

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1880/2015

Rahul Kisnaji Telang

...Versus...

Government of India through Secretary, Ministry of HRD, New Delhi and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Petitioner in person
Shri R.D. Dharmadhikar, Advocate for respondent nos.2 to 4

**CORAM : SMT. VASANTI A. NAIK AND
A. S. CHANDURKAR, JJ.**

DATE : 23.02.2016

By this petition, the petitioner seeks a direction to the respondents to pay 12% penal interest on the delayed payment of retiral dues.

The petitioner was working as a teacher in Kendriya Vidyalaya No.1 at Vasco – Goa during the period from 1993 to 2005. Disciplinary proceedings were initiated against the petitioner under Section 14 of the Central Civil Services Conduct Rules, 1965 and the punishment of compulsory retirement from service was imposed upon him. After the petitioner was relieved from duty on imposition of major penalty, the petitioner submitted the pension papers to the Principal, Kendriya Vidyalaya at Raichur - Karnataka as the petitioner was lastly posted at Raichur - Karnataka, when the major penalty was imposed. The Principal of Kendriya Vidyalaya at Karnataka had forwarded the pension papers of the petitioner to the respondent no.4 – Deputy Commissioner, Kendriya Vidyalaya Sangathan, Regional Office at

Bangalore. Though pension was denied to the petitioner for some time, ultimately the pension was sanctioned to the petitioner and the petitioner was paid the pension and gratuity in the year 2014. Since according to the petitioner, the respondents were liable to pay the interest on the delayed payment of pension and the other retiral dues, the petitioner made a representation to the respondent no.4 – Regional Office at Bangalore for payment of interest. By the communication, dated 19.8.2014 the petitioner was informed that he was not eligible for any interest on delayed payment of the retiral dues. On receiving the aforesaid communication, the petitioner has filed the instant petition seeking the aforesaid relief.

Shri Dharmadhikari, the learned Counsel for the respondent nos.2 to 4 has raised a preliminary objection to the maintainability of the writ petition in the Nagpur Bench of the Bombay High Court. It is stated that no part of cause of action has arisen within the territorial jurisdiction of the Bombay High Court, Bench at Nagpur. It is stated that the disciplinary proceedings were initiated against the petitioner when he was posted at Vasco – Goa and the punishment of compulsory retirement from service was imposed upon him when he was lastly posted at Raichur - Karnataka. It is stated that the petitioner had addressed the communications for seeking the pensionary and other retiral benefits to the Principal, Kendriya Vidyalaya, Vasco and the respondent no.4 – Deputy Commissioner Regional Office, Bangalore. It is stated that the Kendriya Vidyalaya Sangathan runs approximately 1102 Vidyalayas including three Vidyalayas outside India and an aggrieved person would be liable

to file the proceedings before the appropriate Court or Forum, within whose jurisdiction the cause of action or a part of cause of action would arise. It is submitted that Kendriya Vidyalayas at Vasco – Goa and Raichur - Karnataka are under the control of the respondent no.4 – Deputy Commissioner Regional Office, Bangalore and in the aforesaid set of facts, it cannot be said that any part of cause of action has arisen within the territorial jurisdiction of the Nagpur Bench. It is stated that the Hon'ble Supreme Court has held in the judgment, reported in **(2007) 11 Supreme Court Cases 335** that mere service of communication on the aggrieved person at a particular place cannot be said to be an essential, integral or material fact so as to constitute a part of cause of action within the meaning of Article 226 (2) of the Constitution of India. The learned Counsel sought for the dismissal of the writ petition.

In reply, the petitioner who appears in person relied on the provisions of Article 226 of the Constitution of India. The petitioner further relied on the judgments of the Hon'ble Supreme Court, reported in **AIR 1961 SC 532** and **1994 (4) SCC 711** to substantiate his submission that a part of cause of action would arise within the jurisdiction of the Nagpur Bench. It is stated that the petitioner has decided to reside in Hinganghat after retirement and therefore, a part of cause of action would arise at Hinganghat where the petitioner has started residing after his retirement. It is, however, admitted that the petitioner lastly resided at Vasco – Goa and Raichur - Karnataka before he was compulsory retired from service and the petitioner had addressed all the communications for seeking the pensionary and other

retiral benefits to the Principals of Kendriya Vidyalaya at Vasco and Raichur and also to the respondent no.4 – Deputy Commissioner, Regional Office at Bangalore.

On hearing the respective parties, it appears that there is much force in the preliminary objection raised on behalf of the respondent nos.2 to 4 to the maintainability of the writ petition at the Nagpur Bench of the Bombay High Court. It is not in dispute that the petitioner was serving at Goa and Karnataka, which fall within the administrative jurisdiction of the respondent no.4 – Deputy Commissioner, Regional Office at Bangalore. The disciplinary proceedings were initiated against the petitioner when the petitioner was at Goa. At the time of culmination of the disciplinary proceedings and imposition of the penalty, the petitioner was posted at Raichur - Karnataka. Hence, though the petitioner decided to reside in Hinganghat, District : Wardha after his retirement, the cause of action for filing the writ petition cannot be said to have been arisen at Hinganghat. After he was compulsory retired from service, the petitioner addressed the communications, for seeking pensionary and other retiral benefits to the Principals of Kendriya Vidyalaya at Vasco – Goa and Raichur – Karnataka. The petitioner also addressed some communications to the Deputy Commissioner, Kendriya Vidyalaya Sanghatan at Bangalore as the said authority has control over the Kendriya Vidyalayas at Vasco and Raichur. The decision to grant pensionary benefits to the petitioner was taken by the respondent – Deputy Commissioner at Bangalore. Merely because the petitioner received the communication in respect of his proposal for grant of pensionary benefits at Nagpur or Hinganghat, it

cannot be said that a part of cause of action would arise within the Nagpur Bench of the Bombay High Court. At least, the judgments, reported in *AIR 1961 SC 532* and *1994 (4) SCC 711* and relied on by the petitioner do not support the case of the petitioner. Mere service of the communication on the aggrieved person at a particular place would not be an integral part of cause of action. It would be necessary to refer to the judgments of the Hon'ble Supreme Court, reported in *(2004) 9 SCC 786* and *(2007) 11 SCC 335* in this regard. In the facts of the aforesaid cases, the rejection of the proposal of the petitioners was conveyed to the petitioners at a place within the jurisdiction of the respective High Courts, where the writ petitions were filed. The Hon'ble Supreme Court held that merely because the reply to the correspondence was received at Calcutta or Chandigarh in the cases reported in 2004 and 2007 respectively, the Calcutta High Court and the Punjab and Haryana High Court would not have jurisdiction to entertain and decide the writ petitions, when no part of cause of action arose within the jurisdiction of the said High Courts. We find on a reading of the two aforesaid judgments that this Court would not have jurisdiction to entertain and decide the writ petition filed by the petitioner.

Hence, by upholding the preliminary objection raised on behalf of the respondent nos.2 to 4, we dismiss the writ petition with no order as to costs. The petitioner is, however, at liberty to file proceedings before the appropriate forum.

JUDGE

Wadkar

JUDGE