

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No 1185 of 2021

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Om Prakash son of Sri Chanchal Prasad Resident of Village- Gareria Bigha,
P.S.- Ekangarsarai, District- Nalanda.

... .. Petitioner/s

Versus

1. The Union of India through the Inspector General, Central Industrial Security Force, Head Quarter, New Delhi.
2. The Deputy Inspector General, Central Industrial Security Force, Department of Home, Mundali, Orissa.
3. The Senior Commandant, Central Industrial Security Force, Unit Nalko, District- Damanjodi, Orissa.
4. The Commandant, Central Industrial Security Force, Nalko, District- Damanjodi, Orissa.
5. The Deputy Commandant (Administration) Central Industrial Security Force, Unit Nalko, District- Damanjodi, Orissa.

... .. Respondent/s

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Appearance :

For the Petitioner/s : M/s Puja, Manisha Prakash, Advocates
For the Respondent/s : M/s Kr Priya Ranjan, Mritunjay Kr, Advocates

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CORAM: HONOURABLE MR JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

Date : 28-07-2022

Heard learned counsel for the petitioner and the Union of India.

2 At the very outset, the learned counsel for the Union of India has taken an objection regarding maintainability of the instant writ petition for want of territorial jurisdiction. The order impugned dated 27.05.2019 has been issued by the Deputy Inspector General, Central Industrial Security Force, Mundali in



the State of Odisha and served to the petitioner at Damanjodi in the State of Odisha. Thereafter, the petitioner has filed an appeal, order of which appears to have been served on the petitioner at Nalanda within the territorial jurisdiction of this Court.

3 The service of the appellate order at Nalanda, in the State of Bihar, does not form part of the cause of action as it is not a part of the bundle of facts which are disputed. The dispute in question is with respect to the concessions granted to the petitioner based on his son's illness and the action of the authorities arising out of such concessions, all of which have taken place while he was posted at Unit – Nalko at Damanjodi in the State of Odisha.

4 Since the cause of action or even a fraction thereof has not arisen in the State of Bihar, this writ petition would be barred under Article 226 (2) of the Constitution of India, in view of decision of the Apex Court in the case of *Nawal Kishore Sharma -Versus- The Union of India and Others*, since reported in (2014) 9 *Supreme Court Cases* 329. Communication of the Appellate order on the petitioner within the territorial jurisdiction of this Court is not a fact or matter in issue. This fact does not constitute a part or fraction of the cause of action in this case. Writ petition, filed within the territorial jurisdiction of this Court, therefore, is not maintainable. The Apex Court in the case of *Nawal Kishore*



Sharma (supra) has held that the High Court should not have refused to decide the writ petition for want of territorial jurisdiction in view of the facts being unique and peculiar to the case of that petitioner which has been taken note of in paragraphs 21 and 22 of the judgment in the case of *Nawal Kishore Sharma (supra)* which reads as under:-

“21. Apart from that, from the counter affidavit of the respondents and the documents annexed therewith, it reveals that after the writ petition was filed in the Patna High Court, the same was entertained and notices were issued. Pursuant to the said notice, the respondents appeared and participated in the proceedings in the High Court. It further reveals that after hearing the counsel appearing for both the parties, the High Court passed an interim order on 18.09.2012 directing the authorities of Shipping Corporation of India to pay at least a sum of Rs 2.75 lakhs, which shall be subject to the result of the writ petition. Pursuant to the interim order, the respondent Shipping Corporation of India remitted Rs 2,67,270/- (after deduction of income tax) to the bank account of the appellant. However, when the writ petition was taken up for hearing, the High Court took the view that no cause of action, not even a fraction of cause of action, has arisen within its territorial jurisdiction.

22. Considering the entire facts of the case narrated hereinbefore including the interim order passed by the High Court, in our considered opinion, the writ petition ought not to have been



dismissed for want of territorial jurisdiction. As noticed above, at the time when the writ petition was heard for the purpose of grant of interim relief, the respondents instead of raising any objection with regard to territorial jurisdiction opposed the prayer on the ground that the writ petitioner-appellant was offered an amount of Rs 2.75 lakhs, but he refused to accept the same and challenged the order granting severance compensation by filing the writ petition. The impugned order, therefore, cannot be sustained in the peculiar facts and circumstances of this case.” (emphasis mine)

5 In the instant case, the issue of maintainability for want of territorial jurisdiction has been taken at the very outset. The question of maintainability is, thus, required to be considered foremost as per decision of the Apex Court in the case of *National High Authority of India -Versus- Ganga Enterprises & Another*, since reported in (2003) 7 Supreme Court Cases 410.

6 In view of the settled legal position, based on judgments of the Hon'ble Apex Court, taken note of hereinabove, without going into the merits of the case and expressing any opinion whatsoever on the merits of the matter, this Court, for the above noted reasons, would dismiss the writ petition as the same is not maintainable before this Court for want of territorial jurisdiction.



7 This writ petition is, accordingly, dismissed for want of territorial jurisdiction.

(Madhuresh Prasad, J)

M.E.H./-

AFR/	AFR
CAV DATE	NA
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Transmission Date	NA

