

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11139 of 2018

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Ashutosh Ranjan, Son of Rajendra Prasad Sharma, R/o Mohalla- Vivekanand Colony Deodharpur, Near Raj Inter School, Tekari, Police Station- Tekari, District- Gaya.

... .. Petitioner/s

Versus

1. The Union Of India through Director General, CISF, New Delhi
2. Inspector General, CISF, NESHQRS, Kolkatta.
3. Deputy Inspector General, CISF Unit Oil, Duliajan, Assam.
4. Commandant CISF Unit Oil, Duliajan, Assam.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Ranjan, Advocate
For the Respondent/s	:	Mr. S.D Sanjay Addl. Soc. Gen. Mr. R.K. Sharma, CGC

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT
Date : 27-04-2022

Heard learned counsel for the parties.

2. In the instant petition, petitioner has prayed for the following relief/reliefs:

“That this writ petition has been preferred on behalf of the petitioner abovenamed for issuance of an appropriate writ, order or direction particularly in the nature of certiorari to quash the revisional order dated 3.4.2018 passed in No.V.11014/NES/LC/REV-17/2017 by Inspector General of Police, CISF, NES, HQRS, Kolkata affirming the order dated 28.6.2017 passed in Notification No. 11014/Appeal (D16)AR/LND/OIL(D)/17517 by Deputy Inspector



General of Police respondent no. 3 and the original dated 20.1.2017 passed in Notification No. V15014/Major 04/AR/L&D/OIL(D)/2017-567 by Commandant respondent no. 4 whereby the petitioner who was working on the post of assistant Sub-Inspector, CISF was dismissed from service which shall ordinarily be a disqualification for future employment, which orders are illegal and unsustainable. Further, the petitioner prays for a writ of mandamus commanding the respondent to reinstate the petitioner with continuity of service and consequential benefit including back wages.”

3. The petitioner has questioned the validity of the dismissal order, appellate authority order and revisional authority orders dated 20.01.2017, 28.06.2017 and 03.04.2018 respectively *vide* Annexures - 8, 11 and 12.

4. The petitioner was appointed as Assistant Sub Inspector with the respondent – Central Industrial Security Force, order of appointment is dated 31.05.2013 and joining of service is 01.11.2013. Petitioner was subjected to disciplinary proceedings on three counts of charges and it was concluded in imposition of penalty of dismissal from service and it has been affirmed by both appellate and revisional authority.

5. The preliminary issue in the present matter is whether the present petition is maintainable on the score that petitioner could invoke territorial jurisdiction of this Court or not? Since the



petitioner has questioned three orders which are passed by the Officers from the Assam State and Kolkata in West Bengal. The petitioner is a resident of Tekari, District - Gaya, State of Bihar.

6. Learned counsel for the petitioner submitted that having regard to the fact that the petitioner is a resident of State of Bihar and a copy of the dismissal order, appellate authority's order and revisional authority's order were communicated to the petitioner under the jurisdiction of State of Bihar, therefore, part of the cause of the action accrues in the State of Bihar. Hence, the present writ petition is maintainable. In support of the aforesaid contention petitioner is relying on decisions of this Court passed in

(i) Major Ganesh Prasad Sinha vs. The Union of India and Others reported in 1993 1 PLJR 85 F.

(ii) Narendra Kumar Singh vs. National Co-operative Consumers Federation of India Limited reported in 1994 2 BLJ 232.

(iii) Rameshwar Prasad vs. Union of India reported in 2003 2 PLJR 151.

(iv) Nawal Kishore Sharma vs. Union of India and Others reported in 2014 5 Supreme 649.

7. Heard learned counsel for the petitioner.



8. On maintainability of the present petition, undisputed facts are that petitioner was working in Assam with the C.I.S.F and he was subjected to disciplinary proceedings and it was concluded in imposition of penalty of dismissal from service and it was confirmed by an Officer who was stationed at Assam and further revisional authority at Kolkata has affirmed the order of dismissal as well as appellate authority's order. In the light of these facts and circumstances and the fact that the petitioner is a resident of Tekari, District - Gaya, State of Bihar, hence, whether this Court has territorial jurisdiction in quashing the impugned orders and direction could be given to the office situated in Assam and Kolkata (West Bengal) or not?

9. Whether any writ could be issued to the respondents to the writ petition and which is permanently located outside the jurisdiction of the High Court; Whether partially cause of action to the petitioner accrued in Bihar State with reference to the relief sought in the present petition or not?

10. The respondents offices are situated in the State of Assam and State of West Bengal which are outside the territorial jurisdiction of this Court.

11. Cause of action means a right to sue. Therefore, the material facts which are imperative for the suitor to allege and prove constitute the cause of action. It is known fact that cause of



action is not defined in any law or a statute. It has, however, been judicially interpreted *inter alia* to mean that every fact which would be necessary for the plaintiff to prove, if traversed, in order to support his/her right to the judgment of the Court. Otherwise, it would mean that everything which, if not proved, gives the respondent - defendant an immediate right to seek a judgment, would be part of cause of action. Of course, its importance is beyond any doubt. Consequently, every action, there has to be a cause of action, if not, the plaint / petition, as the case may be, shall be rejected summarily.

12. Perusal of provision viz., clause 2 of Civil Procedure Code read with Article 226 (2) of the Constitution are in para materia. Entire bundle of facts pleaded need not constitute a cause of action as what is necessary to be proved before the petitioner can obtain a decree is the material facts. In other words, material facts would also be known as integral facts or factual aspects.

13. Article 226 of the Constitution as it originally stood had two- fold limitations on the jurisdiction of the High Courts with regard to their territorial jurisdiction. Firstly, the power could be exercised “throughout the territories in relation to which it exercises jurisdiction”, that is to say, the writs issued by the court cannot run beyond the territories subject to its



jurisdiction. Secondly, the person or authority to whom the High Court is empowered to issue such writs must be “within those territories”, which clearly implied that they must be amenable to its jurisdiction either by residence or location within those territories.

14. Statement of objects and reasons to incorporate Article 226 (1A) now (2) reads as under:-

“Under the existing Article 226 of the Constitution, the only High Court which has jurisdiction with respect to the Central Government is the Punjab High Court. This involves considerable hardship to litigants from distant places. It is, therefore, proposed to amend Article 226 so that when any relief is sought against any Government authority or person for any action taken, the High Court within whose jurisdiction the cause of action arise may also have jurisdiction to issue appropriate directions, orders or writs. The other new proposals are of a minor character”

15. Article 226 was amended while incorporating Clause 2. Clause 2 reads as under:-

“(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising



jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.”

The effect of the amendment is that it made the accrual cause of action an additional ground to confer jurisdiction to a High Court under Article 226. Clause (2) would enable the High Court within whose jurisdiction the cause of action arises to issue directions, order or writs to any Government, authority or person, notwithstanding that the seat of such Government or authority or the residence of such person is outside territorial jurisdiction of the High Court. Writ can be issued by a High Court against a person, Government or authority residing within the jurisdiction of that High Court, or within whose jurisdiction the cause of action in whole or in part arises. Since one of the contention is that partial cause of action is accrued in Bihar State, it is necessary to take note of what is the meaning of cause of action. After the insertion of clause (1-A), re-numbered as “2” to Article 226 of Constitution, now the jurisdiction of a High Court can be invoked if the cause of action arises, wholly or in part, within the territorial jurisdiction of that High Court. However, the expression “cause of action” has neither been defined in the



Constitution nor in the Code of Civil Procedure, 1908. But it may be described as “a bundle of essential facts, which it is necessary for the plaintiff to prove before he can succeed”, or if not proved would give the defendant a right to judgment in his favour. It gives occasion for and forms the foundation of the suit. “Cause of action” means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court as expressed in the case of ***Cooke vs. Gill, (1873) 8 CP 107: 42 LJ PC 98***. The petitioner has contended that one of the essential fact has arisen within the territorial jurisdiction of this High Court to the extent that he is resident of State of Bihar. Thus, it was contended that cause of action arose in State of Bihar in part since clause (2) of Article 226 enables a High Court to issue appropriate writs, orders or directions if the cause of action wholly or in part arises. Petitioner’s grievance is relating to penalty order and its affirmation by higher authorities of the State of Assam and State of West Bengal, therefore, whole cause of action is at Assam/West Bengal except the fact that the petitioner is a resident of State of Bihar that does not mean that partial cause of action has accrued in the State of Bihar. Question of partial cause of action is attracted only if there is any office of the respondents are under the territorial jurisdiction of this Court like Government of India



/ Union of India having its offices at different places. Therefore, the citation referred by the petitioner in the case of ***Naval Kishore Sharma's*** case is distinguishable as in that case Naval Kishore Sharma was working under the Central Government Organization and it was part and parcel of Union of India. Therefore, any claim against Union of India and its sister concern territorial jurisdiction could be invoked all over India.

16. In the case of ***Oil & Natural Gas Commission vs. Utpal Kumar Basu***, reported in ***(1994) 4 SCC 711***, Supreme Court held that the question as to whether the Court has a territorial jurisdiction to entertain a writ petition, must be concluded on the basis of pleadings made in the petition, the truth or otherwise thereof being immaterial. In the same decision, Supreme Court was pleased to observe that :

“So also the mere fact that it sent fax messages from Calcutta and received a reply thereto at Calcutta would not constitute an integral part of the cause of action.” (Para No.8)

17. Honble Supreme Court in the case of ***State of Rajasthan vs. Swaika Properties***, reported in ***(1985) 3 SCC, 217***, opined that mere service of a notice would not give rise to any cause of action unless service of notice was integral part of the cause of action. The said decision has also been noticed in ***Oil and Natural***



Gas Commission (supra). Supreme Court in para no. 8 held as under:

"The answer to the question whether service of notice is an integral part of the cause of action within the meaning of Article 226(2) of the Constitution must depend upon the nature of the impugned order giving rise to a cause of action."

Supreme Court in the case of **Aligarh Muslim University and Another Vs. Vinay Engineering Enterprises (P) Ltd. and another**, reported in (1994) 4 SCC 710, lamented in para no.2 as under:

"2. We are surprised, not a little, that the High Court of Calcutta should have exercised jurisdiction in a case where it had absolutely no jurisdiction. The contracts in question were executed at Aligarh, the construction work was to be carried out at Aligarh, even the contracts provided that in the event of dispute the Aligarh Court alone will have jurisdiction. The arbitrator was from Aligarh and was to function there. Merely because the respondent was a Calcutta-based firm, the High Court of Calcutta seems to have exercised jurisdiction where it had none by adopting a queer line of reasoning. We are constrained to say that this is case of abuse of jurisdiction and we feel



that the respondent deliberately moved the Calcutta High Court ignoring the fact that no part of the cause of action had arisen within the jurisdiction of that Court. It clearly shows that the litigation filed in the Calcutta High Court was thoroughly unsustainable."

Supreme Court in the case of ***Union of India and Others Vs. Adani Exports Ltd. and another***, reported in ***(2002) 1 SCC 567***, held that 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.

18. Supreme Court in the case of ***National Textile Corpn. Ltd. vs. Haribox Swalram***, reported in ***(2004) 9 SCC 786***, held as under:-

"As discussed earlier, the mere fact that the writ petitioner carries on business at Calcutta or that the reply to the correspondence made by it was received at Calcutta is not an integral part of the cause of action and, therefore, the Calcutta High Court had no jurisdiction to entertain the writ petition and the view to the contrary taken by the Division Bench cannot be sustained. In view



of the above finding, the writ petition is liable to be dismissed."

19. In the case of ***Abdul vs. Union of India***, reported in **AIR 1979, Calcutta, 354** and also in the case of ***Union of India vs. Oswal Industries***, reported in **(1984) 2 SCC 646**, the Courts have held that cause of action accrued in `X place, if the Head office – respondent is in `Y place. Aggrieved person who is at `Y cannot invoke jurisdiction at `X place on the ground that Head Office is situated in `X place. It was a case of disciplinary proceedings against railway servant who was subjected to disciplinary proceedings and it was concluded in Bihar, a petition cannot be entertained by the High Court of Calcutta merely on the ground that Head Office of the Railway was located in Calcutta. In the case of ***Oswal Industries*** cited supra, Supreme Court has strongly disapproved the practice of deliberately filing of writ petitions in distant High Courts as part of a manoeuvring legal battle. In the case of ***Bloom Dekor Ltd. vs. Subhash Himatal Desai***, reported in **(1994) 6 SCC 322**, Supreme Court described as “judicial adventurism” and “forum shopping”. If a small portion of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor



compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens. It is so held in *Bhagat Singh Bugga vs. Dewan Jagbir Sawhney*, reported in *AIR 1941 Cal. 670*, *Madan Lal Jalan v. Madanlal*, reported in *AIR 1949 Cal 495*, *Bharat Coking Coal Ltd. vs. Jharia Talkies & Cold Storage (P) Ltd.*, reported in *1997 CWN 122*, *S.S. Jain & Co. vs. Union of India*, reported in *(1994) 1 CHN 445* and *New Horizons Ltd. vs. Union of India*, reported in *AIR 1994 Del 126*.

20. In view of above facts and circumstances and merely the fact that petitioner is a resident of State of Bihar and certain correspondences have been made by him and that does not accrues any partial cause of action to the petitioner in the State of Bihar so as to entertain writ petition. If this analogy is accepted every aggrieved person sitting at his/her home town invoke territorial jurisdiction of the respective State High Court, even though contesting respondent's office or residence is in a different place – territorial jurisdiction. For example employee of the respondents if he is resident of Tamil Nadu and make correspondence from Tamil Nadu and he cannot invoke jurisdiction of Madras High Court as employer and employee relation would be only at Assam/West Bengal.



21. If the employer is Union of India one can understand. If the other than Union of India, in that event, invoking Article 226(2) of Constitution is not feasible and appropriate. It is to be noted that 1st respondent is not necessary and proper party, he has been unnecessarily impleaded, since no order of 1st respondent is under challenge. Accordingly, writ petition stands rejected on the score that this Court has no territorial jurisdiction in respect of quashing the action of the respondents – Assam/State of West Bengal *vide* Annexures 8, 11, and 12 dated 20.01.2017, 28.06.2017 and 03.04.2018 respectively and further benefits from the respondents.

(P. B. Bajanthri, J)

GAURAV S./-

AFR/NAFR	
CAV DATE	04.04.2022
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