
(2006) 05 DEL CK 0193

In the Delhi High Court

Case No : Writ Petition (C) 1775 of 2004

Ex-Ct./DVR Sarwan Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 19-05-2006

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 151, 20
Constitution of India, 1950 — Article 226(2)

Citation : (2006) 05 DEL CK 0193

Hon'ble Judges : Reva Khetrapal, J; Dr. M.K. Sharma, J

Bench : Division Bench

Advocate : A.K. Trivedi, for the Appellant; Jyoti Singh and Ankur Chhibber, for the Respondent

Final Decision : Dismissed

Judgement

1. The orders, which are under challenge in this writ petition, are the order dated 23rd September, 2000 passed by the Commandant 63 BN, CRPF, Hanamkonda, Warangal, Andhra Pradesh; order dated 26th February, 2002 passed by the DIGP, CRPF, Chennai and charge sheet dated 17th May, 2000 issued by the Commandant-63 Bn, CRPF, Hanamkonda, Warangal. In the writ petition the following relief is sought for by the petitioner:

That the Hon'ble Court may graciously be pleased to pass an order of quashing the impugned order dated 23.9.2000 (Annex.P-1), Appellate order dated 26.2.2002 (Annex.P-2), Charge sheet dt.17.5.2000 (Annex.P-3), EO report dt.20.8.2000 (Annex. P-4) and whole enquiry proceedings declaring to the effect that the same are illegal, unjust, arbitrary, against the principles of natural justice and consequently the petitioner is entitled for his re-instatement in service with all the consequential benefits including the arrears of back period pay.

2. A charge sheet was issued against the petitioner listing one charge, namely, overstaying from the sanctioned leave without any permission or order of the

Competent Authority. Pursuant to the aforesaid charge sheet a Departmental Enquiry was held against the petitioner. On completion of the said Enquiry, a report was submitted by the Enquiry Officer to the effect that the charge stood proved against the petitioner. Thereafter the Disciplinary Authority, namely, Commandant 63 BN, CRPF, Hanamkonda, Warangal, Andhra Pradesh passed an order on 23rd September, 2000 awarding punishment of removal from service. Thereafter, the petitioner herein preferred an appeal as against the order passed by the Disciplinary Authority. The said appeal was rejected by the Appellate Authority, namely, the Deputy Inspector General of Police, CRPF, Chennai vide order dated 26.2.2002.

3. Being aggrieved by the aforesaid orders, the petitioner filed the present writ petition in this court. Be that as it may, what is challenged in the writ petition is the report of the Enquiry Officer, the order passed by the Disciplinary Authority and the order passed by the Appellate Authority dismissing the petitioner from service and there is no other relief sought for by the petitioner in the writ petition. Therefore, we are restricting our consideration in this writ petition to the action of the respondents in dismissing the petitioner from service. All the aforesaid orders were passed from places which are located outside the jurisdiction of this court. The charge sheet was issued to the petitioner from Warangal, Andhra Pradesh, order of Disciplinary Authority was also passed from Warangal, Andhra Pradesh whereas the order of the Appellate Authority was passed from Chennai. Therefore, no part of the cause of action for which relief is sought for has arisen within the territorial jurisdiction of this court.

4. In this connection we may refer to various decisions of this Court as also of the Supreme Court. In *Kusum Ingots and Alloys Ltd. Vs. Union of India (UOI) and Another*, a similar issue was raised before the Supreme Court as to whether the High Court of Delhi would have the requisite territorial jurisdiction to entertain a writ petition only because the seat of the Government is in Delhi. While considering the aforesaid preliminary objection, which was raised, the Supreme Court referred to the provisions of Article 226(2) of the Constitution of India as also Section 20(c) of the CPC and after setting out the said provisions, it was held in para 9 of the said judgment by the Supreme Court as follows:-

9. Although in view of Section 151 of the CPC the provisions thereof would not apply to a writ proceedings, the phraseology used in Section 20(c) of the CPC and Clause (2) of Article 226, being in *pari materia*, the decisions of this Court rendered on interpretation of Section 20(c) of CPC shall apply to the writ proceedings. Before proceeding to discuss the matter further it may be pointed out that the entire bundle of facts pleaded need not constitute a case cause of action as what is necessary to be proved before the petitioner can obtain a decree is the material facts. The expression material facts is also known as integral facts.

5. In para 10 of the said judgment, it was held by the Supreme Court that keeping in view the expressions used in Clause (2) of Article 226 of the

Constitution of India, indisputably even if a small fraction of cause of action accrues within the jurisdiction of a Court, that court will have jurisdiction in the matter. The aforesaid conclusion was arrived at by the Supreme Court upon discussion of various earlier decisions of the Supreme Court, which are referred to and discussed in the said judgment.

6. In para 22 of the said judgment, the Supreme Court has clearly stated that the Court must have requisite territorial jurisdiction in absence of which a writ petition can not be entertained. The Supreme Court has discussed the relevancy of the situs of the office of the respondent.

7. In para 23 of the said judgment, it was held that a writ petition, questioning the constitutionality of a Parliamentary Act shall not be maintainable in the High Court of Delhi only because the seat of the Union of India is in Delhi. While coming to the aforesaid conclusion the Supreme Court relied upon and referred to the decision of the Calcutta High Court in Abdul Kafi Khan v. Union of India and Ors. reported in AIR 1989 Cal 354.

8. It was held in para 27 of the said judgment that when an order is passed by a Court or Tribunal or an executive authority whether under provisions of a statute or otherwise, a part of cause of action arises at that place. It was further held that even in a given case, when the original authority is constituted at one place and the appellate authority is constituted at another, a writ petition would be maintainable at both the places and, Therefore, as order of the appellate authority constitutes a part of cause of action, a writ petition would be maintainable in the High Court within whose jurisdiction it is situate having regard to the facts that the order of the appellate authority is also required to be set aside as the order of the original authority merges with that of the appellate authority.

9. In the decision of National Textile Corpn. Ltd. and Others Vs. Haribox Swalram and Others, , the Supreme Court has held thus:-

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 can not be sustained. In view of the above finding, the writ petition is liable to be dismissed.

10. In Aligarh Muslim University v. Vinay Engineering Enterprises Ltd., (1994) 4 SCC 710 the Supreme Court as held thus:-

2. We are surprised, not a little, that the High Court of Calcutta should have exercised jurisdiction in a case where it had absolute no jurisdiction. The contracts in question were executed at Aligarh, the construction work was to be carried out at Aligarh, even the contracts provided that in the event of dispute the Aligarh Court alone will have jurisdiction. The arbitrator was from Aligarh and

was to function there. Merely because the respondent was a Calcutta-based firm, the High Court of Calcutta seems to have exercised jurisdiction where it had none by adopting a queer line of reasoning. We are constrained to say that this is case of abuse of jurisdiction and we feel that the respondent deliberately moved the Calcutta High Court ignoring the fact that no part of the cause of action had arisen within the jurisdiction of that Court. It clearly shows that the litigation filed in the Calcutta High Court was thoroughly unsustainable.

11. The Supreme Court while dealing with issue of situs of cause of action in respect of the petition under Article 226 of the Constitution of India held that in order to give territorial jurisdiction to a particular court some part of the cause of action must have arisen within the territorial jurisdiction of the said court. The Supreme Court further held in the said decision that even if a small part of the cause of action has arisen within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the said High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens.

12. At this stage, counsel appearing for the petitioner has submitted before us that since the office of the Director General, CRPF is located in Delhi, Therefore, the petitioner could maintain a writ petition in this court. We are, however, unable to accept the aforesaid contention that merely because the office of the Director General is located in Delhi, the same will give territorial jurisdiction to this court. We are fortified in coming to this conclusion by the judgment of the Division Bench of this Court in Lt. Col. S.K. Isawe v. Union of India and Ors. in WP(C) 14372/2005 decided on December 6, 2005 wherein the counsel appearing for the petitioner has strongly relied upon the decision of Dinesh Chandra Gahtori v. Chief of Army Staff for the same reason as set out in Lt. Col. S.K. Isawe. Similar issue with regard to want of territorial jurisdiction was also the subject matter of several other writ petitions in this Court wherein the Division Bench of this court has held that if no part of the cause of action arises within the territorial jurisdiction of this court, in that case the court shall not entertain the writ petition, as this court shall have no jurisdiction to entertain such writ petitions. In this connection, reference may be made to the judgment of this court in Ex. Ct. Ram Prakash v. Director General in CWP No. 709/2001 disposed of on 2nd February, 2001 and also the judgment of this court in Sukhvinder Singh v. Union of India reported in 1996 IV AD(Delhi) 673. In the said decisions, it was held that where no part of cause of action has arisen within the territorial jurisdiction of this court, this court shall not entertain the writ petition and the same can be dismissed. We may also refer to another decision of this court in Kundan Singh Bhandari v. UOI and Anr. in CWP 4092/2000 and also the decision in the case of Surendra v. UOI and Anr. in Writ Petition No. 1093/2003 disposed of on 16th September, 2004 In those cases also no part of the cause of action had arisen within the jurisdiction of this court and in that context it was held that this court shall have no territorial jurisdiction to entertain and decide the writ

petitions.

13. In view of the aforesaid settled position of law we cannot entertain this writ petition wherein challenge is made in respect of the order dated 23rd September, 2000 passed by the Commandant 63 BN, CRPF, Hanamkonda, Warangal, Andhra Pradesh; order dated 26th February, 2002 passed by the DIGP, CRPF, Chennai and charge sheet dated 17th May, 2000 issued by the Commandant-63 Bn, CRPF, Hanamkonda, Warangal, which are located outside the territorial jurisdiction of this court. So long there is no cause of action arising within the territorial jurisdiction of this court, this petition cannot be entertained. We, accordingly, dismiss the writ petition.