

10 02.04.2024

Ct-08

ar

MAT 1449 of 2023

with

IA No. CAN 2 of 2023

**Shankar Dayal Poddar CISF No.
110600161, Constable/Fire, CISF,
FSTI Unit, Hyderabad**

Vs.

Union of India & Ors.

Ms. Punam Basu

Ms. Pritha Biswas

... For the Appellant

Mr. Kumaresh Dalal

Mr. Tirtha Pati Acharyya

... For Union of India

1. We have heard the learned counsel appearing for the parties.
2. The final order of dismissal of the writ petitioner was assailed in a writ petition before the learned Single Judge and on consideration of the fact that in an earlier proceeding with regard to the service of the writ petitioner is pending before the High Court, State of Telengana.
3. The writ petition was dismissed on the ground of lack of territorial jurisdiction.
4. The appellant was working in the rank of Constable with the Central Industrial Security Force (CISF) at the Fire Service Training Institute (FSTI), Hyderabad. The petitioner was charge-sheeted on 1st September, 2021 due to indecent, undesirable acts and gross misconduct due to which disciplinary action was decided to be taken

against him. A writ petition being WP No. 25825 of 2021 was filed challenging the said proceeding on or about 18th October, 2021 in the High Court of Telengana. In the said writ petition he had prayed for stay of the enquiry proceedings due to the pendency of the criminal proceedings before the 7th Court, Metropolitan Magistrate, LB Nagar vide Criminal Case no. 1008 of 2021. The said writ petition is pending. Thereafter, the writ petitioner again filed another writ petition being WP No. 6565 of 2022 on or about 4th February, 2022 against a minor penalty passed under Rule 37 for arguing with the Doctors and for creating an unpleasant situation at the hospital. The said writ petition is also pending before the High Court for the State of Telengana. Subsequently, he filed another writ petition being WP 9407 of 2022 for reimbursement of the medical bills for his mother's treatment on or about 13th June, 2022 before the learned Single Judge of this Hon'ble High Court.

5. The writ petitioner was removed from service on by the final order dated 14th January, 2022. The petitioner/appellant preferred an appeal before the appellate authority which was also rejected on 7th April, 2022. The petitioner filed the writ petition

before the High Court at Calcutta challenging the final order dated 14th January, 2022.

6. Learned counsel representing the appellant submits that since the learned Single Judge of this Court had earlier entertained the writ petition with regard to the reimbursement of medical bills, this Court has jurisdiction to receive and entertain the present writ petition. In this regard learned counsel for the appellant has relied upon a decision of the Hon'ble Supreme Court in the case of ***Nawal Kishore Sharma Vs. Union of India***, reported in ***(2014)9 SCC 329*** to argue that Article 226(2) was considered by the Hon'ble Supreme Court following paragraph 17 of the said judgment and in view of identical issues involved in this writ petition the learned Single Judge should not have dismissed the writ petition due to lack territorial jurisdiction. In order to appreciate the said argument it is necessary to reproduce paragraph 17 of the said judgment, which is given below:-

“17. We have perused the facts pleaded in the writ petition and the documents relied upon by the appellant. Indisputably, the appellant reported sickness on account of various ailments including difficulty in breathing. He was referred to hospital. Consequently, he was signed off for further medical treatment. Finally, the respondent permanently declared the appellant unfit for

sea service due to dilated cardiomyopathy (heart muscle disease). As a result, the Shipping Department of the Government of India issued an Order on 12-4-2011 cancelling the registration of the appellant as a seaman. A copy of the letter was sent to the appellant at his native place in Bihar where he was staying after he was found medically unfit. It further appears that the appellant sent a representation from his home in the State of Bihar to the respondent claiming disability compensation. The said representation was replied by the respondent, which was addressed to him on his home address in Gaya, Bihar rejecting his claim for disability compensation. It is further evident that when the appellant was signed off and declared medically unfit, he returned back to his home in the district of Gaya, Bihar and, thereafter, he made all claims and filed representation from his home address at Gaya and those letters and representations were entertained by the respondents and replied and a decision on those representations were communicated to him on his home address in Bihar. Admittedly, the appellant was suffering from serious heart muscle disease (dilated cardiomyopathy) and breathing problem which forced him to stay in his native place, wherefrom he had been making all correspondence with regard to his disability compensation. Prima facie, therefore, considering all the facts together, a part or

fraction of cause of action arose within the jurisdiction of the Patna High Court where he received a letter of refusal disentitling him from disability compensation.”

7. Unlike the case cited, in the instant case a substantial cause of action has arisen in the State of Telengana including the final order. Accordingly, the High Court at Telengana would be the appropriate forum to decide the grievance of the petitioner. Merely because the writ petitioner was served with the appellate order and the revisional order at Kolkata that by itself could not give rise the cause of action since the State of Telengana is inextricably connected with the dispute culminating in the final order.

8. On such consideration, we are not inclined to interfere with the order passed by the learned Single Judge.

9. In view of the above, the appeal fails. However, we make it clear that we have not gone into the merit of the case. It will be open for the writ petitioner to take appropriate steps in accordance with law before the appropriate forum.

10. MAT 1449 of 2023 stands dismissed.

11. In view of dismissal of the appeal, nothing remains to be decided in the application for stay being CAN 2 of 2023 and the same is accordingly dismissed.

12. However, there shall be no order as to costs.

13. Urgent photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Soumen Sen, J.)

(Uday Kumar, J.)