

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4457 of 2015

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Babu Ram Kashyap Son of Late Sri Beer Singh resident of E - 6/12, Adarsh Vihar Latowalli, Kankhal, Haridwar, Police Station - Kankhal, District - Utrakhand

... .. Petitioner/s

Versus

1. The Syndicate Bank
2. The Executive Director, Syndicate Bank, Manipal Banglore, Karnatka
3. The Regional Manager, Syndicate Bank, Regional office, Maurya Tower, Maurya Lok Complex, Patna 8000

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr.Anand Kumar Ojha
		Mr. Ashok Kumar Karn
For the Respondent/s	:	Mr.Siddharth Harsh

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CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL JUDGMENT

Date : 19-04-2019

Heard Mr Anand Kumar Ojha for the petitioner as well as Mr. Siddharth Harsh for respondent no.3.

Petitioner has challenged the award of punishment of lowering by two stages for three years and for the said period, he will be deprived of any increment. It is also ordered that this reduction will have the effect of postponing his future increments.

The writ petition was filed in the year 2015 and counter affidavit was filed recently on 13.8.2018. On 20.8.2018, petitioner's counsel sought time to file rejoinder. Having regard to the fact that disciplinary proceeding was subject matter of the case this court, in order to facilitate detailed consideration, admitted the matter for hearing recently on 20.8.2018. Thereafter, matter has come up after completion of pleadings of the respective parties.



At the very outset, counsel for the Bank raises a preliminary objection regarding maintainability of the instant proceeding for want of territorial jurisdiction. It is submitted by counsel for the Bank that entire allegation pertains to a period when petitioner was working as senior Branch Manager/Chief Manager at Meerut city. The relevant period was between 12.6.2003 to 17.5.2007. Abuse of official position has been alleged in the disciplinary proceeding while working in Meerut Main branch which falls within territorial jurisdiction of a different State. The entire departmental proceedings are admittedly conducted in the city of Meerut. On 29.5.2014 petitioner had filed his appeal before the Appellate Authority and during subsistence of his appeal, petitioner was allowed voluntary retirement from service of the bank on 01.10.2014. Voluntary retirement was allowed to the petitioner with certain stipulations and conditions that the bank retains its right to proceed against the petitioner for any loss occasioned to the bank attributable to his service.

The appellate order was passed on 15.11.2014. Even the order of the appellate authority or consideration of the appeal is not within the territorial jurisdiction of this court.

Counsel for the petitioner submits that since this court has allowed respondent-bank opportunity to place on record its



counter affidavit objection regarding want of territorial jurisdiction of this court should not be entertained. It is submitted that the petitioner was communicated the inquiry report as well as order of the disciplinary authority at Patna and since various communications in course of inquiry including charge memo was communicated to the petitioner at Patna, this writ petition would be maintainable before this High Court.

In support of his submissions, counsel for the petitioner places reliance on the decision of the Apex Court in the case of L.Hirday Narain vs. Income Tax Officer, Bareilly reported in AIR 1971 SC page 33. The case referred to by the petitioner is in respect of a situation where High Court exercising jurisdiction under Article 226 of the Constitution of India has refused to exercise its discretion by relegating petitioner to avail alternative statutory remedy.

The judgment in the case of L. Hirday Narain (supra) relied upon by petitioner in support of his first submission, therefore, in the opinion of this court, can not sustain to get over the objection raised by counsel for the bank for want of territorial jurisdiction in the instant case. In the instant case preliminary objection has been taken for lack of jurisdiction and not on the ground of alternative statutory remedy.



As regards other submissions regarding service of communication at various stages in the enquiry, this court is reminded of the judgment of the Apex Court in the case of Union of India & others vs. Adani Exports Ltd & another reported in (2002) 1 SCC 567 as well as later judgment in the case of Alchemist Ltd & another vs. State Bank of Sikkim & others reported in (2007) 11 SCC 335 whether communication at various stages would be considered to constitute part of cause of action in the instant case is to be seen in the background of law laid down by the Apex Court.

As regards cause of action for exercise of jurisdiction by the court under Article 226 of the Constitution of India, pronouncement of the Apex Court in the said two judgments substantially is to the extent that what constitutes cause of action in a particular case will depend on the issue which fall for consideration in a proceeding under Article 226 of the Constitution.

In the instant case, this court observes that service of communication at various stages of the proceeding upon the petitioner while he was at Patna is not an integral part of the cause of action which falls for consideration in the instant case. The entire proceedings before the Enquiry Officer, Disciplinary



Authority, as well as Appellate authority which are in issue have taken place beyond the territorial jurisdiction of this case and not even a part thereof has taken place within the territorial jurisdiction of this court. Some correspondence in between does not constitute a part of cause of action within the meaning of clause (2) of Article 226 of the Constitution. Merely because some communications had been sent at various stages in the proceeding which communications are not integral parts to the issue before the Inquiry Officer or Appellate Authority would not confer the jurisdiction to this court to exercise jurisdiction under Article 226 of the Constitution of India.

This court, therefore, would accept preliminary objection regarding want of territorial jurisdiction raised by counsel for the respondent bank. Accordingly, this writ petition is dismissed. Petitioner would be at liberty to avail remedy before the court of competent jurisdiction in accordance with law.

(Madhuresh Prasad, J)

s.hassan/-

AFR/NAFR	AFR
CAV DATE	NA
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