

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 8712 of 2025

Sk. Jamil Ahmed

Vs

Union of India & Ors.

For the Petitioner : Mr. Debashish Sur,
Mr. Subhash Bhattacharjee.

For the Respondent no.3 : Mr. Malay Dhar,
Mr. Bhaskar Sengupta.

For the P.F. Authority : Mr. Mihir Kundu.

Judgment reserved on : 17.03.2026

Judgment delivered on : 23.04.2026

SHAMPA DUTT (PAUL), J. :

1. The writ application has been preferred praying for direction upon the respondent no.3 to pay the arrear due of provident fund, with effect from December, 1990, till the date of settlement on 26.03.2002, in respect of the Employee P.F Credit A/c No.TN/MAS/22375/86 and for compliance of an

award dated 24.06.1999 passed by the Learned 2nd Labour Court, Calcutta.

2. At the time of hearing, the respondents herein have raised the point of maintainability of the writ application on the ground of lack of territorial jurisdiction of this Court to decide the issue.
3. It is the contention of the respondent no.2, the Regional Provident Fund Commissioner, Chennai, Tamil Nadu, that the petitioner claims Provident Fund dues from the Provident Fund authorities in the state of Tamil Nadu, and the Establishment where the petitioner worked is also situated in the State of Tamilnadu. Thus the entire records of the case is lying at the office of the Provident Fund authority, as well as in the office of the said establishment at Chennai, Tamil Nadu which is within the Territorial Jurisdiction of the High Court at Madras and as such this Hon'ble Court does not have the territorial jurisdiction to entertain this writ application.
4. The respondent no. 2 has relied upon the judgment passed by this Court in ***Jeju Metals Private Limited & Anr. Versus Union of India & Ors.*** in ***W.P.A.No.16838 of 2024*** with ***C.A.N. 1 of 2025 on 6th March, 2025***, wherein the Court held that as **no part of the cause of action** has arisen

within the jurisdiction of this Court, this Court did not have jurisdiction to exercise its power under Article 226 of the Constitution of India and accordingly, the writ application has been dismissed.

5. The respondent no.3 also, has submitted that this Court lacks the territorial jurisdiction to entertain this writ application and that the petitioner after the award dated 24.06.1999, (A settlement dated 26.03.2002 was then entered into between the petitioner and the respondent no. 3) refused to join the (Chennai) office of the Respondent No. 3 and expressed his desire to **voluntarily leave the services** of the Respondent No. 3.
6. By way of such settlement, the Respondent No. 3 accepted the request of the petitioner for voluntarily leaving the service on receipt of a total sum of Rs.3,50,000/- as full and final settlement of all his claims and accounts against the management of the Respondent No. 3.
7. It was also agreed that the Respondent No. 3 would withdraw the appeal being APOT No. 783 of 2000 pending before the Hon'ble Division Bench of this High Court, and also that the petitioner would **withdraw** Comp. No. 86 of 2000 and Comp. No. 19 of 2000, which were pending before the Learned First Labour Court, Kolkata.

8. The petitioner kept silent for all these years from the year 2002. Subsequently, in 2023, the petitioner filed a writ application praying for disbursement of Employees' Provident Fund dues from the date of termination till the date of settlement and also for continuation of his service till the age of superannuation.
9. The respondent no.3 argues the said writ application was **dismissed as withdrawn** by this Hon'ble Court on 07.08.2023, and the petitioner was granted liberty to file a fresh writ application for disbursal of provident fund dues, if any. Subsequently, the petitioner filed the present writ application praying for disbursal of provident fund dues from December, 1990 till 26.03.2002.
10. It is further stated that the appointment letter was issued by the Respondent No.3 from its office at Madras in the year 1988, and his confirmation was also given on 08.08.1988 from the office of the Respondent no.3 at Chennai (Pages 9 and 10 of the affidavit-in-reply). On 10.01.2023, the petitioner filed a representation before the Respondent No.3 at its office at Chennai. The petitioner also made a representation before the Respondent No.2 at its office at Chennai. **Therefore, the grievances raised by the petitioner are against the respondent's offices at**

Chennai. Accordingly, no cause of action or any part of the cause of action has arisen within the territorial jurisdiction of this Hon'ble Court, and therefore the writ petition is not maintainable on this ground.

11. The respondent no.3 has also relied upon the judgment in ***Jeju Metals Private Limited & Anr. Versus Union of India & Ors.(Supra)*** in support of his case.

12. It appears from the materials on record that the petitioner himself **voluntarily did not join his service** since 1990 when terminated and 1999/2002, after his award of reinstatement and for the first time **after 21(Twenty One) years** has made the claim for arrear of provident fund dues, in spite of having received the total settlement amount of Rs.3,50,000/-(Rupees Three Lakhs Fifty Thousand), as full and final settlement.

13. The respondent no. 3 further submits that this prayer for reinstatement, after a settlement having been arrived at, and payment in respect of the settlement admittedly having been accepted by the petitioner, the petitioner has no other relief against the respondents herein. It is further stated that the cause of action if any, relates to the jurisdiction of Chennai, and as such the writ application is not maintainable.

- 14.** The petitioner's argument in support of the maintainability of the writ application and challenging the argument of the respondents herein is that his writ application in the year 1999 was entertained by this High Court, which had been filed against an award passed by the Learned 2nd Labour Court, at Calcutta and that the respondent no.3 employer had preferred an appeal against the order of the learned Single Judge, and never did the respondents raise the issue of lack of territorial jurisdiction of the High Court in those proceedings.
- 15.** It is thus, submitted that, as such the respondents cannot raise the point of maintainability at this stage/now.
- 16.** The petitioner's further case is that the dispute for non-payment of the above dues of E.P.F. or E.P.S. (Pension) is with the Respondent No.3/employer and not with the Respondent No.2/P.F. Authority. The employer is also admittedly based only in Chennai.
- 17.** The petitioner prays for direction upon the Respondent No.3/Employer to pay or to deposit the E.P.F. or E.P.S.(Pension) dues of the Petitioner/Employee, keeping in mind the enhanced amount of salary at regular intervals like other employees of the Establishment, before the Respondent No. 2/P.F. Authority to be credited against P.F. A/C No.

TN/MAS/22375/86 of the petitioner and thereafter the Respondent No.2/P.F. Authority shall disburse/remit the arrear dues of E.P.F. as mentioned above including the EPS (Pension), till the date of the said settlement dated 26.03.2002, though the petitioner claims that he is entitled to the dues till his date of superannuation. Such the claim is made, when admittedly as per the settlement and award in the year 2002/1999, the petitioner has received all his dues.

18. Parties have filed their respective affidavits, wherein it appears that the petitioner, herein joined the establishment on 01.03.1988 and all his dues including his provident fund has been **settled in July, 2002** as per a memorandum of settlement. The respondent no. 2 states that as such the said account does not exist anymore, having been closed on full settlement. The said information was also provided in respect of a RTI prayer made by the petitioner herein, before the Central Public Information Officer, Regional Provident Funds Commissioner-II, at Chennai. **The said document has been placed by the petitioner himself in his affidavit-in-reply.**

19. In their affidavit-in-opposition, the respondent no.2 being the RPF Authority herein, has stated and raised the issue of maintainability of the writ application on the ground of territorial jurisdiction, on the point that the respondent

no.3/Company has its office at Chennai, Tamil Nadu. And any claim under the Provident Fund Act has to be made before the Provident Fund Authority at Chennai, Tamil Nadu and as such the High Court at Calcutta, does not have any jurisdiction to entertain the writ application.

20. The respondent no.3 herein being the Company/establishment in their opposition has annexed the memorandum of settlement entered into under Section 18(1) of the Industrial Disputes Act, dated 26th March, 2002, wherein the petitioner is part of the said settlement.

21. The petitioner has also received his dues and has accepted the full and final settlement for sum of Rs.3,50,000/- and a copy of the receipt issued by the petitioner is also part of the said affidavit-in-opposition.

22. Admittedly the Judge, Second Labour Court vide his award dated 24.06.1999 held that the termination of the petitioner herein dated 31.10.1990 being illegal was set aside and there was direction for reinstatement with full back wages and benefits.

23. As such, admittedly since 31.10.1990 the petitioner did not put in service with the respondent no. 3.

24. The petitioner has admitted that, an out of Court settlement took place on 26-03-2002 (after the award in

1999) by and between the Employee/petitioner and Employer/ Respondent no. 3, against full and final settlement for Rs 3,50,000/- only.

25. The settlement took place in the year 2002. After **21 years** the petitioner has now claimed his arrear dues of P.F. and Pension on and from 1990 till the date of settlement on 26.03.2002 as the labour Court had directed his reinstatement.

26. The petitioner herein admittedly prayed for the said dues before the regional provident fund commissioner Chennai by way of an application in 2023.

27. Admittedly, the petitioner had worked only in Chennai. The respondent no. 3 company has no other branch, but the address at Chennai as given in the cause title. The respondent has challenged the territorial jurisdiction of this Court. The petitioner submits that as an earlier writ application was entertained by the Calcutta High Court and the Labour Court at Kolkata has passed an award, he submits that this High Court has the territorial jurisdiction to decide his claim.

28. It appears that for the first time the respondents have raised the issue of territorial jurisdiction, which of course can be raised at any stage. It is also admitted that the

petitioner has prayed for his alleged dues in spite of a full and final settlement entered into at Chennai after 21 long years.

29. In *Jeju Metals Private Limited & Anr. vs Union of India & Anr. (Supra)* this Court while deciding the issue of territorial jurisdiction held as follows:-

(i) *In State of Rajasthan & Ors. Vs. M/s. Swaika Properties & Anr., AIR 1985 Supreme Court 1289,*
the Supreme Court held:-

“8. The expression “cause of action” is tersely defined in Mulla's Code of Civil Procedure:

“The ‘cause of action’ means every fact which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the court.”

In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. 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 i.e. 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 i.e. within the territorial jurisdiction of the Rajasthan High Court at the Jaipur Bench. The answer to the question whether service of notice is an integral part of the cause of action within the

meaning of Article 226(2) of the Constitution must depend upon the nature of the impugned order giving rise to a cause of action. The notification dated February 8, 1984 issued by the State Government under Section 52(1) of the Act became effective the moment it was published in the Official Gazette as thereupon the notified land became vested in the State Government free from all encumbrances. It was not necessary for the respondents to plead the service of notice on them by the Special Officer, Town Planning Department, Jaipur under Section 52(2) for the grant of an appropriate writ, direction or order under Article 226 of the Constitution for quashing the notification issued by the State Government under Section 52(1) of the Act. If the respondents felt aggrieved by the acquisition of their lands situate at Jaipur and wanted to challenge the validity of the notification issued by the State Government of Rajasthan under Section 52(1) of the Act by a petition under Article 226 of the Constitution, the remedy of the respondents for the grant of such relief had to be sought by filing such a petition before the Rajasthan High Court, Jaipur Bench, where the cause of action wholly or in part arose.”

(ii) ***In M/s. Kusum Ingots and Alloys Ltd. v. Union of India & Anr., AIR 2004 Supreme Court 2321***, the Supreme Court held:-

“7. Clause (2) of Article 226 of the Constitution of India reads thus:

“226. (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.”

17. Recently, in *National Textile Corpn. Ltd. v. Haribox Swalram* [(2004) 9 SCC 786 : JT (2004) 4 SC 508] a Division Bench of this Court held : (SCC p. 797, para 12.1)

“12.1. 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.”

(iii) In State of Goa vs Summit Online Trade Solutions

Private Limited & Ors., (2023) 7 SCC 791, the

Supreme Court held:-

“14. While dealing with an objection as to lack of territorial jurisdiction to entertain a writ petition on the ground that the cause of action has not arisen within its jurisdiction, a High Court essentially has to arrive at a conclusion on the basis of the averments made in the petition memo treating the contents as true and correct. That is the fundamental principle. Bearing this in mind, we have looked into the petition memo of WP (C) No. 38 of 2017 and searched in vain to trace how **at least part of the cause of action** has been pleaded by

the petitioning company, to have arisen within the territorial jurisdiction of the High Court.

15. *This is a case where clause (2) of Article 226 has been invoked by the High Court to clothe it with the jurisdiction to entertain and try the writ petitions. **The constitutional mandate of clause (2) is that the “cause of action”, referred to therein, must at least arise in part within the territories in relation to which the High Court exercises jurisdiction** when writ powers conferred by clause (1) are proposed to be exercised, notwithstanding that the seat of the Government or authority or the residence of the person is not within those territories.*

16. *The expression “cause of action” has not been defined in the Constitution. However, the classic definition of “cause of action” given by Lord Brett in *Cooke v. Gill* [*Cooke v. Gill*, (1873) LR 8 CP 107] that “cause of action means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court”, has been accepted by this Court in a couple of decisions. **It is axiomatic that without a cause, there cannot be any action.** However, in the context of a writ petition, what would constitute such “cause of action” is the material facts which are imperative for the writ petitioner to plead and prove to obtain relief as claimed.*

17. *Determination of the question as to whether the facts pleaded constitute a part of the cause of action, sufficient to attract clause (2) of Article 226 of the Constitution, would necessarily involve an exercise by the High Court to ascertain that the facts, as pleaded, constitute a material, essential or integral part of the cause of action. In so determining, it is the substance of the matter that is relevant. It, therefore, follows that the party*

invoking the writ jurisdiction has to disclose that the integral facts pleaded in support of the cause of action do constitute a cause empowering the High Court to decide the dispute and that, at least, a part of the cause of action to move the High Court arose within its jurisdiction. **Such pleaded facts must have a nexus with the subject-matter of challenge based on which the prayer can be granted.** Those facts which are not relevant or germane for grant of the prayer would not give rise to a cause of action conferring jurisdiction on the court. These are the guiding tests.

18. Here, tax has been levied by the Government of Goa in respect of a business that the petitioning company is carrying on within the territory of Goa. Such tax is payable by the petitioning company not in respect of carrying on of any business in the territory of Sikkim. Hence, merely because the petitioning company has its office in Gangtok, Sikkim, the same by itself does not form an integral part of the cause of action authorising the petitioning company to move the High Court. We hold so in view of the decision of this Court in *National Textile Corpn. Ltd. v. Haribox Swalram* [*National Textile Corpn. Ltd. v. Haribox Swalram*, (2004) 9 SCC 786]. The immediate civil or evil consequence, if at all, arising from the impugned notification is that the petitioning company has to pay tax @ 14% to the Government of Goa. The liability arises for the specific nature of business carried on by the petitioning company within the territory of Goa. The pleadings do not reflect that any adverse consequence of the impugned notification has been felt within the jurisdiction of the High Court. At this stage, we are not concerned with the differential duty as envisaged in Schedule II (@ 6%) vis-à-vis Schedule IV (@ 14%) of the impugned notification. That is a

matter having a bearing on the merits of the litigation.”

30. The dispute relates to outstanding dues in spite of **settlement having taken place 21 years back.** The petitioner was admittedly employed with the respondent no. 3 at Chennai, who has no office other than the one at Chennai and the petitioner also made his prayer for his dues before the Regional Provident Fund, Chennai. As such, it appears that the entire cause of action in the present case arose within the state of Tamil Nadu and as such the Courts at Tamil Nadu which includes the High Court at Madras have the jurisdiction.
31. From the averment as made in the writ petition, it appears that **the total “cause of action” in this case has arisen in the State of Tamil Nadu.** All the respondents are also located within the State of **Tamil Nadu.**
32. It further appears that **no part of the cause of action has arisen with the jurisdiction of this Court,** and as such this Court does not have the territorial jurisdiction to exercise its powers under Article 226 of the Constitution in the present case. *(State of Goa vs Summit Online Trade Solutions Private Limited & Ors. (Supra)).*
33. **The writ petition is thus dismissed for want of territorial jurisdiction** with liberty to the petitioner to

pursue his case before the appropriate court having jurisdiction.

34. WPA 8712 of 2025 stands disposed of.

35. All connected applications, if any, stand disposed of.

36. Interim order, if any, stands vacated.

37. Urgent Photostat certified copy of this judgment, if applied for, be supplied to the parties, expeditiously after complying with all necessary legal formalities.

[Shampa Dutt (Paul). J]