

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.8322 of 2020 (O&M)
Date of decision: 29.07.2020

State Bank of India and anr.

... Petitioners

Versus

Presiding Officer, Central Government Industrial
Tribunal-cum-Labour Court-I, Chandigarh and anr.

... Respondents

CORAM: HON'BLE MRS. JUSTICE REKHA MITTAL

Present : Ms. Madhu Dayal, Advocate for the petitioners.

Mr. Puneet Gupta, Advocate for respondent No.2.

REKHA MITTAL, J. (Oral)

Challenge in the present petition has been directed against award dated 09.07.2019 (Annexure P1) and order dated 25.09.2018 (Annexure P2). The petitioners pray for issuance of writ of certiorari for setting aside Annexures P1 and P2.

A brief backdrop of the case is that respondent No.2, an employee of petitioner bank was chargesheeted in respect of articles of charge, detailed in para 10 of the petition. On conclusion of disciplinary proceedings, the authority vide order dated 06.11.2013 imposed penalty of dismissal from service without notice. Conciliation proceedings were initiated by the Assistant Labour Commissioner (Central) but could not be concluded. Respondent No.2 filed a claim petition under Section 2A(2) of the Industrial Disputes Act, 1947. The Tribunal vide order dated 18.02.2016 framed issues on fairness of inquiry. Respondent No.1 passed

award dated 09.07.2019 (Annexure P1) holding that none of the charges except charge No.1 is proved against respondent No.2. Respondent No.1 modified punishment of dismissal to compulsory retirement with all consequential benefits.

Counsel for respondent No.2 raised a preliminary objection qua jurisdiction of the Court, noticed in order dated 02.07.2020. A relevant extract therefrom, reads as follows:-

Upon Mr. Puneet Gupta, learned counsel for respondent no.2 having raised a preliminary objection on the jurisdiction of this court to entertain this matter in view of the fact that the petitioner bank as also respondent no.2 are actually located/residing in Himachal Pradesh, with the matter having been decided by the Industrial Tribunal, Chandigarh, only because the Tribunal functions from Chandigarh, (having jurisdiction over the States of Punjab, Haryana and Himachal Pradesh as also the U.T. Chandigarh), Mrs. Dayal, learned counsel for the petitioners, on the other hand relies upon judgments of the Supreme Court as also of the Madhya Pradesh High Court, in State Bank of India and another v. Bela Bagchi and others 2005 AIR (SC) 3272, U.P. State Road Transport Corporation v. Vinod Kumar 2008(1) SCC 115, U.B. Gadhe & Ors. Etc. v. G.M., Gujarat Ambuja Cement Pvt. Ltd. 2007 (13) SCC 634, Cement Workers' Mandal v. Global Cements Ltd. (HMP Cements Ltd.) & Ors. AIR 2019 SC 1163, M/s Kusum Ingots & Alloys Ltd. v. Union of India and another 2004 (2) RCR (Civil) 720 and State of Madhya Pradesh v. Deepak Sharma (Law Finder Doc Id # 1363655).

Mr. Gupta on the other hand submits that most of the judgments have been duly considered by a Division Bench of

this court in CWP no.11890 of 2008, decided on May 24, 2010.

For learned counsel for the parties to go through the judgments in detail and to address arguments thereafter, adjourned to 08.07.2020.

Counsel for respondent No.2 would argue that Industrial Tribunal-cum-Labour Court-I, Chandigarh exercises jurisdiction qua States of Punjab, Himachal Pradesh and Union Territory of Chandigarh. It is argued that merely because the case has been decided by the Industrial Tribunal-cum-Labour Court-I, Chandigarh, the same is not sufficient to confer writ jurisdiction upon the Court at Chandigarh. It is argued that respondent No.2 remained posted in the State of Himachal Pradesh; served with chargesheet there and order of dismissal was passed by competent authority in that State. It is vehemently argued that since all the proceedings starting from preliminary inquiry till culmination of disciplinary proceedings were conducted in the State of Himachal Pradesh and even the petitioners have their offices in the State of Himachal Pradesh, this Court lacks territorial jurisdiction to decide the instant writ petition. In support of his contention, he has heavily relied upon the Division Bench judgment of this Court **Union of India and others VS. Dheeraj Gupta and others, CWP No.11890 of 2008, decided on 24.05.2010.**

Counsel for the petitioners, on the contrary, would argue that even if a fraction of cause of action has accrued within the jurisdiction of this Court, the writ petition has rightly been filed before this Court. For this purpose, she has relied upon judgment of Hon'ble the Supreme Court **M/s**

Kusum Ingots & Alloys Ltd. Vs. Union of India and anr., 2004(2) RCR (Civil) 720. Counsel would argue that though the Division Bench of this Court in **Dheeraj Gupta and others's case (supra)** has noticed the judgment in **M/s Kusum Ingots & Alloys Ltd.'s case (supra)** but the Court has not taken into consideration para 23 of the judgment, reads as under:-

When an order, however, is passed by a Court or Tribunal or an executive authority whether under provisions of a statute or otherwise, a part of cause of action arises at that place. Even in a given case, when the original authority is constituted at one place and the appellate authority is constituted at another, a writ petition would be maintainable at both the places. In other words as order of the appellate authority constitutes a part of cause of action, a writ petition would be maintainable in the High Court within whose jurisdiction it is situate having regard to the fact that the order of the appellate authority is also required to be set aside and as the order of the original authority merges with that of the appellate authority.

She has relied upon judgment of Delhi High Court **Srishti School of Art, Design & Technology Vs. Chairperson, Central Board of Film Certification and anr., 2011(32) RCR (Civil) 795.**

Indisputedly, the entire proceedings that culminated in order of dismissal of respondent No.2 were conducted in the State of Himachal Pradesh. The petitioners are also having their offices in the State of Himachal Pradesh. Respondent No.2 is a resident of District Kangra within the State of Himachal Pradesh. There is no denial that no cause of action

accrued within the jurisdiction of this Court except that the dispute was decided by the Industrial Tribunal-cum-Labour Court-I, Chandigarh that has jurisdiction over States of Punjab, Himachal Pradesh and Union Territory of Chandigarh.

A similar issue came up for consideration before the Division Bench of this Court in **Dheeraj Gupta and others's case (supra)**. In that case, the Union of India invoked writ jurisdiction of this Court under Article 226 of the Constitution challenging order dated 13.09.2007 (Annexure P1 therein) passed by the Central Administrative Tribunal (J&K circuit), Chandigarh Bench at Chandigarh. On detailed consideration of submissions made by counsel for the parties while considering judgments of Hon'ble the Supreme Court **M/s Kusum Ingots & Alloys Ltd.'s case (supra)**, **Ambica Industries Vs. Commissioner of Central Excise, (2007) 6 SCC 769**, **Mayar (HK) Ltd. Vs. Owners & Parties Vessel MV Fortune Express, (2006) 3 SCC 100** and Division Bench judgment of Delhi High Court **M/s New Horizons Ltd. Vs. Union of India, AIR 1994 Delhi 126**, it was held that the High Court at Chandigarh has no territorial jurisdiction over the subject matter raised in the petition.

Counsel for the petitioners has sought to argue that since in **Dheeraj Gupta and others's case (supra)**, the Division Bench of this Court has not taken into consideration para 23 of judgment of Hon'ble the Supreme Court in **M/s Kusum Ingots & Alloys Ltd.'s case (supra)**, the judgment cannot be attracted in the given circumstances. This contention

raised by counsel for the petitioners is fallacious on the face of it. Perusal of para 23 of the judgment in **M/s Kusum Ingots & Alloys Ltd.'s case (supra)** reproduced hereinbefore leaves no manner of doubt that it was held therein, if the original authority is constituted at one place and the appellate authority is constituted at another, a writ petition would be maintainable at both the places. Counsel for the petitioners has failed to point out if in the instant case either the original authority or the appellate authority is constituted at Chandigarh or within the jurisdiction of Punjab and Haryana High Court to cover the instant case under para 23 of the aforesaid judgment. Taking into consideration the Division Bench judgment of this Court in **Dheeraj Gupta and others's case (supra)**, the petitioners cannot derive any advantage to their contention from the judgment of a Single Bench of Delhi High Court in **Srishti School of Art, Design & Technology's case (supra)**. In this view of the matter, there is no escape from conclusion that this Court has no territorial jurisdiction over the subject matter raised in the petition. Accordingly, the writ petitioners are relegated to invoke jurisdiction of the competent Court, in accordance with law.

Writ petition stands dismissed in the aforesaid terms.

29.07.2020

ashok

Whether speaking/reasoned:

Whether reportable:

(REKHA MITTAL)

JUDGE

Yes / No

Yes / No