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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **LPA 640/2022 & CM APPL. 47792/2022**

**J BALAJI**

..... Appellant

Through: Mr. Jawahar Raja with Ms. L. Gangmei, Ms. Meghna De, Ms. Varsha Sharma and Ms. Aditi Saraswat, Advocates.

versus

**THE HINDU NEW DELHI AND ANR**

..... Respondents

Through: Mr. Gagan Gupta, Advocate.

Reserved on: 07<sup>th</sup> August, 2023

Date of Decision: 29<sup>th</sup> August, 2023

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**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**

**HON'BLE MS. JUSTICE MINI PUSHKARNA**

### **J U D G M E N T**

#### **MINI PUSHKARNA, J:**

1. Present appeal has been filed challenging the order dated 22<sup>nd</sup> March, 2022 passed by the learned Single Judge in *W.P.(C) 13561/2021*. By way of the impugned order, learned Single Judge dismissed the writ petition filed on behalf appellant herein, thereby upholding the Award dated 27<sup>th</sup> August 2019 passed by the learned Labour Court. The learned Labour Court by its Award dated 27<sup>th</sup> August, 2019 had dismissed the claim petition of the appellant herein on the ground that Delhi Courts have no territorial jurisdiction to entertain the claim of the appellant herein.

2. The brief facts of the case are that appellant herein had joined the



employment of respondent as a special correspondent and was posted at Vishakhapatnam in Andhra Pradesh. In June 2008, he was transferred from Vishakhapatnam to Delhi. While working in Delhi, the appellant was promoted to Senior Assistant Editor in the month of October 2013. Subsequently, appellant was transferred from Delhi to Chennai in the first week of February, 2014.

3. Appellant made representations to reconsider his transfer to Chennai owing to compelling circumstances like the study of his children, employment of his wife in a multinational company in Delhi and grave illness of his father. Since his request was not accepted, appellant joined at Chennai, but came back to Delhi after availing leave. However, after joining at Chennai and working for a few days, the appellant again proceeded on leave. As the appellant continued on leave beyond the approved period of leave, the respondents terminated the services of the appellant, by way of termination order dated 3<sup>rd</sup> July, 2014.

4. Appellant challenged the aforesaid termination order by filing a claim petition under Section 2A of the Industrial Disputes Act, 1947 (ID Act). By Award dated 27<sup>th</sup> August, 2019 passed in *LCA No. 07/2016 (Old DID No. 53/15)*, the learned Labour Court dismissed the claim petition of the appellant herein holding that Delhi Courts had lost their territorial jurisdiction since the situs of employment of the appellant had shifted from Delhi to Chennai as the appellant had joined the office at Chennai upon his transfer. Thus, learned Labour Court held as follows:-

***“ Issue no. 2. Whether the claimant/petition was employed as a Correspondent in respondent's organization at Chennai, if so, whether this Court has territorial jurisdiction to entertain and try the present petition?***



*It is an admitted case as emerged from the evidence on record that workman started his job with the management at Vishakhapatnam and lastly he was working at Chennai.*

*As had been held in catena of judgments as relied upon by Id. AR for management, it has become manifestly clear that it is the situs of place of employment of workman which determines the question of territorial jurisdiction of a Labour Court for deciding a labour dispute raised by a workman and the place of his initial appointment or the place of his promotion would be of no help to him in conferring the territorial jurisdiction upon a Court which otherwise does not have the same.*

*This view of mine is further fortified by the following citations relied upon by the management :*

- 1. Lohia Starlinger Limited & Anr. V/s Govt. of NCT of Delhi & Ors, 2006 V AD (Delhi) 732;**
- 2. Braham Prakash v/s Govt. of NCT of Delhi & Anr. 143 (2007) Delhi Law Times 311;**
- 3. Harsaran Singh v/s Managing Director, Modern Food Industries (India) Ltd., 163 (2009) Delhi Law Times 794;**

*In the light of the aforesaid citations, I have no hesitation in holding that once the workman was transferred to Chennai and had also joined there, then the situs of his employment shifted from Delhi to Chennai and as such, the Delhi Courts had lost their territorial jurisdiction which would now vest in the Labour Courts at Tamil Nadu.*

*Therefore, Delhi Courts had no territorial jurisdiction to entertain the present claim. As such, the issue is answered in negative and decided in favour of management and against the workman."*

5. Against the aforesaid Award dated 27<sup>th</sup> August, 2019 passed by the learned Labour Court, appellant herein filed writ petition, W.P.(C) 13561/2021. By the impugned order dated 22<sup>nd</sup> March, 2022, learned Single Judge dismissed the writ petition filed by the appellant thereby upholding the Award passed by the learned Labour Court. Hence, the present appeal has come to be filed on behalf of the appellant.

6. On behalf of the appellant, it is contended that appellant was working at Delhi Office of the respondents and the transfer order was also made at Delhi Office. Since appellant took leave as his father was critically ill and



did not join back at Chennai, his services were terminated. Thus, there was nexus between the dispute and Territory of Delhi, as such Delhi Courts have territorial jurisdiction to decide the present dispute. It is contended that situs of employment is not the only criterion that determines the territorial jurisdiction of Labour Courts. It is submitted that Industrial Courts of the place from where transfer order originates, has territorial jurisdiction.

7. It is further contended that the ID Act has no provision related to territorial jurisdiction. Therefore, claim filed under ID Act cannot be fettered by the rules of territorial jurisdiction as applicable to civil suits.

8. Learned counsel for appellant has relied upon the following judgments :

- I. Raj Kumar Jaiswal Vs. Rangi International Pvt. Ltd, 2009 (113) DRJ 620***
- II. Raj Kumar Sharma Vs. P.O. Industrial Tribunal No.1, (2014) 143 FLR 724***
- III. The Management of M/s Sterling Hi-Tech Ltd Vs. Govt. of NCT of Delhi, 2011 SCC OnLine Del 2172***
- IV. Vinod Singh Yadav Vs. M/s Securitans India Pvt Ltd, (2018) 2 LLJ 632***
- V. Neslin Joseph Prim Vs. Presiding Officer, CGIT, Chennai, 2003 (1) LLN 366***
- VI. M/s Living Media Pvt Ltd & Anr. Vs. GNCTD & Ors, (2019) 1 LLJ 339***
- VII. Bikash Bhushan Ghosh & Ors Vs. Novartis India Ltd & Anr, (2007) 5 SCC 591***
- VIII. Workmen of Sri Ranga Vilas Motors (P) Ltd Vs. Sri Rangavilas***



***Motors (P) Ltd & Ors***

***IX. Paritosh Kumar Pal Vs. State of Bihar & Ors, (1984) 2 LLN 617 (Pat)***

***X. Glaxo Smithkline Pharmaceuticals Ltd Vs. Abhay Raj Jain & Ors, 2002 (3) LLN 737***

9. On the other hand learned counsel for respondents justified the Award passed by the learned Labour Court as well as the impugned order passed by the learned Single Judge. Learned counsel for respondents relied upon the judgment of the Supreme Court in the case of ***V.G. Jagdishan Vs. Indofos Industries Ltd, (2022) 6 SCC 167*** in order to contend that Delhi Courts did not have territorial jurisdiction in the present case.

10. We have heard learned counsel for the parties and have perused the record.

11. At the outset, this Court notes that the appellant had been transferred from Delhi to Chennai vide order dated 03<sup>rd</sup> February, 2014 passed by respondents. Pursuant thereto, appellant had joined his place of posting at Chennai on 02<sup>nd</sup> May, 2014. The appellant, thus, accepted his transfer to Chennai. The present proceedings have emanated from the termination order dated 03<sup>rd</sup> July, 2014 issued by the respondents owing to unauthorised absence of the appellant from his place of posting at Chennai.

12. After his transfer from Delhi to Chennai vide order dated 03<sup>rd</sup> February, 2014, appellant sent an email dated 12<sup>th</sup> February, 2014 seeking an extension of time till 06<sup>th</sup> March, 2014 to join duty at Chennai, which was acceded to by respondents. Thereafter, appellant made a second request for an extension of time to join at Chennai till 09<sup>th</sup> June, 2014 vide his email dated 04<sup>th</sup> March, 2014. However, his leave was approved upto 23<sup>rd</sup> March,



2014. Subsequently, pursuant to further requests by appellant, respondents extended the time to join the transfer posting at Chennai on or before 15<sup>th</sup> April, 2014. Appellant once again wrote on 14<sup>th</sup> April, 2014 seeking further extension of leave. By communication dated 19<sup>th</sup> April 2014, appellant was informed that he had been relieved from Delhi Office and his services stood transferred to Chennai from 15<sup>th</sup> April, 2014, and that he ought to apply for leave to the Chief of Tamil Nadu Bureau who was the competent authority. Thereafter, appellant wrote to the Chief of Tamil Nadu Bureau seeking leave for six weeks on 21<sup>st</sup> April, 2014. The Chief of Tamil Nadu Bureau sent email communication to appellant on 26<sup>th</sup> April, 2014, granting him leave and giving him one final opportunity to join Chennai before 02<sup>nd</sup> May, 2014. Ultimately, appellant joined duty at Chennai on 02<sup>nd</sup> May, 2014.

13. However, within a few days of joining duty at Chennai, appellant sent an email on 08<sup>th</sup> May, 2014 requesting leave from 12<sup>th</sup> May, 2014 to 31<sup>st</sup> May, 2014. Though leave was approved by respondents upto 20<sup>th</sup> May, 2014, appellant reported for work only on 30<sup>th</sup> May, 2014. After working for a few days, appellant again sent an email on 09<sup>th</sup> June, 2014 requesting leave for three weeks from 09<sup>th</sup> June, 2014. The request of appellant for leave was turned down by respondents on account of his frequent absenteeism by letter dated 11<sup>th</sup> June, 2014. Despite the same, appellant sent a communication to respondents stating that he would report for work only on 07<sup>th</sup> July, 2014. Since appellant took unauthorised leave and absented himself frequently from the Chennai office, his services were terminated vide letter dated 03<sup>rd</sup> July, 2014. The said letter of termination was issued to appellant from Chennai office of respondents where appellant was posted at the material time.



14. The aforesaid narrative clearly shows that the appellant had already joined his duty at the place of posting in Chennai and was posted in Chennai when his services were terminated. It is to be noted that appellant has not challenged his transfer to Chennai and rather joined service at his place of posting in Chennai. Even otherwise, transfer is an incidence of service and no employee can claim to have any vested right to continue at any particular place of posting.

15. Once the appellant had joined his place of posting at Chennai and his services were terminated from Chennai and an order of his termination was issued from Chennai, it is clear that the cause of action arose within the jurisdiction of Chennai. Merely because appellant was posted in Delhi prior to his posting at Chennai would not confer jurisdiction on the Delhi Courts, when the cause of action qua the present proceedings did not arise in Delhi.

16. Elucidating what constitutes a cause of action with respect to territorial jurisdiction, Supreme Court in the case of ***Om Prakash Srivastava Vs. Union of India and Another, (2006) 6 SCC 207*** has held as follows:-

*“7. The question whether or not cause of action wholly or in part for filing a writ petition has arisen within the territorial limits of any High Court has to be decided in the light of the nature and character of the proceedings under Article 226 of the Constitution. In order to maintain a writ petition, a writ petitioner has to establish that a legal right claimed by him has prima facie either been infringed or is threatened to be infringed by the respondent within the territorial limits of the Court's jurisdiction and such infringement may take place by causing him actual injury or threat thereof.*

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*11. It is settled law that “cause of action” consists of a bundle of facts, which give cause to enforce the legal inquiry for redress in a court of law. In other words, it is a bundle of facts, which taken with the law applicable to them, gives the plaintiff a right to claim relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action*



would possibly accrue or would arise. [See *South East Asia Shipping Co. Ltd. v. Nav Bharat Enterprises (P) Ltd.* [(1996) 3 SCC 443] ]

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**15.** In *Halsbury's Laws of England* (4th Edn.) it has been stated as follows:

“ ‘Cause of action’ has been defined as meaning simply a factual situation, the existence of which entitles one person to obtain from the court a remedy against another person. The phrase has been held from earliest time to include every fact which is material to be proved to entitle the plaintiff to succeed, and every fact which a defendant would have a right to traverse. ‘Cause of action’ has also been taken to mean that a particular act on the part of the defendant which gives the plaintiff his cause of complaint, or the subject-matter of grievance founding the action, not merely the technical cause of action.” ”

17. When the appellant was transferred to Chennai and had also joined there, then the situs of his employment shifted from Delhi to Chennai. Though the ID Act does not make any reference to the aspect of territorial jurisdiction, however, situs of the place of employment of a workman would be a determinative factor in conferring territorial jurisdiction upon a Labour Court for deciding a labour dispute raised by a workman. It has been held by Courts time and again in a catena of judgments that the situs of employment of the workman is a significant factor to decide territorial jurisdiction.

18. Supreme Court in the case of ***V.G. Jagdishan Vs. Indofos Industries Ltd.*** (supra) has categorically held that considering the facts of the said case that the workman therein was employed at Ghaziabad, was working at Ghaziabad and his services were terminated at Ghaziabad, only the Ghaziabad Court would have territorial jurisdiction in the said case. Thus, Supreme Court held as follows:-

**“10.** From the findings recorded by the Labour Court, Delhi and the learned Single Judge and the Division Bench of the High Court, it is not much in dispute that the workman was employed as a driver at



*Ghaziabad office. He was working at Ghaziabad. His services were retrenched at Ghaziabad. All throughout during the employment, the workman stayed and worked at Ghaziabad. Only after the retrenchment/termination the workman shifted to Delhi from where he served a demand notice at Head Office of the Management situated at Delhi. Merely because the workman after termination/retrenchment shifted to Delhi and sent a demand notice from Delhi and the Head Office of the Management was at Delhi, it cannot be said that a part cause of action has arisen at Delhi. Considering the facts that the workman was employed at Ghaziabad; was working at Ghaziabad and his services were terminated at Ghaziabad, the facts being undisputed, only the Ghaziabad Court would have territorial jurisdiction to decide the case.”*

19. Similarly, Supreme Court in the case of ***Eastern Coalfields Ltd. and Others Vs. Kalyan Banerjee, (2008) 3 SCC 456*** has held that merely because the head office of the company was situated within the State of West Bengal, the same by itself will not confer any jurisdiction upon the Calcutta High Court. It was held that the workman in the said case was serving in a place under the jurisdiction of the State of Jharkhand and his services were also terminated therein. Thus, it was held that only the State of Jharkhand had territorial jurisdiction in the said case, as follows:-

*“13. In view of the decision of the Division Bench of the Calcutta High Court that the entire cause of action arose in Mugma area within the State of Jharkhand, we are of the opinion that only because the head office of the appellant Company was situated in the State of West Bengal, the same by itself will not confer any jurisdiction upon the Calcutta High Court, particularly when the head office had nothing to do with the order of punishment passed against the respondent.”*

20. Place of previous posting of the appellant would not confer territorial jurisdiction upon the Delhi Courts. Once the appellant was transferred to Chennai and he joined at the place of his posting in Chennai, the Delhi Courts lost their territorial jurisdiction. It is also to be noted that appellant filed a claim petition under Section 2A of the ID Act challenging his



termination order only. Even otherwise, transfer order could not have been challenged by the appellant in a petition under Section 2A of ID Act. Appellant was employed not in Delhi, but in Chennai at the time of his termination. The termination order was issued in Chennai. Therefore, it cannot be said by any extent of imagination that the cause of action arose in Delhi.

21. Distinguishing the judgment in the case of ***Workmen of Sri Ranga Vilas Motors (P) Ltd. Vs. Sri Rangavilas Motors (P) Ltd. and Others, AIR 1967 SC 1040*** as relied upon by appellant herein and holding that no cause of action had arisen in Delhi, learned Single Judge held as follows:

*“22. According to the Supreme Court, the principles for determining the jurisdiction are; (i) Where does the order of the termination of services operate; (ii) Is there some nexus between the industrial dispute arising from termination of the services of the workman and the territory of the State; and (iii) That the well-known test of jurisdiction of a civil Court including the residence of the parties and the subject matter of the dispute substantially arising therein would be applicable.*

*23. In the said case, the Supreme Court held that the situs of employment of the workman would be a relevant fact for determining the jurisdiction of the Labour Court concerned. In the said case, the termination orders were served at Calcutta were not only the subject matter of the dispute but the transfer orders as well because the termination was effected for not obeying the transfer order. The Supreme Court held, if the transfer orders are set aside, then the appellant would be deemed to be posted at Calcutta. Hence, there is a direct nexus of dispute with the order of termination of their services at Calcutta. It was held that the State of West Bengal was the appropriate Government. Suffice to state, the said judgment is distinguishable on facts, inasmuch as the transfer order is not under challenge in the present case. Rather, the petitioner had joined the place of posting at Chennai and it is for unauthorised absence at Chennai, the petitioner's services were terminated. In the absence of any challenge to the transfer order, there is no cause of action which has arisen in Delhi for the petitioner to maintain the claim petition under Section 2A of the ID Act.”*



22. The detailed discussion as aforesaid brings forth that the appellant was employed in Chennai when his services were terminated. The termination order was also issued in Chennai. Thus, the cause of action for challenging the termination order arose entirely in Chennai. Merely because respondents have a full-fledged office in Delhi or that appellant was posted in Delhi immediately before his transfer to Chennai, would not confer territorial jurisdiction on the Delhi Courts. The judgments as relied upon by appellant do not come to his aid, as the said matters involve cases where cause of action had arisen within the territorial jurisdiction of the place in question. However, that is not the position in the present matter as no cause of action has arisen within the territorial jurisdiction of Delhi, in terms of the discussion herein above. Consequently, it is held that Delhi Courts have no territorial jurisdiction in the present case.

23. It is, however, clarified that appellant has the liberty to approach the competent Court of jurisdiction in Chennai, which shall consider the case of appellant on merits after granting benefit to the appellant in terms of Section 14 of The Limitation Act, 1963.

24. In view thereof, no infirmity is found in the impugned order passed by the learned Single Judge. Accordingly, the present appeal is dismissed, along with the pending applications.

**MINI PUSHKARNA, J**

**MANMOHAN, J**

**AUGUST 29, 2023**

ak/c