cause of action. The test would be whether a particular fact or facts or substance can be said to be material, integral or essential part of the *lis* between the parties. If it is, it forms cause of action or part of cause of action. If it is not, it does not form a part of cause of action. While deciding the issue, the substance of the matter not the form thereof has to be considered.

43. It will be relevant to quote paragraph Nos. 20, 21, 25, 35, 36, 37 and 38 of the said judgment:-

“20. It may be stated that the expression 'cause of action' has neither been defined in the Constitution nor in the Code of Civil Procedure, 1908. It may, however, be described as a bundle of essential facts necessary for the plaintiff to prove before he can succeed. Failure to prove such facts would give the defendant a right to judgment in his favour. Cause of action thus gives occasion for and forms the foundation of the suit.

21. The classic definition of the expression 'cause of action' is found in Cooke v. Gill, wherein Lord Brett observed:

""Cause of action' means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the

court".

25. The learned counsel for the respondents referred to several decisions of this Court and submitted that whether a particular fact constitutes a cause of action or not must be decided on the basis of the facts and circumstances of each case. In our judgment, the test is whether a particular fact(s) is (are) of substance and can be said to be material, integral or essential part of the lis between the parties. If it is, it forms a part of cause of action. If it is not, it does not form a part of cause of action. It is also well settled that in determining the question, the substance of the matter and not the form thereof has to be considered.

35. Negating the contention and upholding the order passed by the High Court, this Court ruled that passing of a legislation by itself does not confer any such right to file a writ petition in any Court unless a cause of action arises therefor. The Court stated: (Kusum Ingots Case, SCC p.261, para 20)

"20. A distinction between a legislation and executive action should be borne in mind while determining the said question". Referring to ONGC, it was held that all necessary facts must form an 'integral part' of the cause of action. The fact which is neither material nor essential nor integral part of the cause of action would not constitute a part of cause of action within the meaning of Clause (2) of [Article 226](#) of the

Constitution.

36. *In National Textile Corporation. Ltd. v. Haribox Swalram, referring to earlier cases, this Court stated that: (SCC p.797, para 12.1)*

"12.1...the mere fact that the writ petitioner carries on business at Calcutta or that the reply to the correspondence made by it was received at Calcutta is not an integral part of the cause of action and, therefore, the Calcutta High Court had no jurisdiction to entertain the writ petition and the view to the contrary taken by the Division Bench cannot be sustained."

37. *From the aforesaid discussion and keeping in view the ratio laid down in catena of decisions by this Court, it is clear that for the purpose of deciding whether facts averred by the petitioner-appellant, would or would not constitute a part of cause of action, one has to consider whether such fact constitutes a material, essential, or integral part of the cause of action. It is no doubt true that even if a small fraction of the cause of action arises within the jurisdiction of the Court, the Court would have territorial jurisdiction to entertain the suit/petition. Nevertheless it must be a 'part of cause of action', nothing less than that.*

38 *In the present case, the facts which have been pleaded by the Appellant Company, in our judgment, cannot be said to be essential, integral or material*

facts so as to constitute a part of 'cause of action' within the meaning of [Article 226\(2\)](#) of the Constitution. The High Court, in our opinion, therefore, was not wrong in dismissing the petition."

44. The case of *Amar Kumar Choubey vs. The Union of India & Ors.*, reported in *2009(1) PLJR, 553*, came up for consideration before this Court. In that case, the petitioner appointed in Assam Rifles and received gun shot injury in an ambush. He was placed in the medical category by the Medical Officer and when Unit was deployed at Nagaland on compassionate grounds he was kept at the rear which was in the Jorhat to ensure his periodical access to medical facilities at 5 Air Force Hospital, Jorhat. When the Unit went to Manipur he approached authority for invalidation, accordingly, he was given invalidated pension. He was resident of a village in the district of Saran and finally he settled there. He claimed for payment of disability pension, which was rejected and the same was communicated to him. Against the said order, the petitioner approached this Court; here the point of territorial jurisdiction was taken in to consideration. This Court held that mere service of notice or a communication is neither an integral fact much less material fact forming part of cause of action.

45. It will be relevant to quote paragraph No.19 of the said judgment, which reads as under:-

“19. The submission advanced on behalf of the learned Counsel for the appellant/writ petitioner that as the order rejecting the request of the petitioner for grant of disability pension was served on the appellant/writ petitioner within the territorial jurisdiction of this Court, a part of cause of action had arisen within the meaning of [Article 226 \(2\)](#) of the Constitution of India so as to maintain writ application filed by the appellant/writ petitioner is only to be noticed for its being rejected. Mere service of notice or a communication is neither an integral fact much less material fact forming part of cause of action. In the present case, when the appellant/writ petitioner had sustained injuries in the State of Manipur and was subsequently retained in service for next 13 years in the State of Assam (at Jorhat), his claim for disability pension in terms of Rules arose and get extinguished within a period of five years in terms of Rule 6 of the Rules in the State of Assam itself. That being so, if the appellant/writ petitioner after he opted out of service with his invalid pension as per his own request w.e.f. 1.12.2004 in terms of Rule 38 of C.C.S.(Pension) Rules, his wholly belated and impersible request for grant of disability pension in the year 2005 and its rejection by the Colonel, Assam Rifles, the competent authority of the Director General of Assam Rifles having its Headquarter at Shilong in the State of



Meghalaya by his order dated 10.11.2005 did not furnish any part of cause of action for maintaining a writ application before this Court merely because the said order dated 14.11.2005 rejecting his request for grant of disability pension was communicated to the appellant/writ petitioner at his permanent village home address in the district of Saran of the State of Bihar...”

46. In *Rajendran Chingaravelu vs. R.K. Mishra, Additional Commissioner of Income Tax and Others*, reported in (2010) 1 SCC 457, the question of territorial jurisdiction of the Hyderabad High Court came for consideration. In that case, the petitioner-Rajendran was traveling by air from Hyderabad to Chennai. The security personal of Hyderabad Airport checked the baggage that he was carrying, heavy amount of cash with the bank certificate and was allowed to board on the aircraft. But when the craft landed Chennai Airport, the Income Tax Officer intercepted and seized the amount which the petitioner was carrying and ultimately the income tax authority did not find any material of illegal transportation of money. There the Court has held that part of cause of action has taken place within the territorial jurisdiction of the Hyderabad High Court as the Income tax proceeding was initiated which was challenged in the writ petition were also initiated at Hyderabad.

47. It will be relevant to quote Paragraph Nos. 10 and 11 of

the said judgment, which read as under:-



“10. In this case, the genesis for the entire episode of search, seizure and detention was the action of the security/ intelligence officials at Hyderabad Airport (in Andhra Pradesh) who having inspected the cash carried by him, alerted their counterparts at the Chennai Airport that appellant was carrying a huge sum of money, and required to be intercepted and questioned. A part of the cause of action therefore clearly arose in Hyderabad. It is also to be noticed that the consequential income tax proceedings against him, which he challenged in the writ petition, were also initiated at Hyderabad. Therefore, his writ petition ought not to have been rejected on the ground of want of jurisdiction.

11. Normally, we would have set aside the order and remitted the matter to the High Court for decision on merits. But from the persuasive submissions of the appellant, who appeared in person on various dates of hearing, two things stood out. Firstly, it was clear that the main object of the petition was to ensure that at least in future, passengers like him are not put to unnecessary harassment or undue hardship at Airports. He wants a direction for issuance of clear guidelines and instructions to the inspecting officers, and introduction of definite and efficient verification/investigation procedures. He wants changes in the present protocol where the officers



are uncertain of what to do and seek instructions and indefinitely wait for clearances from higher ups for each and every routine step, resulting in the detention of passengers for hours and hours. In short, he wants the enquiries, verifications and investigations to be efficient, passenger-friendly and courteous. Secondly, he wants the department/concerned officers to acknowledge that he was unnecessarily harassed.”

48. The petitioner has placed heavy reliance on the judgment of **Naval Kishore Sharma vs. Union of India & Ors.** reported in **2014 (4) P.L.J.R, 227 (S.C.)**, there the Court has rejected the writ application on the ground of having no territorial jurisdiction. There the primary question was that Naval Kishore Sharma has joined the Offshore Department of the Shipping Corporation of India was transferred from the Offshore duty to a main fleet in the Foreign Going Department. In the year, 2009, was found to be medically fit by the marine Medical Services Board. An agreement dated 29.09.2009 known as Articles of Agreement for employment of Seafarers was executed by the appellant's offshore duty. In the year 2010 he reported to be sick. He was sent for medical treatment at Adani Mundra Port. The Medical Officer advised him for admission in the hospital. Thereafter, he was declared medically unfit for sea



service due to dilated cardiomyopathy (heart muscle disease). The Government of India issued an order dated 12.04.2011 and cancelled the registration of the appellant as seamen. After relieved from service, he shifted at his native place, Gaya, and sent several letters/ representations from there to the respondent for financial claim as per the statutory provision and terms of contract. On the disability compensation claim, the Corporation communicated letter dated 07.10.2012, informing that since the appellant was declared unfit for sea service due to heart problem he will be entitled to Rs. 2,75,000/- which was not accepted by the petitioner-Naval Kishore Sharma and he approached the Patna High Court in writ application, claiming basically for 100% and back damages. At the time of hearing the maintainability of writ petition with respect to territorial jurisdiction of this Court came for consideration. This Court held that as no cause of action or part thereof took plea within the jurisdiction of this Court, the writ petition was held not maintainable, which was challenged before the Hon'ble Supreme Court. The Hon'ble Supreme Court held the answer to the question whether the service of notice was an integral part of cause within the meaning of article 226 (2) of the Constitution of India must depend upon the nature of the order giving rise to a cause of action. The Court also said that every fact pleaded by the petitioner in their



application does not ipso facto lead to the conclusion that those facts give rise to a cause of action within the Court's territorial jurisdiction unless those facts are such which have no bearing with the *lis* or dispute involved in the case does not give rise to cause of action so as to confer the territorial jurisdiction on the Court concerned. The Hon'ble Supreme Court also held that even fraction of cause of action gives the territorial jurisdiction of the High Court and held that the Patna High Court has no jurisdiction to entertain the writ application for the reasons mentioned in Paragraph No. 20 and 21 of the said judgment.

49. It will be relevant to quote Paragraph No. 20 & 21 of the said judgment, which are as follows:-

“20. We have perused the facts pleaded in the writ petition and the documents relied upon by the appellant. Indisputably, the appellant reported sickness on account of various ailments including difficulty in breathing. He was referred to hospital. Consequently, he was signed off for further medical treatment. Finally, the respondent permanently declared the appellant unfit for sea service due to dilated cardiomyopathy (heart muscles disease). As a result, the Shipping Department of the Government of India issued an order on 12.4.2011 cancelling the registration of the appellant as a seaman. A copy



of the letter was sent to the appellant at his native place in Bihar where he was staying after he was found medically unfit. It further appears that the appellant sent a representation from his home in the State of Bihar to the respondent claiming disability compensation. The said representation was replied by the respondent, which was addressed to him on his home address in Gaya, Bihar rejecting his claim for disability compensation. It is further evident that when the appellant was signed off and declared medically unfit, he returned back to his home in the District of Gaya, Bihar and, thereafter, he made all claims and filed representation from his home address at Gaya and those letters and representations were entertained by the respondents and replied and a decision on those representations were communicated to him on his home address in Bihar. Admittedly, appellant was suffering from serious heart muscles disease (Dilated Cardiomyopathy) and breathing problem which forced him to stay in native place, wherefrom he had been making all correspondence with regard to his disability compensation. Prima facie, therefore, considering all the facts together, a part or fraction of cause of action arose within the jurisdiction of the Patna High Court where he received a letter of refusal disentitling him from disability compensation.

21. Apart from that, from the counter affidavit of the respondents and the documents annexed therewith, it



reveals that after the writ petition was filed in the Patna High Court, the same was entertained and notices were issued. Pursuant to the said notice, the respondents appeared and participated in the proceedings in the High Court. It further reveals that after hearing the counsel appearing for both the parties, the High Court passed an interim order on 18.9.2012 directing the authorities of Shipping Corporation of India to pay at least a sum of Rs.2.75 lakhs, which shall be subject to the result of the writ petition. Pursuant to the interim order, the respondent Shipping Corporation of India remitted Rs.2,67,270/- (after deduction of income tax) to the bank account of the appellant. However, when the writ petition was taken up for hearing, the High Court took the view that no cause of action, not even a fraction of cause of action, has arisen within its territorial jurisdiction. “

50. In view of the aforesaid proposition of law mentioned hereinabove, if that proposition is applied to the present case it appears from the fact that Staff Selection Commission, Banglore, issued an advertisement prescribing the qualification, the notification was also published in the State of Bihar. The petitioner applied for the post, annexing his caste certificate. Accordingly, preliminary test was conducted at Allahabad and after clearing preliminary test, the petitioner appeared in the final written test,

which was conducted at Lukhnow. As the petitioner did not produce his proper caste certificate, he was communicated his that he was not selected. In such view of the matter, all the action can be said integral part of cause of action or part thereof has not been taken place in the State of Bihar. Either it has taken place in the State of Karnataka from where the Notification was published or in the state of U.P. where the petitioner has appeared either in the preliminary test or in the final written test. Mere service of notice does not create any cause of action or any fraction cause of action with this Court to entertain this petition.

51. In such view of the matter, this Court finds that it has no territorial jurisdiction to entertain the present writ petition. Accordingly, this petition is dismissed. However, liberty is given to the petitioner that he may approach to the appropriate High Court for redressal of his grievance.

52. With the aforesaid observations and this petition is dismissed.

(Shivaji Pandey, J)

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