
(1999) 08 PAT CK 0053

In the Patna High Court

Case No : L.P.A. No's. 47 and 100 of 1999 (R)

Goutam Singh and Others

APPELLANT

Vs

Central Coalfields Ltd. and Others

RESPONDENT

Date of Decision : 19-08-1999

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 2 BLJR 1383

Hon'ble Judges : R.A. Sharma, J;D.N. Prasad, J

Bench : Division Bench

Judgement

R.A. Sharma, J.—As in both these appeals, the question involved is the same, namely, the quantum of Court fee to be paid in a writ petition filed under Article 226 of the Constitution of India by more than one person, they were heard together and are being decided by this common judgment.

2. Six appellants in L.P.A. No. 47/99R along with 17 others filed a writ petition being C.W.J.C. No. 2814/98R with one set of Court fee before this Court seeking appropriate writ or direction upon the respondents to reinstate them, regularize their services and pay them salary at par with the other regular employees working under the Central Coalfields Ltd. There was also prayer for payment of back wages upon their reinstatement in service. On an objection being raised regarding deficiency of Court fee, a learned Single Judge, vide order dated 25.1.99, held that the petitioners therein are to pay separate Court fee for their separate reliefs. As regards payment of Court fee by such petitioners who are members of the Scheduled Caste, the learned Judge observed that they should apply to the Legal Aid Committee for, exemption from payment of Court-fees. Being aggrieved by the order of the learned Single Judge, the six out of 23 writ petitioners have filed this appeal under Clause 10 of the letters patent.

3. L.P.A No. 100/99R has been filed by 7 persons who filed the writ petition being C.W.J.C. No. 22/99R with one set of Court fee seeking appropriate writ or direction upon the respondents to permit them to sit at the supplementary

examination of 1998 years of B.Sc. (Engineering) of the first year in separate branches namely Mechanical, Civil, Electrical and Electronics courses which was to commence from 12.1.99. In this petition also, an objection was raised regarding deficiency of Court fees. The learned Single Judge vide order dated 28.1.99 upheld the objection holding that the petitioners for to deposit separate sets of Court fees. Being aggrieved by the said order of the learned Judge, they have filed this appeal under clause 10 of the letters patent.

4. The submission of the learned Counsel for the appellants in these appeals is that as the grievances of the appellants in their respective writ petitions are same and identifical, payment of one set of Court fee in a writ petition is sufficient. The submission of the learned Government Advocate on the other hand is that if a writ petition is filed by more than one person each petitioner has to pay separate set of Court fee.

5. The Court Fee (Bihar Amendment) Act, 1996, has fixed Rs. 250/- as Court fee for an application/petition filed under Article 226 of the Constitution of India. Payment of Court fee does not depend on the number of persons who filed the writ petition. If a single writ petition filed by several persons is maintainable, only one set of Court fee is payable. But if such a writ petition is not maintainable then each person has to file a separate writ petition with one set of Court fee. But if such persons, who cannot maintain a single joint writ petition, instead of filing separate writ petitions, have filed a single writ petition, each of them has to pay separate Court fee.

6. More than one person can tile a single writ petition under Article 226 of the Constitution of India if their cause of action is the same or common. But if each petitioner has separate and independent cause of action then each of them has either to file a separate writ petition or to pay separate Court fee if the writ petition has been filed jointly.

7. In *Dhanyalakshmi Rice Mills and Others Vs. The Commissioner of Civil Supplies and Another*, , the appellants therein, who were dealers in the food grains holding licences granted to them in accordance with the Control Orders issued under the relevant Statutes, filed writ petitions for a writ directing the State to refund the amount of money collected from them as administrative charges. The apex Court held that each petitioner has individual and independent cause of action and, therefore, a joint writ petition by them will suffer from misjoinder of parties. In this connection, the apex Court observed as follows:

27. The remedy under Article 226 is not appropriate in the present cases for these reasons as well. First several petitioners have joined. Each petitioner has individual and independent cause of action. A suit, by such a combination of plaintiffs would be open to misjoinder.

8. In *Mota Singh and Ors. v. State of Haryana and Ors.* 1980 (Supp) SCC 600, the relevant extract of which is reproduced below, the apex Court has laid down that every truck owner who is liable to pay impugned tax has his own

independent cause of action and he has to pay separate set of Court fee for (sic) different truck owners have relations with each other as partners or any other legally subsisting rural relationship of association of persons:

...Having regard to the nature of these cases where every owner of a truck plying this truck for transport of goods has a liability to pay tax impugned in the petition each one has his own independent cause of action. A firm as understood under the Partnership Act or a company as understood under the Indian Companies Act, if it is entitled in law to commence action either in the firm name or in the company's name, can do so by filing a petition for the benefit of the company or the partnership and in such a case Court fee would be payable depending upon the legal status of the petitioner. But, it is too much to expect that different truck owners having no relation with each other either as partners or any other legally subsisting rural relationship of association of persons would be liable to pay only one set of Court fee simply because they have joined as petitioners in one petition. Each one has his own cause of action arising out of the liability to pay tax individually and the petition of each one would be a separate and independent petition and each such person would be liable to pay legally payable Court fee on his petition. It would be a travesty of law if one were to hold that as each one uses highway, he has common case of action with the rest of truck pliers.

9. The same question also came up for consideration before the Full Bench of Allahabad High Court in Umesh Chand Vinod Kumar and Others Vs. Krishi Utpadan Mandi Samiti and Another, , wherein it was laid down as follows:

34. Our answer to the second question is that a single writ petition under Article 226 of the Constitution by more than one petitioner, not connected with each other as partners or any other legally subsisting rural relationship, is maintainable where the right to relief arises from the same act or transaction and there is a common question of law or fact or where tonight the right of claim does not arise from the same act or transaction, the petitioners are jointly interested in the cause or causes of action.

10. In P. Radhakrishna Naidu and Others Vs. Government of Andhra Pradesh and Others, , the writ petitions were filed challenging the order dated 23rd, September 1975, compulsorily retiring the petitioners therein. The apex Court held that, the cause of action of each petitioner is separate and independent and therefore, several petitioners cannot join as petitioners in a single writ petition. The relevant extract from the apex Court decision is as follows:

14. Further it has to be observed that in the present writ petitions several petitioners have combined as petitioners. Their causes of action are separate and independent. Each is alleged to be an instance of individual assertion of constitutional right in regard to facts and circumstances of each case. Where several petitioners combine for alleged violation of their rights, it is difficult for Court, to go into each and every individual case.

11. In *Smt. Krishna Pati Devi Ors. Vs. The State of Bihar Ors.*, , the question involved was whether one set of Court fee on a writ petition filed by several persons challenging a notification is in accordance with law. This is clear from paragraph 2 of the judgment which is reproduced below:

2. The point involved in this appeal is that if by one notification several persons are affected and jointly that notification is challenged, whether separate sets of Court fees are required to challenge that notification or one set of Court fee would be in accordance with the law.

The Division Bench answered the said question in affirmative holding as under:

...Whenever interest is common or similar, whether by one stroke of pen, if the impugned notification can be set aside, one set of Court fee is only required....

12. When the right to relief arisen from the same Act, order or law, several persons who are aggrieved thereby can file a single writ petition on payment of single set of Court fees. In such a case, as held by this Court in *Smt. Krishna Pati Devi* case, the interest of the petitioners in common or similar. The interest of several persons is common or similar when they are jointly interested in a cause of action.

13. If the cause of action of more than one person is not common, they cannot file a single writ petition with one set of Court fee even if the ground of attack is common and the principal question involved is the same. What is essential is that they should have common cause of action. If they have such a cause of action they can file a single writ petition with one set of Court fee, otherwise not.

14. In *D.R. Mills v. Commissioner Civil Supplies* (supra), although the ground of attack was common and the principal question involved therein was also the same but the apex Court held that as each of the petitioners has separate/independent cause of action, they cannot file a single writ petition. In *Mota Singh and Ors. v. State of Haryana and Ors.* (supra), the levy of tax was challenged by several truck owners. The apex Court held that each of them has his own cause of action arising out of the liability to pay the tax individually and, therefore, each has to pay separate set of Court fee. Following the law laid down by the apex Court the Full Bench of the Allahabad High Court in *Umesh Chand Vinod Kumar and Ors. v. Krishi Utpadan Mandi Samiti, Bharthana and Anr.* (supra), reiterated the same view. In that case the food grains dealers each of whom was having a licence under the U.P. Krishi Utpadan Mandi Samiti Act filed the writ petitions seeking direction to the Mandi Samiti not to charge market fee. It was held that although the ground of attack is common and the principal question raised in the writ petition is the same, but each of the dealers has to pay separate Court fee because he was having an independent cause of action.

15. In *P.R. Naidu v. Government of A.P.* (supra), although the order under challenge was one whereby and whereunder several employees mentioned therein were compulsorily retired from service, but the apex Court did not favour

the filing of single writ petition by them because each one of them was having an independent cause of action.

16. When by a single order several cases are decided, it is treated *tinder law* to consist of as many orders as there are cases decided thereby. In this connection, reference may be made to *Cumbum Roadways (P) Ltd. Vs. Somu Transport (P) Ltd. and Others*, wherein the apex Court, while dealing with appellate order passed by the State Transport Appellate Tribunal under the Motor Vehicles Act held as under:

...Even though all the appeals with respect to one route may have been disposed of by a single appellate order in form, in reality, the appellate order consists of as many orders as there are appeals disposed of thereby....

In that case, the appellate Tribunal by a common order decided seven appeals, six of which were dismissed and only one of them was allowed. The order of the Tribunal in one such appeal was challenged before the High Court. The High Court set aside the order and remanded the matter to the Tribunal with a direction to consider all the appeals afresh. The apex Court modified the High Court's order holding that the remand should be confined to those parties who came to the High Court because High Court have no jurisdiction to interfere with the order of the appellate Tribunal either in favour or against the parties who have not come to it. When a single writ petition is filed by several persons challenging the order whereby and whereunder several cases have been decided, each whose case has been decided by the common order has a separate and independent cause of action, as was the case in *P.R. Naidu v. Government of A.P.* and therefore, each such person has to pay separate Court fee.

17. In writ petition, C.W.J.C. No. 2814/98R, which has given rise to L.P.A. No. 47/99R, 23 persons filed the writ petition seeking appropriate writ or direction upon the respondents therein to reinstate them and regularize their services with back wages. There was also prayer for parity of pay with the regular employees. These petitioners claim to be the employees of the Central Coalfields Limited and are aggrieved by the termination of their services. Each of them has independent cause of action arising out of termination of his service and is asserting his own contractual and/or constitutional right, as was the case in the case of *P.R. Naidu v. Government of A.P.* (supra). Accordingly each of them has to pay separate set of Court fee. The learned Judge was, therefore, justified in requiring each petitioner to pay separate Court fee. This L.P.A. (47/99R) is, therefore, liable to be dismissed.

18. The appellants in L.P.A. No. 100/99R filed writ petition seeking writ/direction upon the respondents therein to permit them to sit in the supplementary examination 1998 B.Sc. (Engineering) of 1st. Year in the respective branches. The case set up by them in the writ petition is that the supplementary examination has started for the first time in 1998 but in view of the order of the Bihar Institute of Technology, Sindhri, Dhanbad, taken at a meeting of the Heads

of the Departments on 26.12.98, they cannot appear in the supplementary examination. It was decided in the said meeting that the students who have failed in 1st, 2nd and 3rd. consecutive annual examinations held in 1996, 1997 and 1998, are not entitled to continue their studies and appear in the subsequent examination. The appellants are really aggrieved by the said decision.

Their right to relief arises from one and the same order of the Institute. Their cause of action is common and their interest is similar. They, therefore, can maintain single writ petition with one set of Court fee. L.P.A. No. 100/99R is, therefore, liable to be allowed.

19. L.P.A. No. 47/99R is dismissed. The appellants therein are, however, granted one month's further time to pay the deficit Court fees if (sic).

20. L.P.A. No. 100/99R is allowed. The impugned judgment of the learned Single Judge is set aside. It is declared that the writ petition C.W.J.C. No. 22/99R filed by the appellants with one set. of Court fee is maintainable. No costs.

D.N. Prasad, J.

I agree.