

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.644 of 2015

In

Civil Writ Jurisdiction Case No.6286 of 2014

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Dular Chand Ram Son of Late Jageshwar Ram Resident Of Village + P.O.
+P.S.- Piro, District - Bhojpur At Ara.

... .. Appellant/s

Versus

1. The Union of India through the Secretary, Ministry of Home Affairs, Government of India, New Delhi
2. The Director General of Police, C.I.S.F., New Delhi
3. The Inspector General, Central Industrial Security Force, North East Zone, Kasba, Kolkata, West Bengal
4. The Deputy Inspector General, Central Industrial Security Force, Head Quarter , North East Zone, Kasba, Kolkata, West Bengal
5. The Group Commandant, Central Industrial Security Force, Group Hqrs Mrd Road, Bamuni Maidan, Gawahati - 21
6. The Dy. Commandant, Central Industrial Security Force, Unit B.R.P.L., Bongaigoan, Assam

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Mahendra Thakur
Mr. Jai Kishor Poddar
For the Respondent/s : Mr. Satyavrat Verma, CGC

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN

SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE JYOTI SARAN)

Date : 05-03-2018

The writ petitioner is before this Court feeling aggrieved by the judgment and order of the learned Single Judge, passed in CWJC No. 6286 of 2014, whereby the writ petition was dismissed for want of territorial jurisdiction.

2. It is on a preliminary objection raised by the learned



Central Government Counsel that the learned Single Judge in reference to the judgment of this Court in the case of **Amar Kumar Choubey vs. Union of India** reported in **2009 (1) PLJR 553** and rendered in the case of **Uday Prasad Singh vs. Union of India** reported in **2014 (3) PLJR 3**, has been pleased to dismiss the writ petition on the ground of maintainability and lack of territorial jurisdiction but alongside gave liberty to the writ petitioner to move the appropriate court for assailing those orders.

3. The bare essential facts leading to the order of the learned Single Judge impugned herein, is that the petitioner in service of the Central Industrial Security Force (hereinafter referred to as 'the CISF') was dismissed from service while posted at Bongaigaon in the State of Assam, vide order passed on 14.08.2016. He preferred a statutory appeal under the Service Rules which again was dismissed by the Deputy Inspector General, CISF, Kolkata, West Bengal, vide order passed on 13.10.2006. The revision application of the petitioner was also rejected vide order passed on 08.11.2013 by the Inspector General, CISF, Kolkata. While the termination order was served on the petitioner at Bongaigaon, Assam, the appellate order and



the revisional order(s) were communicated to him at his village home in the district of Bhojpur, Ara and it is drawing strength from such service that he preferred the writ petition as according to him, the service of the appellate and the revisional orders at his home village constituted part cause of action to maintain the writ petition within the jurisdiction of this Court. The plea raised by the writ petitioner has been rejected by the learned Single Judge on the ground of maintainability and lack of territorial jurisdiction. The writ petition was dismissed while preserving liberty for the petitioner to take recourse before the appropriate forum but feeling aggrieved, he is before this Court.

4. We have heard Mr. Mahendra Thakur, learned counsel, appearing for the appellant-writ petitioner and Mr. Satyavrat Verma, learned counsel, appearing for the Union of India and we have perused the judgments relied upon by the learned Single Judge to record his opinion.

5. While it is not in dispute that a cause of action consists of a bundle of facts and in the event that a part thereof, arises within the jurisdiction of a particular court, it may provide a cause of action for the aggrieved person to



maintain a writ petition before the said Court. There is no dispute on the principles so well-settled. However, as to what would constitute a cause of action to maintain a proceeding, is to be considered in context with the facts accompanying a particular case. Neither such circumstances are capable of a precise definition nor can it be articulated through any list howsoever exhaustive, it may be.

6. Considering the issue of territorial jurisdiction against the undisputed facts, it is admitted that whereas the dismissal order was served on the appellant at Bongaigaon, the appellate and revisional order was served at his village home. It is well-settled that while an order of dismissal passed by a competent authority takes effect from its very issuance but its consequences fall on the service of the dismissal order and thus the cause of action for a delinquent for the purposes of territorial jurisdiction arises on its delivery upon him. The choice lies with the delinquent whether to question the same before the Court having territorial jurisdiction: (a) at the place of issuance; or (b) at the place of delivery.

7. The position in the case of an appellate or a revisional



order is, however, different for even though it provides a cause of action for maintaining a lawful remedy, its delivery does not provide a cause for the purpose of territorial jurisdiction because the consequences has taken place on its rejection.

8. The judgment in case of **Uday Prasad Singh** (supra) rendered by one of us (Mr. Chakradhari Sharan Singh, J.), relied upon by the learned Single Judge, is on identical facts where the dismissal order was served on the delinquent at Burdwan in the State of West Bengal. However, since the appellate order and the revisional order was received by him at his home village in the district of Munger, that it persuaded him to file the writ petition before this Court. It is on appreciation of the stipulation present under Article 226 of the Constitution of India as also the judgments rendered by the Supreme Court on the issue as to what would constitute ‘a cause of action, to invoke the jurisdiction of any Court that it was concluded at paragraph 26 as under:-

“Having considered the submissions advanced by learned senior counsel appearing on behalf of the petitioners with reference to the judgment of the



Apex Court as well as this court, I am of the view that:- (i) Communication of an order/notice would constitute the accrual of part of the cause of action where the consequence of the order is to fall, (ii) Communication of rejection of appeal or revision against the order of dismissal from service of an employee will not amount to cause of action as its consequence does not fall at the place of communication and that cannot be a ground for the High Court to exercise its jurisdiction under Article 226 of the Constitution of India.”

9. Similar view is taken by a Division Bench of this Court in case of **Amar Kumar Choubey vs. Union of India** (supra), in consideration of a claim for invalid pension. It is since the representation was rejected and communicated at his village home in the district of Saran which was questioned before this Court. The writ petition was dismissed on the ground of maintainability and the judgment of the learned Single Judge was affirmed by the Division Bench.

10. For the discussions above, we find no reason to differ with the opinion of the learned Single Judge which is in tune with the legal position settled and since liberty is



already present therein for the petitioner to move appropriate forum, we find no reason for any modification therewith either.

11. The Letters Patent Appeal is accordingly dismissed but without any order as to costs.

(Jyoti Saran, J)

(Chakradhari Sharan Singh, J)

HR/-

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