

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No. 2758 of 2004

ORDER:

This writ petition is filed seeking to issue a writ of mandamus declaring the proceedings of the 2nd respondent dated 22.08.2002 imposing the penalty of dismissal from service upon the petitioner as confirmed by the 3rd and 4th respondents vide proceedings dated 24.03.2003 and 25.08.2003 respectively, as unjust, unreasonable, unlawful and ultra vires.

Heard Sri B. Srinivasa Rao, learned counsel for the petitioner, and Sri G. Rama Rao, learned counsel for the respondents.

It is the case of the petitioner that he was appointed as Constable in Central Reserve Police Force in the year 1990 and posted to 2nd respondent unit after initial training. While he was discharging his duties, during December 2001, on his application, he was granted leave for 30 days which was, thereafter, extended up to 10.01.2002 on the ground that his father was suffering from ill health. His leave was extended from time to time and, finally, he joined duty on 16.03.2002. Subsequently, he came to know that a non bailable warrant had been issued by the 2nd respondent against him and the 2nd respondent initiated departmental enquiry. The Enquiry Officer in his report dated 22.06.2002 gave a finding that the charges leveled against him stood proved. During the departmental enquiry, he was suspended from service. Thereafter, a show cause notice was issued to him on 26.06.2002 for which he submitted explanation. Not being satisfied with his explanation, the 2nd respondent dismissed him from service vide order dated

22.02.2002. Aggrieved by the same, he unsuccessfully preferred an appeal and a revision before the 3rd and 4th respondents respectively. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner has contended that the petitioner was not provided with any opportunity of hearing and thereby his right to substantiate his defence has been denied and that the petitioner herein hails from Guntur District of the State of Andhra Pradesh which falls within the territorial jurisdiction of this Court. He further contended that the petitioner had absented from duty over the sanctioned leave and the punishment of dismissal from service is shockingly disproportionate to the charges leveled against him.

Per contra, learned counsel for the respondents has contended that the report of the Enquiry Officer was provided to the petitioner by the disciplinary authority giving him 15 days time for submission of representation, if any, and thus, the allegation that the petitioner was not provided sufficient time, is baseless and beyond truth. It is also contended that this writ petition is not maintainable on the ground of territorial jurisdiction of this Court as no cause of action had arisen within the jurisdiction of this Court, and that the dismissal order was passed in Jammu and Kashmir and the appellate authority and the revisional authority had considered the appeal and the revision preferred by the petitioner outside the jurisdiction of this Court and, therefore, this Court lacks territorial jurisdiction.

I have considered the submissions made by the counsels on either side and perused the record. I am of the view that the petitioner did not plead that a part of cause of action had arisen in the State of Andhra Pradesh and the impugned orders were communicated in the State of Andhra Pradesh so as to file a writ petition.

The learned counsel for the petitioner has drawn the attention of this Court to a judgment rendered by the Hon'ble Supreme Court in *Kusum Ingots and Alloys Limited Vs. Union of India*¹ wherein the Hon'ble Supreme Court has considered the issue of territorial jurisdiction by quoting its earlier judgment in *Oil and Natural Gas Commission Vs. Utpal Kumar Basu (1994 (4) SCC 711)* which reads as follows:

“The question as to whether the Court has a territorial jurisdiction to entertain a writ petition, must be arrived at on the basis of averments made in the petition, truth or otherwise thereof being immaterial.”

The Hon'ble Supreme Court also considered its another judgment in *Union of India Vs. Adani Exports Limited (2002 (1) SCC 567)* which reads as follows:

“In order to confer jurisdiction on a High Court to entertain a writ petition it must disclose that the integral facts pleaded in support of the cause of action do constitute a cause so as to empower the Court to decide the dispute and the entire or a part of it arose within its jurisdiction.”

A perusal of the observations made by the Hon'ble Supreme Court in the afore-stated judgments would make it crystal clear that the integral facts

¹ (2004) 6 SCC 254

pleaded in support of the cause of action do constitute a cause of action to file a case and the entire or a part of it arose within the jurisdiction of the High Court. But, in the instant case, nowhere it is pleaded in the writ affidavit or in the grounds that a part of cause of action had arisen in the State of Andhra Pradesh so as to entertain the present writ petition by this Court. Therefore, the judgment relied on by the petitioner is not applicable to the present case, and without going into the merits of the case and other contentions raised by the petitioner, the writ petition is liable to be dismissed for want of territorial jurisdiction.

Accordingly, the writ petition is dismissed. However, liberty is given to the petitioner to pursue his remedy before the appropriate forum having territorial jurisdiction. Since the petitioner has been pursuing his remedy in a wrong forum all these years, the same may not be put against him for the purpose of limitation.

Consequently, miscellaneous petitions, if any, pending in the writ petition shall stand closed. No order as to costs.

ABHINAND KUMAR SHAVILI, J

11th October, 2018
cbs

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