

Neutral Citation No:2024:PHHC:020432
CWP-24291 of 2017 1
IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-24291 of 2017
Reserved on 09.02.2024
Pronounced on 14.02.2024

UPINDER KUMAR SINGLA

....Petitioner

Versus

ASSISTANT LABOUR COMMISSIONER-CUM-CONCILIATION
OFFICER, U.T., CHANDIGARH AND ORS

....Respondents

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH

Present: Mr. U.K. Agnihotri, Advocate for the petitioner.

Ms. Aakanksha Sawhney, Additional Standing Counsel
For respondent No.1-U.T. Chandigarh.

Mr. Shantanu Bansal, Advocate
for respondents No. 2 to 4.

SANJAY VASHISTH, J.

1. Petitioner-Upinder Kumar Singla, has filed the present writ petition for setting aside the impugned order dated 25.09.2017(Annexure P-1), passed by the respondent No.1-Assistant Labour Commissioner-cum-Conciliation officer, U.T. Chandigarh, whereby, the demand notice served by the petitioner has been rejected after suo moto reviewing the earlier order dated 15.09.2017 (Annexure P-5).

2. Facts detailed in the demand notice are that workman-Upinder Kumar Singla joined his services with respondent No.2-M/s Groz-Beckert Asia Pvt, Limited, 133-135, Industrial Area-I, Chandigarh on 01.02.1986 at the age of 19+ as a Trainee (General Clerk) vide appointment letter dated 31.01.1986. The appointment letter was issued under the signature of Vice

President (Tech.) as appointing authority. The service of the workman was confirmed vide letter dated 31.01.1988 as Personnel/Time Office Assistant. The said confirmation letter was also issued by Vice President (Tech) as appointing authority.

The workman was assigned the duties of a clerk to do manual working such as marking the attendance in attendance register, maintaining the leave records, making of shift notice, maintaining the records of uniform i.e. stitching, issuing and washing etc. of the entire workers of the company, data preparation for wages and deduction like diet taken, advances, loans etc.

Later on, workman was promoted to the post of Assistant Officer (personnel) in Grade-III vide letter dated 31.07.1996 w.e.f. 01.07.1996. Due to the efficient working and hardwork put in by the workman, he was further promoted to Personnel Officer in Grade -IV in the year 2000. In 2005, he was further promoted as Executive-Personnel and IR in Grade IV. Again, the workman was promoted to the post of Assistant Manager(Pers & IR) in the year 2011. Recommendations were made by HOD-Mr. M.S. Dhaliwal (Vice President Admin). After the transfer of the workman at RO South-Tirupur Office, he was handed over a relieving letter dated 21.04.2017 issued from HO (Head Office) stating therein that:

"Dear, Mr. singla,

This is to inform you that your services are no longer required and as such, you stand relieved from the services of the Company with effect from today the 24th of April, 2017.

In accordance with Clause No.5 of your contract of employment dated 31.01.987 and subsequent changes thereto, you shall be paid three months pay in lieu of the notice period.

Accordingly your full and final dues including three months notice pay shall be paid to you in due course of time."

3. Thus, there being a complete violation of Section 25 F of the Industrial Disputes Act, 1947 (for short 'the Act of 1947'), the workman served a demand notice. During the proceedings before Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh, respondent-Management filed its 'written comments' to the said demand notice and submitted therein that workman was functioning in a supervisory category and at the time of his relieving from the service of the company, his gross salary was Rs.72,484.00/- per month and he was also entitled for other perks. Question in regard to the jurisdiction was also raised that:

"3. Sh. Upinder Kumar Singla was posted as Exective-Sales as on 24.04.2017 at Tirupur (Tamil Nadu), when his services were dispensed with vide letter dated 24.04.2017, therefore, the learned Authority has no jurisdiction to entertain the present demand notice and, as such, the present notice needs to be rejected.

Although, reply was also given on the factual aspects in regard to quality of services rendered by the workman.

4. On failure of the conciliation proceedings, respondent No.1 informed workman was informed that no amicable settlement of the dispute was possible and thus, the proceedings were closed. It was left open for the parties to file their claim before the appropriate Authority in the Labour Court.

The relevant part of the said letter is reproduced hereinbelow:

'From

*The Assistant Labour Commissioner-
cum-Conciliation Officer, U.T.,
Chandigarh.*

To

Sh. Upinder Kumar Singla,

*s/o Sh. Sanjiv Kumar Singla,
R/o House No.11, Sector-11
Panchkula-134112
Memo No.4932
Dated 15.09.2017*

Subject: Demand Notice

Vide reference demand notice received in this office on 08.06.2017 served upon the management of the Groz Beckert, Asia Pvt. Ltd., Chandigarh, no amicable settlement could possible of the dispute. Thus, the conciliation proceedings stand closed at the level of the undersigned and parties are at their liberty to file before the appropriate authority in the Labour Court.'

5. Few days thereafter i.e. on 25.09.2017, another communication was addressed to the workman, informing parties about the rejection of the demand notice for want of jurisdiction. The said review was done by respondent No.1 suo moto i.e. on its own volition. Relevant part of letter dated 25.09.2017 is reproduced hereinbelow:

"From

*The Assistant Labour Commissioner-
cum-Conciliation Officer, U.T,
Chandigarh.*

To

*Sh. Upinder Kumar Singla,
s/o Sh. Sanjiv Kumar Singla,
R/o House No.11, Sector-11
Panchkula-134112
Memo No.5159
Dated 25.09.2017*

Subject: Demand Notice

This is in continuation of Memo No.4932-33 dated 15.09.2017. Due to clerical mistake, parties were informed that they are at liberty to file before the appropriate authority in the Labour Court.

In this regard, the parties are informed that as the applicant/workman was working at Tirupur (Tamil Nadu), at the time of his termination, the present demand notice cannot be entertained at Chandigarh. Therefore, the present demand notice is rejected for want of jurisdiction."

The aforesaid letter has been challenged by the workman before this Court, by way of present writ petition.

6. Learned counsel for the petitioner submits that first of all, there is no provision of law which could empower the authority i.e. Respondent No.1 to take up the issue suo-moto and then to review the same, by entirely giving it a different shape. Learned counsel for the petitioner also submits that though the order has been reviewed on the issue of jurisdiction, but the second letter dated 25.09.2017 is silent about the aspect, that whether the efforts done by respondent no.1 in regard to the amicable settlement were also without any jurisdiction. Thus, counsel submits that whether any industrial dispute is made out or not is yet to be decided by respondent No.1. However, reviewing the order, that too, suo moto is a surprising action on the part of respondent No.1.

Further submits that a possibility cannot be ruled out that the order has been reviewed suo moto in connivance with the private respondents No. 2 to 4 herein. Details and particulars of respondents No.2 to 4 are taken up from the memo of parties of the writ petition and same is reproduced hereinbelow:

“Respondent No.2-M/s Groz-Beckert Asia Pvt. Limited, 133-135, Industrial Area-I, Chandigarh 160002 through its Managing Director.

Respondent No.3-M/s Groz-Beckert Asia Pvt. Limited, Sales Regional office at #3, 3rd Street, Binny Compound, Kumaran Road, Tirpur-641601, Tamil Nadu, through its Regional Head.

Respondent No.4-M/s Groz-Beckert Asia Pvt. Limited, 133-135, Industrial Area-I, Chandigarh 160002 through its Factory Manager.”

Thus, it becomes clear that it's one Management i.e. M/s Groz-Beckert Asia Pvt. Limited, whose Managing Director is having its office at Chandigarh (head Office), while sales regional office is at Tirupur, (Tamil Nadu). Even, the factory Manager is in the area of Chandigarh.

7. Learned counsel for the petitioner submits that the issue of jurisdiction is a mixed question of facts and law. Moreover, he relies upon the judgment of the Hon'ble Supreme Court, titled as **Nandram Vs. M/s Garware Polyester Ltd.,2016 AIR (Supreme Court) 1077: Law Finder Doc Id # 744125** and refers to paragraph No.5 of the same, which says as under:

‘5. Though, the learned counsel on both sides had addressed in detail on several issues, we do not think it necessary to go into all those aspects mainly because in our view they are only academic. In the background of the factual matrix, the undisputed position is that the appellant was employed by the Company in Aurangabad, he was only transferred to Pondicherry, the decision to close down the unit at Pondicherry was taken by the Company at Aurangabad and consequent upon that decision only the appellant was terminated. Therefore, it cannot be said that there is no cause of action at all in Aurangabad. The decision to terminate the appellant having been taken at Aurangabad necessarily part of the cause of action has arisen at Aurangabad. We have no quarrel that Labour Court, Pondicherry is within its

jurisdiction to consider the case of the appellant, since he has been terminated while he was working at Pondicherry. But that does not mean that Labour Court in Aurangabad within whose jurisdiction the Management is situated and where the Management has taken the decision to close down the unit at Pondicherry and pursuant to which the appellant was terminated from service also does not have the jurisdiction. In the facts of this case both the Labour Courts have the jurisdiction to deal with the matter. Hence, the Labour Court at Aurangabad is well within its jurisdiction to consider the complaint filed by the appellant. Therefore, we set aside the order passed by the High Court and the Industrial Court at Aurangabad and restore the order passed by the Labour Court, Aurangabad though for different reasons.'

As per the facts of **Nandram's case (supra)**, employee was employed by the employer-Company in Aurangabad and was only transferred to Pondicherry. Even, the decision to close down the unit at Pondicherry was taken by the Company at Aurangabad, resulting in the termination of services of the employee. The Hon'ble Apex Court held that it cannot be said that no cause of action arises at Aurangabad at all, because the decision of termination itself has taken place at Aurangabad. Thus, the Apex Court held that Labour Court at Aurangabad is also vested with the jurisdiction to deal with the dispute arising between the employee and the Management.

8. Learned counsel for the petitioner also relies upon the judgment of the Hon'ble Delhi High Court, titled as **'Bageshwar Maurya Vs. Management Naveen Projects P. Ltd., 2010(2) RSJ 593: Law Finder Doc Id #205949**, and refers to paragraphs No.10 and 11, which reads as under:

'10. As pointed out earlier, the appointment letter, transfer order as well as the termination letter were all issued from Delhi, substantial cause of action has thus arisen within the jurisdiction of Delhi, Merely because the appellant was posted in Rajasthan at the time of his

termination will not oust the jurisdiction of Delhi Government to make a reference to the Labour Court. In this regard, a reference may be made to a decision of the Supreme Court in Workmen v. Shri Rangavilas Motors (P) Ltd. AIR 1967 Supreme Court 1040. In this case the workman concerned was engaged as a Foreman. He was transferred from Bangalore to Krishnagiri. He questioned the validity of the said order of transfer. The company initiated disciplinary proceedings against him and he was removed from service. State of Mysore made a reference. Validity of the said reference was questioned and the Supreme Court opined that :

"This takes us to the other points. Mr. O. P Malhotra strongly urges that the State Government of Mysore was not the appropriate Government to make the reference. He says that although the dispute started at Bangalore, the resolution sponsoring this dispute was passed in Krishnagiri, and, that the proper test to be applied in the case of individual disputes is where the dispute has been sponsored. It seems to us that on the facts of this case it is clear that there was a separate establishment at Bangalore and Mahalingam was working there. There were a number of other workmen working in this place. The order of transfer, it is true, was made in Krishnagiri at the head office, but the order was to operate on a workman working in Bangalore. In our view the High Court was right in holding that the proper question to raise is where did the dispute arise ? Ordinarily, if there is a separate establishment and the workman is working in that establishment, the dispute would arise at that place. As the High Court observed, there should clearly be some nexus between the dispute and the

territory of the State and not necessarily between the territory of the State and the industry concerning which the dispute arose."

*11. In so far as the present case is concerned, the respondent company has no separate establishment/office in Rajasthan. The company is conducting its business from Delhi. Thus the Government of NCT of Delhi will be the appropriate Government. Even assuming that a part of cause of action has also arisen in Rajasthan, as has been held by the Supreme Court in *Bikash Bhushan Ghosh and others v. Novartis India Ltd.*, (2007) 5 SCC 591 the fact that other State Government has also jurisdiction would not mean that the state Government within whose territory a part of cause of action arose would have no jurisdiction to make the reference.'*

As per the **Bageshwar Maurya's case(supra)**, appointment letter, transfer order as well as termination letter were all issued from Delhi. Thus, a substantial cause of action has arisen within the jurisdiction of Delhi. The Hon'ble Delhi High Court held that Delhi Government cannot be ousted from the jurisdiction to make a reference to the Labour Court.

9. Learned counsel for the petitioner further relies upon the judgment of Hon'ble Supreme Court, titled as **'Bikash Bhushan Ghosh & Ors Vs. M/s Novartis India Limited and Anr, 2007 AIR (SCW) 2990 : 2007(4) Supreme 312, Law Finder Doc Id # 129814** and refers to paragraph No. 15, which says as under:

*'15. There is another aspect of the matter which cannot be lost sight off. If the provisions contained in the Code of Civil Procedure are given effect to, even if the Third Industrial Tribunal, West Bengal had no jurisdiction, in view of the provisions contained in Section 21 of the Code of Civil Procedure, unless respondent suffered any prejudice, they could not have questioned the jurisdiction of the Court. In *Kiran Singh and others v. Chaman**

*Paswan and others [AIR 1954 Supreme Court 340],
this Court held:*

(6) ... If the question now under consideration fell to be determined only on the application of general principles governing the matter, there can be no doubt that the District Court of Monghyr was 'coram non judice' and that its judgment and decree would be nullities. The question is what is the effect of section 11 of the Suits Valuation Act on this position.

(7) Section 11 enacts that notwithstanding anything in section 578 of the Code of Civil Procedure an objection that a Court which had no jurisdiction over a suit or appeal had exercised it by reason of over-valuation or under-valuation, should not be entertained by an appellate Court, except as provided in the section. Then follow provisions as to when the objections could be entertained, and how they are to be dealt with. The drafting of the section has come in and deservedly - for considerable criticism; but amidst much that is obscure and confused, there is one principle which stands out clear and conspicuous. It is that a decree passed by a Court, which would have had no jurisdiction to hear a suit or appeal but for over- valuation or under-valuation, is not to be treated as, what it would be but for the section, null and void, and that an objection to jurisdiction based on over-valuation or under-valuation, should be dealt with under that section and not otherwise.

The reference to section 578, now section 99, Civil Procedure Code in the opening words of the section is significant. That section, while providing that no decree shall be reversed or varied in appeal on account of the defects mentioned therein when they do not affect the merits of the case, excepts from its operation defects of Jurisdiction. Section 99 therefore gives no

protection to decrees passed on merits, when the Courts which passed them lacked jurisdiction as a result of over-valuation or under-valuation. It is with a view to avoid this result that section 11 was enacted. It provides that objections to the jurisdiction of a Court based on over- valuation or under-valuation shall not be entertained by an appellate Court except in the manner and to the extent mentioned in the section. It is a self-contained provision complete in itself, and no objection to jurisdiction based on over-valuation or under-valuation can be raised otherwise than in accordance with it.

With reference to objections relating to territorial jurisdiction, Section 21 of the Civil Procedure Code enacts that no objection to the place of suing should be allowed by an appellate or revisional Court, unless there was a consequent failure of justice. It is the same principle that has been adopted in section 11 of the Suits Valuation Act with reference to pecuniary jurisdiction. The policy underlying sections 21 and 99, Civil Procedure Code and section 11 of the Suits Valuation Act is the same, namely, that when a case had been tried by a Court on the merits and judgment rendered, it should not be liable to be reversed purely on technical grounds, unless it had resulted in failure of justice, and the policy of the legislature has been to treat objections to jurisdiction both territorial and pecuniary as technical and not open to consideration by an appellate Court, unless there has been a prejudice on the merits. The contention of the appellants, therefore, that the decree and judgment of the District Court, Monghyr, should be treated as a nullity cannot be sustained under section 11 of the Suits Valuation Act.'

10. Learned counsel for the petitioner also relies upon a judgment of this Court (Punjab and Haryana High Court,

Chandigarh), titled as '**Bhola Nath Maurya and others Vs. State of Punjab and others, 2017 (3) S.C.T. 344, Law Finder Doc Id #872942**' and refers to paragraphs No. 4,5 and 6, which reads as under:

'4. It is well settled by a large number of judgments that the appropriate Government' does not act as a Court. It has no jurisdiction to decide the lis and is virtually a rubber stamp and a forwarding agent of the disputes to the Labour Court or the Industrial Tribunal, as the case may be, for determination by trial. The appropriate government performs an administrative, act while making reference. The Assistant Labour Commissioner has apparently misdirected himself in resorting to the provisions of the Punjab Industrial Disputes Rules, 1958 while laboring to think that the demand notice can only be submitted by a registered union of workmen or through their five nominated representatives as rules provide. The Rule cited in the impugned order deals with attestation of application'. It does not deal with how disputes are to be raised under Section 2(k) of the Industrial Disputes Act, 1947. The doctrine of espousal in industrial law is based on a substantial number of workmen raising a dispute with the management for settlement of their grievances expressed orally or in a charter or demands. This is the system of collective bargaining, which the Assistant Labour Commissioner has unfortunately forgotten by his patently illegal and perverse order, if I may describe it as one of the kind.

5. The Assistant Labour Commissioner does not seem to know that the Industrial Disputes Act does not require a registered trade union in existence before industrial dispute is raised. A substantial body of workmen can raise an industrial dispute. Therefore, attestation of application, when it speaks of in Rule 4 deals with only registered trade unions and how those would be represented in raising disputes with the management. Hence, the first reason for refusal to refer the disputes has to be rejected as erroneous.

6. The second reason ascribed to scuttle the reference is that the workmen are not working in the present industry and are working in Dewas (M.P.) and, therefore, they are not within the territorial jurisdiction of the office of the Assistant Labour Commissioner. Therefore, the demand notice deserves to be filed on the ground of want of jurisdiction. When the allegation of unfair labour practice was levelled as a foundation of the industrial dispute involving 73 workmen, then the cause of action had substantially arisen in Mohali, where the dispute fomented and turned into an actionable dispute. If the reasoning of the Assistant Labour Commissioner in para.2 is accepted, it would mean that an employer can always whimsically transfer workers en mass to another of its establishments outside the territory and to a different State and frizzle out the demands- of the workman and expect them to approach the appropriate Government in Madhya Pradesh for the resolution of the dispute to be adjudicated there. The approach of the Assistant Labour Commissioner is wholly illegal and has to be deprecated. He does not seem to know even the principles of labour law. The order has effectively derailed the adjudication for five years.'

11. The gist of **Bhola Nath Maurya's case (supra)** is that instead of the working place of the workers in Dewas (M.P), the cause accrues to the workmen substantially at Mohali also, where the dispute fomented and turned into an actionable dispute. Therefore, the reasoning given by the Assistant Labour commissioner, to oust the workmen from the jurisdiction was termed to be whimsically transferring the workers at the instance of the employer outside the State, with a purpose to frizzle out the demands of the workmen.

12. While controverting the arguments addressed by learned counsel for the petitioner, learned counsel for respondent No.1 relies upon its reply and attempts to defend the order of review passed by it. In its defence, learned counsel for respondent No.1 relies upon the judgment passed by this Court (Punjab and Haryana High Court, Chandigarh), titled as **'The Ropar District**

Cooperative Milk Producers Union Limited Vs. The Milk Plant Workers Union and others, 2017(3) PLR 456: Law Finder Doc Id # 885722 and refers to paragraphs No.6,8 and 12, which are reproduced herein below:

'6. Mr. Patwalia submits that the "appropriate government would be the Punjab Government to make reference of the dispute to the Area Labour Court. Moreover, none of the members of the Union work in the Union Territory of Chandigarh although the Milk Plant lies in close proximity on the outskirts of the city of Chandigarh but actually falls in District Mohali. The Union itself is known as The Milk Plant Workers Union which suggests what Mr. Patwalia indicates. Merely, because the Union runs its office in Sector-45, Chandigarh would not confer territorial jurisdiction on the Tribunal at Chandigarh. Also the records of the case likely to be produced lie within the territory of Punjab.

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8. It appears that the Central Government was not properly advised and was perhaps misled by the addresses of parties shown at Chandigarh without being informed that the corpus of the dispute falls within the territory of Punjab and, therefore, the Central Government was not the appropriate Government to make the reference. If there is no territorial jurisdiction in the Tribunal at Chandigarh, the reference order is without jurisdiction and consequently has to be set aside.

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12. As a result, the petition is allowed. The impugned reference order is quashed with the above observations and directions.'

Learned counsel for respondent No.1 submits that as per **The Ropar District Cooperative Milk Producers Union Limited's case (supra)** head office of the Milk plant was in the U.T. Chandigarh, but the Milk plant was situated in District Mohali near the outskirts of the city of Chandigarh. The reference of the Milk Plant workers was referred for its decision to the Punjab

Government and not to the U.T. Government, because there was no territorial jurisdiction with the Tribunal at Chandigarh.

13. This Court has examined the above judgment, but it appears that the facts involved therein are entirely different from the facts in case at hand. Here, the efforts for resolving the dispute in an amicable way were also in process, and probably for that reason, Court realized that said exercise could be accomplished in a better way, if, the proceedings were conducted in close proximity to the Milk Plant Workers Union.

14. Learned counsel for respondent No.1 again relies upon the judgment of this Court (Punjab and Haryana High Court), titled as 'Haryana Agro Industries Corp Ltd. Vs. Chandigarh Administration U.T., 1994(1) S.C.T. 202: Law Finder Doc Id #24861 and refers to paragraph No.5, which is reproduced hereinbelow:

'5. The primary contention of the learned counsel for the petitioner is that the Chandigarh Administration had no jurisdiction to make reference to the Labour Court, Union Territory, Chandigarh and consequently the said Labour Court had no jurisdiction to make award in respect of the workman who was appointed at Neelokheri and whose services were terminated while he was working at Neelokheri. According to the learned counsel, the appropriate Government was the State Government i.e. the State of Haryana to make reference to the Labour Court concerned and not the Chandigarh Administration. Learned counsel in support of his contention relied upon a Division Bench judgment of this court in Ram Lal v. The Presiding Officer, Labour Court, Patiala, 1986(1) SLR 633. In the aforesaid case the workman was employed in the territory forming part of State of Punjab and the Head Office of the Bank was situated in Chandigarh. Services of the workman had been terminated while he was working within the territory of State of Punjab. The State of Punjab made reference to the Labour Court under Section 10(1)(c) of the Act. In these circumstances a question arose, whether the appropriate Government to refer an

industrial dispute for adjudication under Section 10 is the State Government within whose territorial jurisdiction the workman was working and orders of dismissal had been received, or the State Government within whose a territorial undertaking is located and where the orders dismissing the workman had been passed. On consideration of the entire matter, the Division Bench answered the question in the following manner:

"In the result the answer to the first question is that the State Government within whose territorial limitation the industrial dispute arose and the orders of dismissal had been received and became operative is the appropriate Government for referring the industrial dispute for adjudication. The answer to question No. 2 also is in the affirmative. The appropriate Government is competent to refer industrial dispute for adjudication even if it had refused to do so at an earlier occasion."

In the present case it could not be disputed by the learned counsel of the workman that the workman was employed at Neelokheri and his services were terminated and orders of termination received by him at Neelokheri. Thus, having regard to the binding precedent it has to be concluded that appropriate Government to make reference to the Labour Court was the State Government Le. the State of Haryana in whose territorial jurisdiction the workman had been working. Reference to the Labour Court made by the Chandigarh Administration has thus, to be held as without jurisdiction on that score and consequently the award passed by the Labour Court pursuant to the said reference has to be set aside.

As per the facts of the **Haryana Agro Industries Corp Ltd's case (supra)**, workman was appointed at Neelokheri, the working place was at Neelokheri and termination order was at Neelokheri. Therefore, it was held that there was no point to make reference to the Labour Court at Chandigarh.

So, the facts of the cited case are entirely different to the facts being dealt with in the writ petition before this Court.

15. Learned counsel for respondent No.1 also relies upon judgment of the Hon'ble Apex Court, titled as **'Hindustan Aeronautics Ltd. Vs. Workmen and others, 1975 AIR (Supreme Court) 1737: Law Finder Doc Id #106613** and refers to paragraph No.4, which reads as under:

'4. The other leg of the argument to challenge the competency of the West Bengal Government to make the reference is also fruitless. It may be assumed that the Barrackpore branch was under the control of the Bangalore division of the company. Yet it was a separate branch engaged in an industry of repairs of aircrafts or the like at Barrackpore. For the purposes of the Act and on the facts of this case the Barrackpore branch was an industry carried on by the company as a separate unit. The workers were receiving their pay packages at Barrackpore and were under the control of the officers of the company stationed there. If there was any disturbance of industrial peace at Barrackpore where a considerable number of workmen were working the appropriate Government concerned in the maintenance of the industrial peace was the West Bengal Government. The grievances of the workmen of Barrackpore were their own and the cause of action in relation to the industrial dispute in question arose there. The reference, therefore,, for adjudication of such a dispute by the Governor of West Bengal was good and valid. The facts of the case of M/s. Lipton Limited v. Their Employees, (1959)2 Supp SCR 150 cited on behalf of the appellant are clearly distinguishable. The ratio of trial case was pressed into service in vain on behalf of the appellant.'

16. Learned counsel for respondent No.1 also relies upon the judgment of this Court (Punjab and Haryana High Court,

Chandigarh), titled as 'Ram Lal Vs. Labour Court, Patiala and others,1983-I.L.L.N 903 and refers to paragraphs No.1,9 and 14, which reads as under:

'1. Per Sukhdev Singh Kang J:- Two questios of law arise in this Letters Patent Appeals:

"(a) Whether the 'appropriate Government' to refer an industrial dispute for adjudication under S. 10 is the State Government, within whose territorial jurisdiction the workman was working and orders of dismissal had been received; or the State Government within whose territorial jurisdiction the head office of or the industrial undertaking is located and where the orders dismissing the workman have been passed?

(b) Whether for State Government having once declined to refer an industrial dispute for adjudication under S.10(1) (c) is competent to change its mind and refer that very industrial dispute for adjudication.?

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9. It is established on the record that the primary bank at Bathinda was a member of the State bank. Under the service rules framed by the State Bank, it is obligatory on its members, the primary banks, to take the employees of the bank on deputation. The workman was deputed to serve with the primary bank at Bathinda; certain incidents took place on the basis of which a criminal case was registered against the workman and he was tried and was discharged by the Criminal Court at Bathinda. The order of termination of the services of workman, though passed at Chandigarh, was served at Bathinda. The order became effective and operated at Bathinda, where the workman was at the material time working and earning his wages. The relationship of master and servant snapped at Bathind is not a branch office of the bank, but it is its constituent nonetheless. For that reasons, the workman's service were lens to it. The object is enacting the Act was to bring about speedy resolution of Industrial disputes, so that industrial peace and

harmony prevailed and the forces of labour and capital co-operated to produce and engender goods and services and thereby contributing to the prosperity of the nation. The prevalence of harmony and tranquility in the areas where industrial activity is carried on and workmen are employed is not only a need of the employer and the employees, but the society itself has a stake in it. For these reasons the provisions of the Act have to be interpreted liberally and an interpretation which comports with the objects of the Act has to be adopted. The industrial dispute definitely arose at Bathinda, where the workman was working and where the orders of termination became effective.

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14. In the result, the answer to the first question is that the State Government within whose territorial limitation the industrial dispute arose and the orders of dismissal had been received and became operative, is the appropriate Government for referring the industrial dispute for adjudication. The answer to question 2 also is in the affirmative. The appropriate Government is competent to refer the industrial dispute for adjudication even if it had refused to do so at an earlier occasion.'

17. This Court has gone through the judgments cited by learned counsel for respondent No.1, but the facts are entirely different.

18. Learned counsel for private respondents No. 2 to 4 also defends the impugned order dated 25.09.2017 and submits that once, the employee was working at Tirupur (Tamil Nadu), there is no purpose of conducting the proceedings before the Courts at U.T. Chandigarh. Thus, reference cannot be decided by the Courts at Chandigarh.

19. However, this Court is of the view that any of the objections raised by the respondent-company is not sustainable because, in any manner, it does not prejudice the rights of the employer company. It is undisputed that the addresses of the respondents mentioned in the Memo of parties are also situated

in the territory of U.T. Chandigarh itself and only a regional office is situated in Triupur. Thus, respondents cannot run away from its responsibility of the actions being taken at its head office under the nose of its Managing Director i.e. in the area of U.T. Chandigarh.

20. However, this Court has considered deeply the submissions addressed by the petitioners as well as respondents and has also gone through the cited judgments before this Court.

While examining the letter dated 15.09.2017 (Annexure P-5), this Court finds that already efforts were made for conciliation/amicable settlement of the dispute. Therefore, respondent No.1 had already proceeded under the Provisions of the Act for attempting an amicable settlement. On failure of conciliation proceedings, the parties were advised to approach the Labour Court.

However, there is nothing found in support of the issuance of the impugned memo No.5159 dated 25.09.2017 (Annexure P-1), as to what made respondent No.1 to wake up suddenly within a period of 10 days and issue was again taken up on suo moto basis by giving opinion regarding its jurisdiction. The Court has also noticed that dispute of the petitioner-workman is with the Company, which is managed and controlled by its head office, through its Managing Director and the office of respondent No.1 is situated at U.T. Chandigarh.

21. During the proceedings before this Court, none of the respondents were in a position to answer or even deny that the order of relieving the petitioner from the service has not been passed after due application of mind at the office of Respondent No.1. It is also not denied that for almost more than two decades, petitioner worked in the office of respondent No.1/3 and it was only for the purpose of work or some other reason that he was transferred to the Branch office/ Regional office at Tirupur (Tamil Nadu). Demand notice clearly states in paragraph No.13 that

the relieving letter dated 21.04.2017 was issued from HO (head office) and said letter was handed over to the petitioner-workmen on 24.04.2017 by Mr. S. Kumar at RO South-Tirupur Office. Meaning thereby, as per demand notice, the order has been passed at the head office i.e. at Chandigarh and it is communicated to the petitioner at his working place.

Therefore, by applying the ratio of the aforesaid judgments i.e. Nandram’s case (supra), Bageshwar Maurya’s case (supra), Bikash Bhushan Ghosh’s case (supra) and Bhola Nath Maurya’s case (supra), by no stretch of imagination, it can be held that the Labour Court at Chandigarh has no jurisdiction to decided the dispute. **Thus, prayer made in the present writ petition is allowed and consequently, impugned order dated 25.09.2017 (Annexure P-1) is set aside.**

However, parties are directed to proceed and take requisite steps, if so desired by them, as required under the law.

14.02.2024	[SANJAY VASHISTH]
rashmi	JUDGE
Whether speaking/reasoned	yes/no
Whether reportable?	yes/no