

In the High Court of Punjab and Haryana, at Chandigarh

Civil Writ Petition No. 17779 of 2018

Date of Decision: 12.09.2018

Narayan Singh

... Petitioner(s)

Versus

Union of India and Others

... Respondent(s)

CORAM: Hon'ble Mr. Justice Shekher Dhawan.

Present: Mr. Pawan Kumar Sharma, Advocate
for the petitioner(s).

Shekher Dhawan, J.

Present writ petition is challenge to the orders dated 05.10.2004 (Annexure P2), 08.06.2012 (Annexure P9), 18.06.2012 (Annexure P10) & 06.11.2017 (Annexures P17), respectively, declining to grant the seniority and minority benefits to the petitioner after reinstating in the service on the basis of order passed by the High Court of Uttarakhand at Nainital in *Narayan Singh v. Commandant 17th Indo Tibetan Border Police Force, 17th Battalion, Pithoragarh & Another (Writ Petition No. 338 of 2002, decided on 04.08.2004)*, vide which termination order was found to be illegal and having been set aside.

As per petitioner, he had joined Indo Tibetan Border Police Force in the year 1986 and he was dismissed from service, which was challenged by him in CWP-338-2002 and his dismissal order was set aside by the Hon'ble Division Bench of the High Court of Uttarakhand at Nainital

on 04.08.2004. Petitioner was reinstated and now he has challenged the orders dated 05.10.2004 (Annexure P2), 08.06.2012 (Annexure P9), 18.06.2012 (Annexure P10) & 06.11.2017 (Annexures P17), respectively, before this Court.

Having considered the submissions made by learned counsel for the petitioner and having put a question about the jurisdiction of this Court to set aside the impugned orders because none of the impugned orders, challenged in the present writ petition, was passed in the territorial jurisdiction of this Court and at present petitioner is posted in the territorial jurisdiction of the High Court of Uttarakhand at Nainital.

Learned counsel for the petitioner contended that such an order can be challenged in either of the High Courts. On this point, reliance has been placed upon the judgment rendered by the Hon'ble Division Bench of this Court in *Shrimati Premwati v. Union of India and Others 2008(2) S.C.T. 252* and also the judgment rendered by the High Court of Uttarakhand at Nainital in *Kirpal Singh Bankoti v. Union of India and Another 2012(2) U.D. 596*.

This Court has considered the submissions made by learned counsel for the petitioner on the point of jurisdiction and also considered the view taken by the Hon'ble Division Bench of this Court and the High Court of Uttarakhand at Nainital and of the considered view that facts of the case in hand are entirely distinguishable because in the present case, orders under challenge were never passed within the territorial jurisdiction of this Court and at present petitioner is posted in the territorial jurisdiction of the High Court of Uttarakhand at Nainital. Petitioner has failed to show as to what

part of cause of action has accrued in this Court. Similar matter was before the Hon'ble Division Bench of this Court in ***Rajesh Goyal v. Bharat Petroleum Corporation Limited 2013(3) S.L.R. 787***, wherein a view was taken that if the Court does not have the territorial jurisdiction to entertain the writ petition on the ground that the order under challenge was not passed in the territorial jurisdiction of this Court, the writ petition is not maintainable and liberty was granted to the petitioner to approach the Court of competent jurisdiction. Identical matter was before the co-ordinate Bench of this Court in ***Mohan Singh and Others v. Union of India and Others 2011(22) S.C.T. 683***, wherein it was observed as under:-

“9. Not only this, the petitioners have not been able to cross the hurdle staring at them directly about the territorial jurisdiction of this Court to entertain this plea as no cause of action has arisen under the territorial jurisdiction of this Court and also none of the petitioners are shown to be presently serving in the territorial jurisdiction of this Court. The petitioners have, thus, totally abused the process of Court and have been able to stall the process of valid selection, for which very cogent and viable justification has been offered to change the eligibility criteria.”

Identical view was also taken by the High Court of Uttarakhand at Nainital in ***Mahesh Chandra Bhatt v. Union of India ad Others 2011(26) S.C.T. 580***.

In view of the observations made by the Hon'ble Division

Bench of this Court in ***Rajesh Goyal's case (supra)***; the co-ordinate Bench

of this Court in *Mohan Singh's case (supra)* and the High Court of Uttarakhand at Nainital in *Mahesh Chandra Bhatt's case (supra)* and facts of this case, present writ petition is not maintainable before this Court because there is no territorial jurisdiction of this Court to entertain and decide the controversy. Hence, present writ petition stands dismissed with liberty to the petitioner to approach the Court of competent jurisdiction, if so desire.

(Shekher Dhawan)
Judge

September 12, 2018
“DK”

Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No