

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12740 of 2012

Om Prakash Ram S/O Late Bishwanath Ram, P-1 Sultanpuri, New Delhi,
Permanent And Presently R/O Village- Dohar, P.S.- Rasulpur, District-
Chapra, Saran.

... .. Petitioner

Versus

1. The Union of India through the Secretary, Home Ministry, Government of India, New Delhi.
2. The Inspector General, Central Reserve Police Force, Special Sector, Old Secretariat, Delhi - 54.
3. The Deputy Inspector General, Central Revenue, Police Force, Raypur, Chhattisgarh.
4. The Assistant Commandant Officer, Central Reserve Police Force, Raypur, Chhattisgarh.

... .. Respondents

Appearance:

For the Petitioner	:	Mr. Maheshwar Prasad, Advocate
For the UoI	:	Mr. Amarendra Nath Verma, Sr. Advocate Mr. Rakesh Kumar Sinha, CGC

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 15-04-2024 Heard Mr. Maheshwar Prasad, the learned counsel

for the petitioner and Mr. Amarendra Nath Verma, learned senior
counsel for the Union of India assisted by Mr. Rakesh Kumar
Sinha, the learned Central Government's counsel.

2. The present writ petition has been filed for the
following reliefs:

*(i) This writ application is for issuance of a
writ of certiorari quashing the so called enquiry
report not made available to the petitioner of Sri
M.K. Tripathi, Assistant Commandant Officer and
annexure-2 order of punishment issued vide order no.*



P-8-112/07 establishment-3 dated 07.03.2007 passed by Deputy Inspector General, CRPF, Raypur/respondent-3 and also annexure-5 of the appellate order passed by the Inspector General, CRPF, respondent no. 2, and also annexure-7 order of revision dated 18.09.2010 passed by Director General, CRPF, New Delhi, respondent-1 being illegal, perverse, arbitrary, inoperative against the provisions made in Section 10 of the CRPF Act and Rule 27 of the said Act and violative of Article-14 and 16 of the constitution as well as against the principle of natural justice.

(ii) This writ application is also for issuance of a writ of mandamus or any other appropriate writ/writs or order/direction commanding the respondents to reinstate the petitioner with effect from the date of he was removed from service with all of arrears to which he is entitled and maintaining his seniority in the force.

3. Learned counsel for the petitioner submits that the petitioner is a member of the reserve category caste and for appointment of the constable in Central Reserve Police Force (Hereinafter referred to as 'CRPF') the caste certificate was to be submitted along with the application and as the petitioner has obtained a caste certificate and the said caste certificate was submitted by the petitioner along with his application for his appointment as a constable in CRPF.



4. Learned counsel for the petitioner submits that after his appointment in January, 1997, the petitioner completed his training and served the post from his appointment since January, 1997. After completion of more than ten years of his service in the course, he learned that some sort of enquiry is going to be held against the petitioner and based upon the enquiry report of the enquiry officer, which was based on without following the procedure laid down under Rule 27 of the CRPF Rules. The disciplinary authority also without following the Rule 27 has passed the final order of punishment vide order dated 07.03.2007.

5. Learned counsel for the petitioner submits that the petitioner filed an application to the Respondent No. 2 and requested the Respondent No. 2 to reinstate the petitioner in service. Learned counsel for the petitioner submits that the Respondent No. 2 has been pleased to reject the application of the petitioner, thereafter the petitioner has approached this Hon'ble Court in CWJC No. 8045 of 2010 and the same was disposed of vide order dated 18.05.2010 with a direction to the petitioner to file a revision application before the Director General, CRPF and as per the direction of this Hon'ble Court, the petitioner has preferred a revision application before the Director General, CRPF, New Delhi on 30.06.2010 and the same has been dismissed by the revisional authority on 18.09.2010.



6. Learned counsel for the petitioner submits that bare perusal of the aforesaid impugned orders, it appears that there has been complete violation of rules in conducting the enquiry against the petitioner in not supplying the copy of any evidence or documents.

7. Learned counsel for the petitioner submits that thereafter the petitioner has filed CWJC No. 16556 of 2011, challenging the order dated 18.09.2010 passed by the revisional authority, but the writ petition was dismissed on 30.09.2011 for non-prosecution. Thereafter, he filed MJC No. 776 of 2012 for restoration, which was also dismissed with a direction to file a fresh petition.

8. Learned counsel for the petitioner has relied upon the judgment reported in **2014(9) SCC 329** in the case of **Nawal Kishore Sharma Vs. Union of India & Ors.** and paragraph no. 9, 14 and 15 of the said judgment are read as follows:

(ix) The interpretation given by this Court in the aforesaid decisions resulted in undue hardship and inconvenience to the citizens to invoke writ jurisdiction. As a result, clause (1-A) was inserted in Article 226 by the Constitution (Fifteenth) Amendment Act, 1963 and subsequently renumbered as clause (2) by the Constitution (Forty-second) Amendment Act, 1976. The amended clause (2) now reads as under:

“226. Power of High Courts to issue certain



writs-

(1) Notwithstanding anything in Article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases any Government, within those territories, directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories.

(3) - (4)

(xiv) In Om Prakash Srivastava Vs. Union of India, answering a similar question this Court observed that on a plain reading of clause (2) of Article 226 it is manifestly clear that the High Court can exercise power to issue direction, order or writs for the enforcement of any of the fundamental rights or for any other purpose if the cause of action in relation to which it exercises jurisdiction notwithstanding that the seat of the Government of



authority or the residence of the person against whom the direction, order or writ is issued is not within the said territory. In para 7 this Court observed: (SCC p. 210)

“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.”

(xv) In Rajendran Chingaravelu Vs. CIT, this Court while considering the scope of Article 226(2) of the Constitution, particularly the cause of action in maintaining a writ petition, held as under: (SCC p. 461, paras 9 & 11)

“9. The first question that arises for consideration is whether the Andhra Pradesh High Court was justified in holding that as the seizure took place at Chennai (Tamil Nadu), the appellant could not maintain the writ petition before it. The High Court did not examine whether any part of cause of action arose in Andhra Pradesh. Clause (2) of Article 226 makes it clear that the High Court exercising jurisdiction in relation to the territories within which the cause of action arises wholly or in



part, will have jurisdiction. This would mean that even if a small fraction of the cause of action (that bundle of facts which gives a petitioner, a right to sue) accrued within the territories of Andhra Pradesh, the High Court of that State will have jurisdiction.

11. Normally, we would have set aside the order and remitted the matter to the High Court for decision on merits. But from the persuasive submissions of the appellant, who appeared in person on various dates of hearing, two things stood out. Firstly, it was clear that the main object of the petition was to ensure that at least in future, passengers like him are not put to unnecessary harassment or undue hardship at the airports. He wants a direction for issuance of clear guidelines and instructions to the inspecting officers, and introduction of definite and efficient verification/investigation procedures. He wants changes in the present protocol where the officers are uncertain of what to do and seek instructions and indefinitely wait for clearances from higher-ups for each and every routine step, resulting in the detention of passengers for hours and hours. In short, he wants the enquiries, verifications and investigations to be efficient, passenger-friendly and courteous. Secondly, he wants the Department/officers concerned to acknowledge that he was unnecessarily harassed.”

8.1. Learned counsel for the petitioner submits that in



view of the aforesaid judgment this Court has jurisdiction to entertain the present writ petition.

9. Learned counsel for the Union of India submits that the petitioner had applied for the post in question against scheduled tribe reserved post and he had produced a caste certificate which was later found forged. The petitioner was enlisted in the CRPF against a post which was reserved for scheduled tribe, treating him as a member of scheduled tribe, solely on the basis of his production of scheduled tribe certificate and he has taken severe objection with regard to the maintainability of the writ petition in the present Court on the ground that the petitioner has completed his basic training in Delhi, thereafter he was transferred to one under twelve battalion, CRPF in September, 1998 and the original punishment order was passed in the State of Chattisgarh and the same was communicated to the petitioner in the State of Jammu & Kashmir and the appellant order was passed in Delhi and the same was communicated to the petitioner at Delhi and thereafter the petitioner had preferred a revision application and the same was passed in New Delhi and it appears that all the orders passed by the competent authority are not within the jurisdiction of this Hon'ble Court. Learned counsel for the Union of India 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."

10. In view of the settled principle of law, this Court has no jurisdiction to entertain the present writ application and the same is not maintainable before this Hon'ble Court.

11. In view of the aforesaid, the present writ petition is dismissed for want of jurisdiction of this Hon'ble Court. However,



dismissal of this writ petition shall not preclude the petitioner from
filing a fresh writ petition before an appropriate forum / High
Court, if so advised.

(Rajesh Kumar Verma, J)

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