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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-27842-2019 (O&M)
Date of Decision: 15.03.2023

M/S DHL EXPRESS (INDIA) PRIVATE LIMITED .. Petitioner
Vs.

THE PRESIDING OFFICER INDUSTRIAL TRIBUNAL CUM LABOUR
COURT-II GURUGRAM AND OTHERS ..Respondents

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. P.K. Mutneja, Sr. Advocate with
Ms. Suverna Mutneja, Advocate,
Mr. Abhishek Joon, Advocate and
Mr. Himanshu Mehta, Advocate for the petitioner.
Ms. Abha Rathore, Advocate
for the respondent No.2.

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Manoj Bajaj, J. (Oral)

Petitioner has filed this writ petition under Article 226 Constitution of India for issuance of a writ in the nature of Certiorari for quashing of the order dated 17.01.2000 (Annexure P-1), whereby the appropriate Government sent the reference before the Labour Court, Gurgaon for adjudicating the labour dispute, as well as the order dated 06.08.2019 (Annexure P-2) passed by Industrial Tribunal-cum-Labour Court-II, Gurugram/Respondent No.1, whereby the preliminary issue relating to the territorial jurisdiction raised by the petitioner has been decided against it.

Briefly, the facts pleaded in the writ petition are that respondent No.2-Girvar Yadav was employed with M/s Airfreight (whose name was subsequently changed to AFL Private Limited), and at that time, the petitioner-M/s DHL Express (India) Pvt. Ltd. was a division of Airfreight

Limited and both the companies were got demerged w.e.f. 01.01.2002 vide the 'Scheme of De-merger' which was duly approved by the High Court of Bombay vide order dated 26.11.2001. Respondent No.2 was employed by the petitioner as a Courier and posted at Green Park, New Delhi, who remained posted till 27.11.1998, when he was dismissed from service for certain acts of gross misconduct involving cheating, misappropriation and assaulting a co-employee. All these events took place in Delhi. The misappropriation pertained to a courier collected from Neitherland Embassy Shanti Path, Chanakyapuri, New Delhi, the cheating pertains to a courier picked from the US Embassy in New Delhi and respondent No.2 hit Sh. Vijay Negi, who had caught the cheating and misappropriation of respondent No.2. The workman hit him at Green Park in front of Drums of Heaven Restaurant. Thus the entire gamut of incidents, which formed the basis of charge-sheet took place at New Delhi. It is also averred that after conducting a fair and proper domestic enquiry by the petitioner into the charges, respondent No.2 was dismissed from service.

Upon his dismissal, respondent No.2 filed a claim before the Assistant Labour Commissioner, Gurugram. Thereafter, the Govt. of Haryana based on the purported dispute, filed the impugned reference under Section 10 of the Industrial Disputes Act, 1947 for adjudication by the Industrial Tribunal-cum-Labour Court, Gurugram. Both the parties filed their respective pleadings. The petitioner raised the objection that the Govt. of Haryana was not the appropriate Govt. and consequently, the reference was not maintainable, as N.C.T. Delhi had the territorial jurisdiction to entertain the alleged industrial dispute. According to the petitioner, respondent No.1 passed the impugned order dated 06.08.2019 holding that

the Govt. of Haryana had the necessary jurisdiction to refer the purported dispute for the adjudication by the Labour Court, Gurugram, as the head office of the petitioner was shifted to Gurugram at the time of dismissal of respondent No.2. Hence this writ petition.

Learned senior counsel for the petitioner has argued that the services of the petitioner as a Courier were engaged for work at the petitioner-company's office at Green Park, New Delhi and upon noticing his misconduct, he was subjected to the departmental enquiry at New Delhi, wherein he was found guilty. According to learned senior counsel, the order of dismissal from service was also served upon workman at his Delhi address, therefore, the industrial dispute raised by the workman at Gurgaon lacks territorial jurisdiction, as the labour dispute, if any, can be adjudicated by the labour Court at New Delhi. Learned senior counsel has further pointed out that the workman was also a resident of New Delhi and all those cause of actions had taken place within the territory of N.C.T. Delhi, therefore, the government of N.C.T. Delhi has the appropriate jurisdiction to enter into the process of adjudication.

According to the learned senior counsel, the issue of territorial jurisdiction was raised at the first instance and considering the rival stands of the parties, the labour Court framed preliminary issue in this respect, but vide impugned decision dated 06.08.2019, it has been answered in favour of the workman. He submits that the situs of the employment of the workman would be the relevant factor to determine the territorial jurisdiction of the Tribunal to entertain a labour dispute, but the labour Court has not examined the facts and law carefully, therefore, the impugned decision deserves to be set aside. In support of his submissions, learned senior

counsel has placed reliance upon decision passed by this Court in “***H.M.T. Limited Vs. Chandigarh Administration***”, 2002(1) S.C.T. 127, as well as judgment of Hon'ble Supreme Court in “***M/s Hindustan Aeronautics Ltd. Vs. The Workmen and others***, (1975) 4 SCC 679”.

On the other hand, learned counsel for respondent No.2 has argued that the reference was rightly sent by the appropriate Govt. (State of Haryana) to the Labour Court at Gurgaon in accordance with law, as the actual cause of action arose within the territorial jurisdiction of Gurgaon i.e. regional office of petitioner-company. She has submitted that even if, enquiry was conducted at New Delhi, but the enquiry report dated 06.07.1998 by the Enquiry Officer was submitted before the Regional Office, situated at Gurgaon and upon receipt of that enquiry report, the communication inviting response of the workman to the said report was also issued on 18.07.1998 from the Regional Office, Gurgaon. In this regard, she invited the attention of the Court to Annexure P-8. Further, Mrs. Abha Rathore, learned counsel for respondent No.2 argued that the order of dismissal from service (Annexure P-9) was also passed by the Regional Manager, Haryana and this communication was also sent from the petitioner's regional office situated at Udyog Vihar Phase-I Gurgaon. Apart from it, learned counsel has submitted that the order passed by the Labour Court, Gurgaon is based upon correct appreciation of material on record, therefore, no interference is called for by this Court.

Upon hearing the learned counsel for the parties and considering their submissions, it transpires that there is no conflict between the parties as far as the existence of regional office of the petitioner-company at Gurgaon is concerned. The argument on behalf of the

Management that since the workman was appointed only for carrying out work in New Delhi is not supported with any convincing material and even the appointment letter dated 17.02.1996 has not been placed on record.

During the course of hearing, Mr. Mutneja, learned senior counsel was asked to produce the written response submitted by the management in response to the demand notice served by the workman raising the industrial dispute to show that the objection regarding territorial jurisdiction was raised at that stage, but he is unable to produce any such stand of the management. Further, a perusal of the communications Annexures P-8 and P-9 clearly indicates that the petitioner-company's office at Gurgaon had received the Inquiry report from the Inquiry officer, and the communication in this regard was also sent to the workman from Gurgaon and finally his dismissal order was passed by the Regional Manager.

Now while analyzing the case relied upon by the learned senior counsel in support of his case law, this Court finds that the said decisions have no applicability to the facts and circumstances of the case in hand.

At the stage of initial hearing of this case, the learned counsel had relied upon the decision dated 13.02.2013 in CWP-17369-2010, but apparently, the same is not helpful to the cause of the petitioner, as in the said case, this High Court held that the labour Court at Gurgaon where the workman raised the industrial dispute in relation to the transfer orders has no territorial jurisdiction, as no cause of action or even part of it, arose in Gurgaon.

Similarly, the decision relied upon by the petitioner in HMT' case (supra) would also have no applicability, as in the said case, the employee had absented from duty, who raised the industrial dispute at

Chandigarh on the ground that the order of dismissal was served upon her at Chandigarh, where she was residing. This Court accepted the objection raised by the management in respect of the territorial jurisdiction with an observation that the employee had last worked for the petitioner-company at Bombay and there is no pleading that the company has any establishment within the territorial jurisdiction of Union Territory, Chandigarh and the employee ever worked there. It was in this background, this Court held that merely because the order of dismissal from service was served upon the employee at Union Territory Chandigarh, would not be enough to construe accrual of substantial part of the industrial dispute within the Union Territory, Chandigarh.

Likewise, the decision rendered by Hon'ble Supreme Court in ***“M/s Hindustan Aeronautics Ltd. Vs. The Workmen and others, (1975) 4 SCC 679”*** also does not lend any support to the case of the petitioner, as in the said case, the reference sent by the Government of West Bengal was challenged by the company on the ground that the Barrackpore Branch was under the control of Bangalore Division of the company, but the said argument was rejected by the Hon'ble Supreme Court by holding that the grievances of the workman of Barrackpore were their own and cause of action in relation to the industrial dispute in question arose there and it was held that the reference by the Governor of West Bengal was good and valid.

Thus, in view of the above discussion, it is evident that in the peculiar facts and circumstances of this case, it cannot be said that no part of cause of action had arisen at Gurgaon to oust its territorial jurisdiction. The ***“Cause of action”*** may consist of multiple facts, which may compel the litigant to seek redressal of grievance before the court of law and the

expression 'cause of action' cannot be given a restricted meaning, therefore, as the substantial part of cause of action i.e. relating to the dismissal of workman from service was sent from its regional office, the workman is well within his rights to invoke the jurisdiction of the labour Court at Gurgaon to raise his grievance.

Apart from the above, a perusal of the impugned order dated 06.08.2019 by the Industrial Tribunal-cum-Labour Court-II, Gurguram shows that it has carefully examined the material on record while deciding the preliminary issue relating to the territorial jurisdiction in favour of the workman and the findings returned are based upon correct appreciation of the facts & law on the subject.

Resultantly, in view of above discussion, no case is made out for exercise of extra ordinary writ jurisdiction under Article 226 Constitution of India.

Dismissed.

15.03.2023
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No