

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11770 of 2012

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Vijay Kumar Sharma S/O Shio Pujan Sharma R/O Vill.- Khutaha, P.O.-
Pawani, P.S.- Nasarigunj, District- Rohtas

... .. Petitioner/s

Versus

1. The Union Of India through the Director of CRPF, CGO Complex, New Delhi.
2. Inspector General Of C.R.P.F., North East, Gauhati, Assam
3. Deputy Inspector General Of C.R.P.F., Khot Khati Range, P.O.- Dimapur, Assam
4. Commandant, 35th Battalion, Humama Barga, Shrinagar, Jammu and Kashmir

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Ram Yash Singh. Advocate
For the UoI	:	Mr. Anshay Bahadur Mathur, CGC

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

4 08-04-2024 Heard Mr. Ram Yash Singh, the learned counsel for the petitioner and Mr. Anshay Bahadur Mathur, the learned counsel appearing on behalf of the Union of India.

2. The present writ petition has been filed for quashing the part of the order dated 07.01.2011, whereby the service of the petitioner for the intervening period, i.e., date of dismiss and date of reinstatement, from 10.06.1996 to 24.01.2012 has been treated as “no work no pay.”

3. Learned counsel for the petitioner submits that the order impugned is communicated to the petitioner within the State of Bihar.



4. Learned counsel for the Union of India had taken primary objection that the said order was passed in the State of Assam, so this Court does not have the territorial jurisdiction to decide the present matter and he has relied upon the judgment reported in **2009 (1) PLJR 553** in the case of Amar Kumar Choubey Vs. Union of India and paragraph no. 22 and 23 of the said judgment are read as follows:

“(22). The reliance placed by the learned counsel for the appellant/writ petitioner on the judgment of the Division Bench of this Court in the case of Rameshwar Prasad (Supra) is also wholly misplaced in as much as in that writ application the issue involved was with regard to an order of dismissal which could become effective only when it was communicated or made known to the person concerned. It was in that regard that the Division Bench of this Court had held that once the writ petitioner was on unauthorized leave and was dismissed from service by an order passed at Srinagar, the cause of action for the writ petitioner had arisen only upon the service of the order of dismissal within the territorial jurisdiction of this Court. Apparently, the ratio of an order of dismissal and its service cannot be made applicable as with regard to the claim of refusal of disability pension for which each and every part of cause of action to the appellant/writ petitioner had



arisen either in the State of Manipur or in the State of Assam or in the State of Meghalaya. Similarly, the reliance placed by the learned counsel for the appellant on the judgment of Court in the case of Brig. Ashok Malhotra Vs. The Union of India & Ors. Reported in 1997(2) PLJR 595 is also wholly misconceived in as much as therein the Division Bench of this Court had found that the impugned order of his suppression had been communicated to the writ petitioner Brig. Ashok Malhotra while he had been working at Danapur on his posting as Commander of Bihar and Orissa Sub-area, Danapur Cantonments. It was in this context, that this Court had held that supersession of any army official still continuing in service who was posted within the territorial jurisdiction of this Court and was communicated of an order to this effect was maintainable before this Court. Suffice to say that the appellant/writ petitioner had already retired and had in fact been also given full retirement benefit had been withheld. The claim of the writ petitioner in fact as with regard to his disability pension to which he was not even entitled under the C.C.S. (E.O.P.) Rules, having been made after the retirement in 2005 from his village home its refusal by the authorities from the Headquarter of the Assam Rifles at Shillong therefore could not have given cause of action to the appellant/writ petitioner to maintain his writ application before this Court merely because such communication



was received by him within the territorial jurisdiction of this Court.

(23.) In view of what has been held above, the findings and the conclusion arrived at by the learned Single Judge in dismissing the writ application for want of territorial jurisdiction in terms of Article 226(2) of the Constitution of India does not suffer from any error and therefore it must be held the writ application had been correctly dismissed by the learned Single Judge.”

and he has also relied upon the judgment reported in **2002 (4) PLJR 36** in the case of **Gita Devi & Anr. Vs. Deputy General Manager, Allahabad Bank & Ors.** and paragraph no. 8 and 9 of the said judgment are read as follows:

“(8). In the writ petition it pleaded that it came to know of the tender from publication in the Times of India within the jurisdiction of Calcutta High Court, it submitted its tender, revised price bid by letters issued from its registered office at Calcutta-and entered into correspondence from there and therefore part of the cause of action had arisen within the jurisdiction of the Calcutta High Court. Hence, Calcutta High Court has jurisdiction to entertain the writ petition. The Calcutta High Court entertained the writ petition, directed the ONGC to reconsider the offer of the company i.e. NICCO along with others and in the event it is found to be valid and lowest and the petitioner otherwise complies with the formalities, its offer



should be accepted by the respondent authorities. In the appeal before the Supreme Court question arose as to whether the Calcutta High Court had jurisdiction to entertain and dispose of the writ petition in the manner it did as the averments in the writ petition, even if assumed to be correct, did not disclose that even a part of the cause of action for instituting the writ petition had arisen within the jurisdiction of that High Court. Upholding the plea of the ONGC the supreme Court observed,

“Merely because it read the advertisement at Calcutta and submitted the offer from Calcutta and made representations from Calcutta would not, in our opinion, constitute facts forming an integral part of the cause of action. So also the mere fact that it sent fax messages from Calcutta and received a reply thereto at Calcutta would not constitute an integral part of the cause of action... We are therefore of the opinion that even if the averments in the writ petition are taken as true, it cannot be said that a part of the cause of action arose within the jurisdiction of the Calcutta High Court.”

(emphasis added)

While disapproving the ‘tendency’ to assume jurisdiction where it has none, the Supreme Court observed, rather strongly, as under:

“Notwithstanding the strong observations made by this Court in the aforesaid decision



and in the earlier decisions referred to therein, we are distressed that the High Court of Calcutta persists in exercising jurisdiction even in cases where no part of the cause of action arose within its territorial jurisdiction. It is indeed a great pity that one of the premier High Courts of the country should appear to have developed a tendency to assume jurisdiction on the sole ground that the petitioner before it resides in or carries on business from a registered office in the State of West Bengal.”

(9). From the decisions and observations of the Supreme Court in the above noted two cases it is clear that the mere residence of the person within the territorial jurisdiction of the High Court or his entering into correspondence, including receiving reply thereto would not confer jurisdiction to entertain the writ petition by the concerned High Court unless it forms an integral part of the cause of action. As is well known ‘cause of action’ comprises of bundle of facts which are necessary to prove in order to succeed in any action in a Court of law. Where an application is sent for appointment from a place, the place as such does not become integral part of cause of action, for such an application can be sent from any place. If this fact were to constitute



a cause of action, the result would be that a person would choose a particular place which he may consider convenient, and from there send his application, thereby conferring territorial jurisdiction on the concerned High Court. The fact that reply is sent to the applicant at that place has no significance, for the replies are normally sent at the address which is mentioned in the application.”

5. In view of the aforesaid, the writ petition is not maintainable before this Hon’ble Court. Accordingly, this writ petition stands disposed of with a liberty given to the petitioner to file a case before the appropriate forum / High Court in accordance with law.

(Rajesh Kumar Verma, J)

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