

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.3231 of 2021

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Santosh Kumar Sharma, Son of Bali Ram Sharma, Resident of Village-
Durgapur, P.O. - Manjhi, P.S. - Manjhi, District- Saran.

... .. Petitioner/s

Versus

1. Union of India through Home Ministry Mahanideshalaya Assam Riffle,
Director General, Assam Riffle, Shillong - 793010.
2. Senior Record Officer, E.M.E. Records, Secunderabad, Pin Code - 900453.
C/o 56 A.P.O.
3. Maj. Senior Record Officer for O/C Records, Secunderabad.
4. LT Col O/C Rol and Hold Copy Commanding Officer E.M.E. Depot Bn.,
Secunderabad.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Ashok Kumar Sinha No.3, Advocate
For the Respondent/s : Ms. Punam Kumari Singh, CGC

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL JUDGMENT

Date : 28-11-2023

Heard Mr. Ashok Kumar Sinha No.3 learned
counsel for the petitioner and Ms. Punam Kumari Singh, learned
CGC, for the Union of India.

2. The petitioner, who discharged from his services,
while he was working on the post of Corps of Electronic and
Mechanical Engineers from E.M.E. Depot BN Secunderabad
filed the present writ petition for the following reliefs:

*“(I) To direct respondents for
payment of entire retirement benefits such as
Retiral Pension, Gratuity, Leave encashment,
Commutation and Provisional Pension to the
petitioner who retired on 30.08.2018 from
post of Corps of E.M.E. (Assam Riffle).*



(II) To direct respondent to release entire payment of post retirement Benefits with interest to the petitioner.

(III) To direct respondent to make payment of retiral dues (Post Retirement Benefits) with interest and penal interest of mental agony and economical harassment even that not paid provisional Pension up till now.

(IV) To direct Respondent to release retiral dues along arrears of salary which is withheld is violation of Article 14 of Constitution of India which is Constitutional right and shall not withheld of any benefits of Army who served the Nation (India). ”

3. A counter affidavit has been filed on behalf of respondent no.3, wherein categorical averment has been made that the subject matter of the case raised before this Court falls under the jurisdiction of Armed Forces Tribunal under the Armed Forces Tribunals Act, 2017 and Navy Act, 1957 as well as Air Force Act, 1950.

4. It is submitted that since the petitioner was working under the E.M.E. Depot BN Secunderabad, therefore, the petitioner has remedy before the Armed Forces Tribunal for ventilating his grievance.

5. At this juncture, learned counsel for the petitioner submits that the petitioner is the permanent resident of Saran district, Bihar where all the correspondence took place,



all the more the respondents have also filed their counter affidavit responding to merit of the case, and, as such, the present writ cannot be held to be not maintainable on account of lack of territorial jurisdiction.

6. This Court is afraid to accept the submission of the petitioner, as the objection is not in respect to territorial jurisdiction, rather efficacious alternative remedy available before the Armed Tribunal Forces for adjudication of any such matter pertaining to the employees of Armed Forces.

7. So far the issue with regard to territorial jurisdiction of a High Court is concerned, it is well settled that High Court invoke its power under Article 226 of the Constitution, only if the cause of action arises, wholly or in part, within the territorial limits of the jurisdiction of the High Court and not otherwise irrespective of the fact as to whether the person or the authority to whom the writ, sought to be issued is located within or outside the territorial limits of the High Court. [vide **Saryu Singh Vs. The Union of India & Ors, 2015 (2) PLJR 256, Oil and Natural Gas Commission Vs. Utpal Kumar Basu & Ors. (1994) 4 SCC 711**].

8. Now coming to the alternative remedy, it would be apposite to refer to the judgment of the Hon'ble Supreme Court in the case of **Whirlpool Corporation Vs. Registrar of**



Trade Marks Mumbai & Ors, (1998) 8 SCC 1, wherein the Hon’ble Supreme Court held as under:

“Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction.”

9. In view of the discussions made hereinabove, as also the settled position in law, this Court finds that on both the count of territorial jurisdiction and availability of proper remedy before the Armed Forces Tribunal, the present writ petition is thus not maintainable.

10. Accordingly, the present writ petition stands disposed of with liberty to the petitioner to avail the remedy before the Armed Forces Tribunal constituted under the Armed Forces Tribunals Act, 2017 and Navy Act, 1957 as well as Air Force Act, 1950.

(Harish Kumar, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	01 .12.2023
Transmission Date	NA

