

30-11-2023

ct no. 13

sl. 8

pk

WPA 22944 of 2022

Sri Debasis Mukherjee

-Versus-

NTPC Limited and others

Mr. Debasis Mukherjee

... petitioner-in-person

Mr. Bikash Ranjan Bhattacharyya,

Mr. Soumya Majumder,

Mr. Uttam Kumar Mandal,

Ms. Maitree Roy

... for the NTPC Limited.

Mr. Pradip Kumar Tarafdar,

Mr. Subir Pal

... for the D. V. C.

1. The writ petitioner challenges the compulsory retirement from the service of the NTPC Limited.

2. Admittedly, the petitioner was last posted in the rank of Senior Manager of the Darlipali Super Thermal Power Project under the NTPC at Jharsuguda in Odisha.

3. The petitioner except for a period of 2 years between 2012 and 2014 served mostly outside the jurisdiction of this Court. During the period from 2012 to 2014 the petitioner was on deputation to the DVC at Calcutta.

4. The order of compulsory retirement was passed at New Delhi against the petitioner while he was serving in Jharsuguda at the plant mentioned

above. The order of compulsory retirement was based on petitioner's performance appraisal reports of the years 2015 and 2016. Mr. Bikash Ranjan Bhattacharyya on behalf of the employer, however, submits that performance appraisal reports of the petitioner for the year 2015 and 2018 were taken into consideration.

5. The petitioner invoked the jurisdiction of this Court on the basis that the period from 2012 to 2014, when he was at Calcutta, there was certain unauthorised absence. According to the petitioner, such unauthorised absence is the sole ground for his compulsory retirement.

6. According to the petitioner appearing in person, the same constitutes a part of the cause of action, therefore, conferring territorial jurisdiction of this Court.

7. The petitioner on merits would also argue that his performance from the year 2015 to 2018 has been very good. This argument is vehemently opposed by the respondents.

8. This Court is not inclined to enter into the merits of the claim of the petitioner, as the issue of territorial jurisdiction, raised as demurrer on the very first day when the writ petition was moved, is required to be addressed first.

9. The expression 'cause of action' means a bundle of facts that are required to be proved for the purpose of establishing a claim before a Court of Law.

10. The petitioner's service for two years between 2012 and 2014 cannot be part of his cause of action as he was on deputation to the DVC in Kolkata. However, one has to ascertain as to whether a substantial part of the cause of action of the petitioner has a reason within the territorial jurisdiction of this Court. The following admitted facts indicate to the contrary. The petitioner was serving mostly outside the State of West Bengal except for the period between 2012 and 2014 when he was on deputation to the DVC, Calcutta. He claims that he was posted in Calcutta even prior thereto but the same has not connection with his cause of action in this case.

11. The subject matter and essence of the grievance of the petitioner before this Court is his compulsory retirement from the service of the NTPC, which is his parent organisation. He was last serving inter alia in Jharsuguda since 2014, outside the territorial jurisdiction of this Court. The order of compulsory retirement arose outside the territorial jurisdiction of this Court, in States of Jharkhand, Bihar and Odisha.

12. Applying principles laid down by the Supreme Court in the case of **Alchemist Ltd. & Anr. Vs. State Bank of Sikkim and Ors.** reported in **(2007) 11 SCC 335** where the principles of substantive part of the cause of action has been laid down and recognised, this Court is of the view that the subject lis cannot be entertained under the territorial jurisdiction of the High Court at Calcutta. Reference in this regard is also made to the decisions of the Supreme Court in the case of **State of Rajasthan & Ors. Vs. Swaika Properties & Anr.** reported in **(1985) 3 SCC 217** and the case of **ONGC Vs. Utpal Kumar Bose** reported in **(1994) 4 SCC 711**.

13. The case of **Shanti Devi Vs. Union of India** reported in **(2020) 10 SCC 766** is distinguishable on facts as the widow of an employee was seeking pension albeit on account of her husband's service outside the Patna High Court territorial jurisdiction.

14. The petitioner is at liberty to approach the appropriate High Court and/or the Court within whose territorial jurisdiction, the order of compulsory retirement was passed.

15. The writ petition is not entertained for want of territorial jurisdiction.

16. Accordingly, the writ petition and the connected applications are dismissed.

17. There will be no order as to costs.

18. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)