2025:HHC:36342

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

LPA No. 05 of 2025
Decided on: 28th October, 2025

National Institute of Technology, Delhi (NITD)

....Appellant

Versus

Raj Kamal Verma and others

...Respondents

Coram

Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice
Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

Whether approved for reporting?[1] *Yes*

For the appellant:	Mr. Kartik Kaushal, Advocate.
For the respondents:	Mr. Lalit Sehgal, Advocate, for respondent No. 1.
	None for respondent No. 2.
	Mr. Rahul Gathania, Advocate, for respondent No. 6.

G.S. Sandhawalia, Chief Justice *(Oral)*

The present Letters Patent Appeal is directed against judgment dated 04.09.2024 passed by the learned Single Judge in CWP No. 5831 of 2022, whereby the order dated 28.01.2022 (Annexure P-17) was quashed and directions were issued that the present appellant would be at liberty to take a fresh decision in this

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[1] *Whether reporters of Local Papers may be allowed to see the judgment?*

regard strictly in accordance with law regarding the issue of financial upgradation, and whether it is permissible or not. Apart from that, the learned Single Judge was also prima facie of the opinion that the person under deputation was also entitled to the said benefits and the withdrawal as such of the higher grade pay, was not justified.

2. The learned Single Judge was primarily of the view that the order dated 28.01.2022 did not contain any valid reasons and therefore has relied upon the constitutional Bench judgment in ***Mohinder Singh Gill and another vs. The Chief Election Commissioner, New Delhi and others, (1978) 1 SCC 405***, that statutory functionary must make an order by giving valid grounds as such and it cannot be supplemented by filing a reply in the subsequent proceedings.

3. The counsel for the appellant had submitted that a preliminary objection had been taken regarding the issue of jurisdiction that the Courts at Delhi would have the jurisdiction, keeping in view the fact that the employee had been appointed on deputation with the appellant on 03.03.2014 and assumed charge on 30.05.2014 and thereafter superannuated on 03.04.2016 from Delhi. It is thus, contended that merely because of representation

dated 15.02.2018 had been given, which had been declined by the order dated 28.01.2022, the said order would not give jurisdiction merely because the order was received by the employee at his residence at District Hamirpur, since a copy has been addressed to him by the present appellant.

4. Counsel for the appellant has placed reliance upon the judgment of the Apex Court in ***Kusum Ingots & Alloys Ltd. vs. Union of Indian and another, (2004) 6 SCC 254***, to contend that cause of action has to arise as such in the territorial jurisdiction of the Court and therefore, merely on the residence or location of a person affected by the order, the jurisdiction could not be conferred. He also argued that an audit objection had been raised on 06.04.2016 and merely by filing the representation on 15.02.2018, the limitation as such could not be extended and thus the writ petition was liable to be dismissed on account of delay and laches.

5. To counter the said argument counsel for the employee as such has placed reliance upon the judgment of the Apex Court in ***Nawal Kishor Sharma vs. Union of India and others, AIR 2014 SC 3607***, to contend that even if a small part of cause of action arises within the territorial jurisdiction of this Court, it would be a

determinative factor which the High Court would have to decide on merits. He also placed reliance upon the judgment passed by one of us (Justice G.S. Sandhawalia) in ***Harbhajan Singh vs. Union of India and others, 2019:PHHC:140941,*** decided on 27.11.2019 while sitting singly in the High Court of Punjab and Haryana at Chandigarh, wherein ***Nawal Kishor Sharma's case (supra)*** had also been taken into consideration while dismissing the writ petition on the ground of lack of territorial jurisdiction, which was a service dispute and the employee as such had joined to serve in the Indo-Tibetian Border and had been posted at New Delhi, where the cause of action had arisen and wherein even ***Kusum Ingots case (supra)*** had also been taken into consideration,

6. In ***Navinchandra N. Majithia vs. State of Maharashtra, (2000) 7 SCC 640***, it has been noticed that there was a constitutional amendment made to Article 226(2) and that the whole purpose was to aim at widening the width of the area for extending the writ jurisdiction of different High Courts for the cause of action which arose within its territorial limits.

7. The issue of jurisdiction has also been considered in ***Alchemist Ltd. and another vs. State Bank of Sikkim and others (2007) 11 SCC 335***, wherein also the issue of amendment was

taken into consideration and it has been held that the factum of cause of action has to be ascertained to support the right of the judgment of the Court and the substance of the matter has to be seen. It has been held that even if a small fraction of cause of action arises, the Court would have territorial jurisdiction to entertain the petition, but it must be a part of cause of action, nothing less than that. Resultantly, having addressed the communication as such to the employee within the jurisdiction of this Court, we are of the considered opinion that the argument raised that this Court had no territorial jurisdiction, is without any basis.

8. Thus, we are of the considered opinion that keeping in view the provisions of Article 226(2) of the Constitution, the cause of action if it arises wholly or in part within the jurisdiction of the High Court would give Court the jurisdiction, which is not disputed. The communication dated 28.01.2022 by the appellant was not only addressed to the Under Secretary to the Government of India, but copy of the same had also been sent to the employee at his village and post office Karota situated in District Hamirpur. The objection thus raised that the same would not be a cause of action, is without any basis.

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9. The judgment in ***Kusum Ingots case (supra)***, wherein the notice of repayment of loan was received in Bhopal and the writ petition was preferred in Delhi High Court which was dismissed on the ground of lack of jurisdiction. In such circumstances it was held that the Court must have requisite territorial jurisdiction and some part of cause of action should arise in the jurisdiction of the High Court which led to the said order being upheld.

10. In ***Nawal Kishor Sharma's case (supra)***, the High Court of Patna had declined to exercise its jurisdiction on the ground that the service was at Bombay and the appellant was settled at his native place Gaya (Bihar). The said issue was accordingly discussed that even if a small part of cause of action had arisen and it was noticed that the cancellation of the registration of the employee and summons had been sent by the appellant to his native place at Bihar, where he was staying after he was found unfit. Resultanty, it was held that the High Court at Patna was not justified in dismissing the writ petition as a fraction of the cause of action arose in the jurisdiction of the Patna High Court. The relevant paras read as under:-

> *20. 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 muscles 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, Appellant was suffering from serious heart muscles disease (Dilated Cardiomyopathy) and breathing problem which forced him to stay in 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.

21. Apart from that, from the counter affidavit of the Respondents and the documents annexed therewith, it reveals that after the writ petition was filed in the Patna High Court, the same was entertained and notices were issued. Pursuant to the said notice, the Respondents appeared and participated in the proceedings in the High Court. It further reveals that after hearing the counsel appearing for both the parties, the High Court passed an interim order on

> *18.9.2012 directing the authorities of Shipping Corporation of India to pay at least a sum of Rs. 2.75 lakhs, which shall be subject to the result of the writ petition. Pursuant to the interim order, the Respondent Shipping Corporation of India remitted Rs. 2,67,270/- (after deduction of income tax) to the bank account of the Appellant. However, when the writ petition was taken up for hearing, the High Court took the view that no cause of action, not even a fraction of cause of action, has arisen within its territorial jurisdiction.*
> *22. Considering the entire facts of the case narrated hereinbefore including the interim order passed by the High Court, in our considered opinion, the writ petition ought not to have been dismissed for want of territorial jurisdiction. As noticed above, at the time when the writ petition was heard for the purpose of grant of interim relief, the Respondents instead of raising any objection with regard to territorial jurisdiction opposed the prayer on the ground that the writ Petitioner-Appellant was offered an amount of Rs. 2.75 lakhs, but he refused to accept the same and challenged the order granting severance compensation by filing the writ petition. The impugned order, therefore, cannot be sustained in the peculiar facts and circumstances of this case*

11. The facts are identical as such, since vide the impugned communication the reason as such was communicated to the employee at his residence within the jurisdiction of this Court and therefore, part of cause of action arose therein. Therefore, the argument that this Court has no jurisdiction is rejected.

12. Coming to the second issue that there was delay as such and since the employee had retired on 30.04.2016 and therefore, merely by giving a representation dated 15.02.2018 it would not revive the limitation as such. Reliance has been placed

upon ***Surjeet Singh Sahni vs. State of Uttar Pradesh and others (2022) 15 SCC 536***, in this context. A perusal of said judgment would go on to show that it was the case where the dispute was regarding the issue of specific performance and there was a delay of almost 10 years. Accordingly the writ petition was held to have been filed at a belated stage, therefore the said judgment is not applicable.

13. It is not disputed that filing of the representation in the year 2018 had never been responded to by the present appellant and only when the rejection order was passed on 28.01.2022, the writ petition came to be filed in July 2022. Therefore, it cannot be said that there was any delay on the part of the employee as such to challenge the said order. It was the bounden duty of the appellant to have responded to the representation at the earliest on their own account. Having delayed to respond to the representation, now they cannot turn around and take the stance that there was a delay on the part of the employee in challenging the same.

14. Keeping in view the settled position of law and the fact that an employee was only agitating for his grievances and the learned Single Judge has only directed consideration of the matter afresh, we are of the considered opinion that no interference is

called for in the impugned judgment in the present Letters Patent Appeal.

15. Resultantly, we find no merit in the present appeal and same is accordingly dismissed.

(G.S. Sandhawalia)
Chief Justice

28th October, 2025
(Anurag)

(Jiya Lal Bhardwaj)
Judge