

10&11
22.09.2021
TN

W.P.C.T. No. 152 of 2019
IA No: CAN 1 of 2020
(Old No: CAN 1389 of 2020)

Hifzur Rahman and others
Vs.
Union of India and others

With

W.P.C.T. No.151 of 2019
IA No: CAN 1 of 2020
(Old No: CAN 1388 of 2020)

Ramjit Singh and others
Vs.
Union of India and others

Mr. Partha Sarathi Bhattacharyya,
Mr. Saikat Chatterjee,
Mr. Raju Bhattacharyya

.... for the petitioners

Mr. Sundarananda Pal,
Mr. Lakshmi Kanta Pal,
Mr. Bandhu Brata Bhula

.... for the respondents

Liberty is granted to the learned Advocate-on-record for the respondents to amend the back-sheet and the cause-title of the affidavits-in-opposition filed in court today, thereby correcting the erroneous statement that those are replies, and the same be kept on record.

The present challenge has been directed against an order passed by the Kolkata Central Administrative Tribunal whereby the tribunal held that it did not have

the territorial jurisdiction to entertain the original application of the writ petitioners.

Learned senior counsel appearing for the petitioners argues that one of the vital components of the bundle of facts, which comprised the cause of action for the original application before the tribunal, is a copy of the minutes of a meeting dated November 23, 2015, which indicated that the same was held in Kolkata, that too, pursuant to an order dated November 15, 2015 by a Division Bench of this High Court in W.P.C.T. No.207 of 2015.

It is pointed out that, at the relevant point of time when the application was taken out before the tribunal, the Head Office of SAIL was situated in Kolkata.

Learned senior counsel further argues that, taking as a whole the bundle of facts which comprises the cause of action of the proceeding, a part of the cause of action, at least, arose in Kolkata, as indicated above. As such, the Kolkata Tribunal had territorial jurisdiction to decide the matter.

Learned counsel relies on the following judgments in support of his contentions, to elaborate the meaning of cause of action in the light of Section 20 (c) of the Code of Civil Procedure:

- (i) (2014) 9 SCC 329 (*Nawal Kishore Sharma vs. Union of India & Ors.*)

(ii) (2010) 1 SCC 456 (*Rajendran Chingaravelu vs. R.K. Mishra, AC of IT & Ors.*)

Learned senior counsel appearing for the respondents argues that the primary cause of action of the proceeding before the tribunal was a challenge to the Memorandum dated November 4, 2016, which is annexed at page-206A of the instant writ petition.

It is submitted that not only were the present petitioners employees of the Colliery Division in Chasnalla, Bihar, they retired from the same place and the entire eligibility of the arrears as claimed by the petitioners is in respect of work done within the territorial jurisdiction of the Dhanbad tribunal.

Learned counsel places reliance on *Eastern Coalfields Ltd. & Ors. Vs. Kalyan Banerjee*, reported at (2008) 3 SCC 456, in order to explain the connotation of “cause of action”.

It is seen from the reliefs claimed in the original application filed before the tribunal that the primary relief was relief (b), which prayed for a direction to set aside and/or quash and/or cancel the impugned Circular dated November 04, 2016 issued by the Respondent Authority.

The subsequent reliefs were consequential and ancillary to the primary relief, since, the latter reliefs were dependent on the outcome of the decision on relief (b).

To appreciate in proper light the oft-used expression “bundle of facts”, which gives rise to a cause of action, we have to go one step further in order to analyze the connotation of the expression “cause of action” itself. A cause for any legal action can only arise when a legal right of the plaintiff/applicant is infringed. Whatever facts comprise of such infringement would comprise the bundle of facts which, in turn, becomes the cause of action for the suit. There may be a chain of events which lead to such infringement, which gave rise to the concept of cause of action being a bundle of facts.

However, the plaintiff/original application also has to necessarily plead the basis on which the plaintiff/applicant was conferred the legal right, which was alleged to be infringed. Even the statement of the mode of conferment of legal right of the plaintiff/applicant cannot, by any stretch of imagination, be construed as a part of the cause of action, since the same is the plinth upon which the plaintiff/applicant bases her/his right in order to allege the subsequent infringement which are sought to be remedied by way of the reliefs sought in the proceeding.

In the present case, even if a co-ordinate Bench of this court had assumed jurisdiction in deciding a previous application relating to the payment of arrears of the petitioners, the same was an event prior to the cause of action having arisen in respect of the present litigation. Rather, the order dated November 15, 2015 finds a mention in the minutes dated November 23, 2015 (annexed at page-205 of the writ petition), which, according to the petitioners, conferred a legal right on the petitioners which was infringed by the Memorandum dated November 4, 2016. However, the latter was issued from Chasnalla, which falls within the jurisdiction of the State of Bihar and not West Bengal.

As such, since the entitlement of the petitioners regarding the claim of arrear wages made by them as well as the connected events, which comprise the cause of action, arose entirely within the territorial jurisdiction of Chasnalla, Bihar, mere reference to the minutes dated November 23, 2015 or anything conferring right on the petitioners cannot be considered even to be a part of the cause of action for the purpose of ascertaining whether the tribunal had territorial jurisdiction.

In such view of the matter, W.P.C.T. No.151 of 2019 along with W.P.C.T. No.152 of 2019 are dismissed on contest, by affirming the order of the tribunal holding

that it did not have territorial jurisdiction to entertain the claim of the petitioners.

IA No: CAN 1 of 2020 (Old No: CAN 1388 of 2020) and CAN 1 of 2020 (Old No: CAN 1389 of 2020) are disposed of accordingly.

However, it is made clear that the merits of the claims of the petitioners have not been gone into at all by this court and/or the tribunal and the observations made herein and in the impugned order shall not influence any competent tribunal having territorial jurisdiction to take up such claim while adjudicating the matter, if initiated by the petitioners before the appropriate tribunal having territorial jurisdiction in the matter.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)

(Jay Sengupta, J.)