

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.21059 of 2012

Prakash Chandra Roy son of Sri B N Roy, Resident of Village Tarapur, Post
Chhathar, P.S. Tarlapur, District Banka

... .. Petitioner/s

Versus

1. Union Bank of India through its General Manager, HRD, General Manager, Human Resources Department, Central Office, Union Bank of India, Bank Bhawan, Nariman Point, Bombay 400021
2. The Deputy General Manager, Human Resources Department, having its office at Central Office, Union Bank of India, Bank Bhawan, Nariman Point, Bombay 400021

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Mukund Jee, Advocate
		Mr. Shyamal Krishna Sinha, Advocate
For the Respondent/s	:	Mr. Prabhat Kumar Sharan, Advocate
		Mr. Hemant Kumar Sharan, Advocate

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
C.A.V. JUDGMENT

Date : 31-10-2025

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The petitioner in the instant application has prayed for quashing the article of charges contained in memorandum dated 26.10.2005 (Annexure-1), the order of dismissal of the petitioner dated 18.12.2006 (Annexure-2) passed under the signature of the disciplinary authority ie the Assistant General Manager (Industrial Relations), Union Bank



of India, the order of the appellate authority ie Deputy General Manager (HRM) dated 27.2.2007 (Annexure-3) and the order of the reviewing authority ie the General Manager (HRM) dated 3.7.2007 rejecting the review petition filed by the petitioner.

3. At the outset, learned counsel for the respondent-Bank has raised the question of maintainability of the instant writ application on account of this Court not having territorial jurisdiction to hear the case, all the proceedings with respect to the petitioner having taken place in the State of Maharashtra.

4. The relevant facts in brief are that the petitioner joined the Union Bank of India on 22.10.2001. At the relevant time, he was posted as the Assistant Manager at Mauganj Branch of the Bank in Rewa in the State of Madhya Pradesh. The petitioner was served with a show cause notice dated 18.2.2005 while working at Mauganj Branch. The order stated that in view of serious acts of omission and commission, pending investigation/departmental action in the matter, he was being placed under suspension. The petitioner replied to the show cause notice on 26.5.2005 but subsequently on 26.10.2005, was served with the chargesheet/statement of allegations (Annexure-1) to which the petitioner replied. An enquiry report dated 29.9.2006 was submitted finding all the



charges against the petitioner to be proved. By order dated 18.12.2006 passed by the disciplinary authority, the petitioner was inflicted with the major penalty of dismissal from service from the Bank with immediate effect. The appeal filed by the petitioner was rejected on 27.2.2007 by the appellate authority and the review petition filed on 1.6.2007 by the petitioner was also rejected by the reviewing authority on 3.7.2007.

5. Learned counsel for the respondent-Bank submits that the entire proceedings with respect to the omission and commission committed by the petitioner at Mauganj Branch in Rewa having taken place in the State of Madhya Pradesh, the writ application should have been filed either at Madhya Pradesh or in the State of Maharashtra where the petitioner was posted on transfer. This Court does not have territorial jurisdiction to hear the instant application. Reliance is placed by learned counsel for the respondents on the judgments in the case of *Lt. Col. Khajoor Singh vs. Union of India and Anr.*; AIR 1961 SC 532, *National Textile Corporation Limited and Ors. vs. Haribox Swalram and Ors.*; (2004) 9 SCC 786, *M/s Kusum Ingots and Alloys Ltd. vs. Union of India and Anr.*; AIR 2004 SC 2321, *Alchemist Ltd. and another vs. State Bank of Sikkim and others*; (2007) 11 SCC 335 as also judgments dated



17.5.2016 of this Court in the case of ***Sunil Kumar Yadav vs. The Union of India & Ors. (CWJC no.2998 of 2013)*** and dated 3.12.2008 in the case of ***Amar Kumar Choubey vs. The Union of India & Ors. (LPA no.827 of 2007)***.

6. Heard learned counsel for the parties and perused the material on record.

7. The facts of the case in brief are that the petitioner was served with the statement of allegations/chargesheet on 26.10.2005 when he was posted as an Assistant Manager in the Personnel Administration Department in Central Office of the Union Bank of India at Mumbai. The charges related to his tenure as Assistant Manager at Mauganj Branch, Rewa in the State of Madhya Pradesh. The proceedings continued at Mumbai and the order of punishment dated 18.12.2006 passed by the disciplinary authority, the order of the appellate authority dated 27.2.2007 as also the order of the reviewing authority dated 3.7.2007, all were passed at Mumbai.

8. On perusal of the records, it transpires that the petitioner moved the High Court of Madhya Pradesh in writ petition bearing WP no.2249 of 2009 which was disposed of as withdrawn by order dated 7.9.2011 with liberty to the petitioner to approach the appropriate High Court for mitigation of his



grievance.

9. It may be observed here that with respect to the period that the petitioner was posted at the Branch in the district of Rewa, Madhya Pradesh, the proceedings were initiated when the petitioner was an Assistant Manager in the Personnel Administration Department in the Central Office at Mumbai. The petitioner was put under suspension on 1.3.2005 pending departmental action in the matter, in Mumbai. A perusal of the records would show that the chargesheet/statement of allegations was served and the departmental proceeding conducted by the Enquiry Officer at Mumbai and the same ended with the enquiry report being submitted in Mumbai finding all the charges levelled against the petitioner to have been proved.

10. On perusal of the contents of the writ petition, it transpires that the petitioner does not state about the orders impugned in the instant application having been served at his residential address in Bihar. Neither any such statement is made on behalf of the petitioner in the three supplementary affidavits filed on behalf of the petitioner.

11. It transpires from the letter dated 18.2.2005 sent by the disciplinary authority to the petitioner which has been



brought on record as Annexure-10 to the supplementary affidavit filed on behalf of the petitioner that having been relieved from Rewa on 25.1.2005, as advised, the petitioner did not report to the Deputy General Manager (HRM), Central Office at Mumbai and remained unauthorisedly absent. He was thus called upon by the said letter to submit his explanation within ten days. As a result of his unauthorised absence, the communication was also marked to his native address but no reply was received from the petitioner.

12. It is the contention of the petitioner that since the order of punishment and other impugned orders were communicated to the petitioner at his permanent address in the district of Banka in Bihar, this Court would have jurisdiction to decide the instant case.

13. Article 226 (2) of the Constitution of India provides that the power conferred by Article 226 (1) to issue direction, order or writs may be exercised by any High Court in relation to territories within which the cause of action wholly or in part arises.

14. At this stage, it would be relevant to take note of certain decisions of the Hon'ble Supreme Court as also this Court on the point of jurisdiction.



15. In the case of ***Lt. Col. Khajoor Singh (supra)***, the Hon'ble Supreme Court held as follows :-

"14. The seat of a Government is sometimes mentioned in the Constitutions of various countries but many a time the seat is not so mentioned. But whether the seat of a Government is mentioned in the Constitution or not, there is undoubtedly a seat from which the Government as such functions as a fact. What Art. 226 requires is residence or location as a fact and if therefore there is a seat from which the Government functions as a fact even though that seat is not mentioned in the Constitution the High Court within whose territories that seat is located will be the High Court having jurisdiction under Art. 226 so far as the orders of the Government as such are concerned. Therefore, the view taken 1953 SCR 1144: (AIR 1953 SC 210) (supra) and 1954 SCR 738 (AIR 1954 SC 207) (supra) that there is two-fold limitation on the power of the High Court to issue writs etc. under Art. 226, namely, (i) the power is to be exercised 'throughout the territories in relation to which it exercises jurisdiction', that is to say, the writs issued by the Court cannot run beyond the territories subject to its jurisdiction, and (ii) the person or authority to whom the High Court is empowered to issue such writs must be "within those territories" which clearly implies that they must be amenable to its jurisdiction either by



residence or location within those territories, is the correct one.

15. This brings us to the second point, namely, whether it is possible to introduce the concept of cause of action in Art. 226 so that the High Court in whose jurisdiction the cause of action arose would be the proper one to pass an order thereunder. Reliance in this connection has been placed on the judgment of the Privy Council in 70 Ind. App 129: (AIR 1943 P.C. 164). In that case the Privy Council held that even though the impugned order was passed by the Board of Revenue which was located in Madras, the High Court would have no jurisdiction to issue a writ quashing that order, as it had no jurisdiction to issue a writ beyond the limits of the city of Madras except in certain cases, and that particular matter was not within the exceptions. This decision of the Privy Council does apparently introduce an element of the place where the cause of action arose in considering the jurisdiction of the High Court, to issue a writ. The basis of that decision, however, was the peculiar history of the issue of writs by the three Presidency High Courts as successors of the Supreme Courts, though on the literal construction of cl. 8 of the Charter of 1800 conferring jurisdiction on the Supreme Court of Madras, there could be little doubt that the Supreme Court would have the same jurisdiction as the Justices of the Court of King's Bench



Division in England for the territories which then were or thereafter might be subject to or depend upon the Government of Madras. It will therefore not be correct to put too much stress on the decision in that case. The question whether the concept of cause of action could be introduced in Art. 226 was also considered in Saka Venkata Subba Rao's case, 1953 SCR 1144: (AIR 1953 SC 210) and was repelled in these words:-

"The rule that cause of action attracts jurisdiction in suits is based on statutory enactment and cannot apply to writs issuable under Art. 226 which makes no reference to any cause of action or where it arises but insists on the presence of the person or authority 'within the territories' in relation to which the High Court exercises jurisdiction."

16. Article 226 as it stands does not refer anywhere to the accrual of cause of action and to the jurisdiction of the High Court depending on the place where the cause of action accrues being within its territorial jurisdiction. Proceedings under Art. 226 are not suits; they provide for extraordinary remedies by a special procedure and give powers of correction to the High Court over persons and authorities and these special powers have to be exercised within the limits set for them. These two limitations have already been indicated by us above and one of them is that the person or authority concerned must be within the territories over which the High Court exercises



jurisdiction. Is it possible then to overlook this constitutional limitation and say that the High Court can issue a writ against a person or authority even though it may not be within its territories simply because the cause of action has arisen within those territories? It seems to us that it would be going in the face of the express provision in Art. 226 and doing away with an express limitation contained therein if the concept of cause of action were to be introduced in it. Nor do we think that it is right to say that because Art. 300 specifically provides for suits by and against the Government of India, the proceedings under Art. 226 are also covered by Art. 300. It seems to us that Art. 300 which is on the same line as S. 176 of the Government of India Act, 1935, dealt with suits as such and proceedings analogous to or consequent upon suits and has no reference to the extraordinary remedies provided by Art. 226 of the Constitution. The concept of cause of action cannot in our opinion be introduced in Art. 226, for by doing so we shall be doing away with the express provision contained therein which requires that the person or authority to whom the writ is to be issued should be resident in or located within the territories over which the High Court has jurisdiction. It is true that this may result in some inconvenience to persons residing far away from Now Delhi who are aggrieved by some order of the Government of India as such, and that may be a reason for making a suitable



constitutional amendment in Art.226. But the argument of inconvenience, in our opinion, cannot affect the plain language of Art. 226, nor can the concept of the place of cause of action be introduced into it for that would do away with the two limitations on the powers of the High Court contained in it."

(Emphasis supplied)

16. In the case of ***State of Rajasthan and others vs. M/s Swaika Properties and Another; (1985) 3 SCC 217***, the Hon'ble Supreme Court held as follows :-

"8.....The mere service of notice under Section 52(2) of the Act on the respondents at their registered office at 18-B, Brabourne Road, Calcutta ie within the territorial limits of the State of West Bengal, could not give rise to a cause of action within that territory unless the service of such notice was an integral part of the cause of action. The entire cause of action culminating in the acquisition of the land under Section 52(1) of the Act arose within the State of Rajasthan ie. within the territorial jurisdiction of the Rajasthan High Court at the Jaipur Bench....."

17. In the case of ***National Textile Corporation Limited (supra)***, the Hon'ble Supreme Court held as follows :-

"10. Under clause (2) of Article 226 of the Constitution, the High Court is empowered to issue writs, orders or directions to any Government,



authority or person 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. Cause of action as understood in the civil proceedings means every fact which, if traversed, would be necessary for the plaintiff to prove in order to support his right to a judgment of the court. To put it in a different way, it is the bundle of facts which taken with the law applicable to them, gives the plaintiff a right to relief against the defendant. In Union of India v. Adani Exports Ltd. in the context of clause (2) of Article 226 of the Constitution, it has been explained that each and every fact pleaded in the writ petition does not ipso facto lead to the conclusion that those facts give rise to a cause of action within the court's territorial jurisdiction unless those facts pleaded are such which have a nexus or relevance with the lis that is involved in the case. Facts which have no bearing with the lis or dispute involved in the case, do not give rise to a cause of action so as to confer territorial jurisdiction on the court concerned. A similar question was examined in State of Rajasthan v. Swaika Properties. Here certain properties belonging to a company which had its registered office in Calcutta were sought to be acquired in Jaipur and a notice under Section 52 of the Rajasthan Urban Improvement Act was served



upon the company at Calcutta. The question which arose for consideration was whether the service of notice at the head office of the company at Calcutta could give rise to a cause of action within the State of West Bengal to enable the Calcutta High Court to exercise jurisdiction in a matter where challenge to acquisition proceedings conducted in Jaipur was made. It was held that the entire cause of action culminating in the acquisition of the land under Section 152 of the Rajasthan Act arose within the territorial jurisdiction of the Rajasthan High Court and it was not necessary for the company to plead the service of notice upon them at Calcutta for grant of appropriate writ, order or direction under Article 226 of the Constitution for quashing the notice issued by the Rajasthan Government under Section 52 of the Act. It was thus held that the Calcutta High Court had no jurisdiction to entertain the writ petition.

12.As discussed earlier, the mere fact that the writ petitioner carries on business at Calcutta or that the reply to the correspondence made by it was received at Calcutta is not an integral part of the cause of action and, therefore, the Calcutta High Court had no jurisdiction to entertain the writ petition and the view to the contrary taken by the Division Bench cannot be sustained. In view of the above finding, the writ petition is liable to be dismissed.....”

18. In the case of ***M/s Kusum Ingots and Alloys***

Ltd. (supra), the Hon’ble Supreme Court held as follows :-



“6. Cause of action implies a right to sue. The material facts which are imperative for the suitor to allege and prove constitutes the cause of action. Cause of action is not defined in any statute. It has, however, been judicially interpreted inter alia to mean that every fact which would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the Court. Negatively put, it would mean that everything which, if not proved, gives the defendant an immediate right to judgment, would be part of cause of action. Its importance is beyond any doubt. For every action, there has to be a cause of action, if not, the plaint or the writ petition, as the case may be, shall be rejected summarily.”

19. In the case of ***Alchemist Ltd. (supra)***, the Hon’ble Supreme Court held as follows :-

“37. From the aforesaid discussion and keeping in view the ratio laid down in a catena of decisions by this Court, it is clear that for the purpose of deciding whether facts averred by the appellant-petitioner would or would not constitute a part of cause of action, one has to consider whether such fact constitutes a material, essential, or integral part of the cause of action. It is no doubt true that even if a small fraction of the cause of action arises within the jurisdiction of the court, the court would have territorial jurisdiction to entertain the suit/petition. Nevertheless it must be a "part of cause of action", nothing less than that.”

20. So far as the facts of the instant case are concerned,



there is no dispute that the period for which the proceedings were started against the petitioner related to the district of Rewa in the State of Madhya Pradesh. There is also no dispute with respect to the fact that proceedings were conducted in Mumbai. There is no averment in the writ application with respect to the fact that the charge memo or the orders impugned were communicated to the petitioner at his native address in Bihar. The only averment in the writ application is to the effect that on an objection with respect to territorial jurisdiction having been raised by the respondent-Bank in the Madhya Pradesh High Court, it was submitted by the Bank that either the High Court at Mumbai or at Patna would have the jurisdiction to entertain the writ petition on which the application was withdrawn by the petitioner. The said order of withdrawal as contained in Annexure-5 does not reflect the said submission of the petitioner.

21. Further, accepting the oral contention of learned counsel for the petitioner that the order impugned was communicated to the petitioner at his residential address in the State of Bihar, still in the opinion of the Court, the same would not constitute a 'material, essential or integral part of the cause of action' and thus in view of the judgment in the case of



Alchemist Ltd. (supra), this Court will not have jurisdiction to entertain the instant application.

22. In view of the facts and circumstances stated herein above as rightly contended by learned counsel for the respondents, the High Court at Patna does not have territorial jurisdiction to entertain the instant writ application and the same is not maintainable on this ground.

23. The writ application is dismissed as not maintainable.

(Partha Sarthy, J)

Saurabh/-

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