
(1999) 07 PAT CK 0049
In the Patna High Court
Case No : C.W.J.C. No. 5846 of 1998

Krishna Prasad Singh

APPELLANT

Vs

The Union of India (UOI) and Others

RESPONDENT

Date of Decision : 06-07-1999

Acts Referred:

Constitution of India, 1950 — Article 141, 226, 226(2), 227

Citation : (1999) 3 PLJR 391

Hon'ble Judges : A.K. Ganguly, J

Bench : Single Bench

Advocate : Bindhyachal Singh, for the Appellant; Amar Nath Singh, for the Respondent

Final Decision : Dismissed

Judgement

A.K. Ganguly, J.—Learned Counsel for the Respondents has produced before this Court the original of the dismissal order and the same has been shown to the learned Counsel for the Petitioner. Learned Counsel for the Petitioner also admits that the said original dismissal order was passed in Bhopal and was served upon the Petitioner at Bhopal.

2. Heard learned Counsel for the parties. It is not in dispute as it has been recorded already, that in this case the order of dismissal was passed against the Petitioner outside the territorial jurisdiction of this Court, namely by Respondent No. 5, the Commandant, Central Industrial Security Force Unit, BHEL, Bhopal (M.P.), who is an authority in Bhopal. It is also not in dispute, as it appears from the original order that the said order was served upon the Petitioner in Bhopal. However, learned Counsel for the Petitioner submits that he had filed appeal and revision against the said order of dismissal and the orders passed in those appeal and revision have been served upon the Petitioner at village Maner within the district of Patna. In the present factual context, the question which arises is whether this Court has the territorial jurisdiction to entertain this writ petition.

3. Learned Counsel for the Petitioner by referring to Article 226(2) of the Constitution of India submits that if a part of the cause of action arises within the jurisdiction of this Court, then in that case his writ petition before this Court is maintainable and he has contended that it is not required that the entire cause of action must arise within the jurisdiction of this Court. According to the learned Counsel for the Petitioner, since the appellate order and the revisional order which according to him are parts of his cause of action, have been served on the Petitioner at Maner which is within the territorial jurisdiction of this Court, this Court should entertain this writ petition,

4. Learned Counsel for the Respondents, however, contended to the contrary by saying that here the original order has been passed and served upon the Petitioner outside the territorial jurisdiction of this Court and that order having been passed and served upon the Petitioner outside the territorial jurisdiction of this Court, the jurisdiction of this Court cannot be invoked on the basis of the service of the appellate and revisional order on the Petitioner at village Maner within the district of Patna. This contention of the learned Counsel for the Respondents seems to be covered by the two Division Bench judgments of this Court, namely, in the case of *Nand Kishore Singh v. Union of India* reported in 1983 P.L.J.R. 54 where a Division Bench of this Court has held that the order of dismissal of Nand Kishore Singh, was passed out side the territorial jurisdiction of this Court and thereafter the Petitioner i.e. Nand Kishore Singh returned to his village home as a dismissed employee and preferred appeal. In that context the learned Judges of the Division Bench held that if a disgruntled employee files an appeal for his remedy from any place he chooses, the Government should not be exposed to the vagaries to compel them to defend the action which the dissatisfied employee filed from the place of his residence and the learned Judges of the Division Bench held that such an interpretation is contrary to Clause (2) of Article 226 of the Constitution. The said Division Bench judgement has been affirmed by a subsequent Division Bench of this Court in the case of *Ex-Major Ganesh Prasad Sinha v. the Union of India and Ors.* reported in 1993 (1) P.L.J.R. 85. In paragraph 3 of the said judgment in the case of *Ex-Major Ganesh Prasad Sinha* (supra) the learned Judges of the Division Bench affirmed the aforesaid principle in the following words:

We may further add that an order of dismissal, removal from service of the like, constitute a complete cause of action by itself for filing a writ petition under Articles 226 and 227 of the Constitution. The departmental remedies by way of appeal or revision etc. are alternative and existence of any such remedy per se does not oust the jurisdiction of the High Court in entertaining the writ petition. It was not in dispute that the impugned order had taken its full effect within the State of Punjab and provided cause of action for filing a writ petition. An appeal or revision against such orders is in the nature of post decisional adjudication. It merely enables the persons aggrieved to challenge the impugned orders. Rejection of any such appeal or revision does not give rise to any further consequence and, therefore, even if the revisional order of the Central

Government (Annexure-9) was communicated to the Petitioners at Muzaffarpur, it will not amount to accrual of part of the cause of action.

The facts of the present case are very similar to the facts in the case of Ex-Major Ganesh Prasad Sinha (*supra*).

5. Learned Counsel for the Petitioner has of course, relied on another Division Bench judgment of this Court in the case of Brig. Ashok Malhotra Vs. The Union of India (UOI) and Others, in support of his contention, but from the facts of this case it appears that the impugned order of supersession though issued at New Delhi was served on the Petitioner at Danapur which is within the jurisdiction of this Court. In the context of that fact, the learned Judges of the Division Bench held that this Court has the jurisdiction. But the factual situation in the present case is totally different, as noted above.

6. The only factual aspects in support of the Petitioner's contention for invoking the jurisdiction of this Court are (i) the Petitioner's residence which is within the territorial jurisdiction of this Court, (ii) service of revisional and appellate order within the territorial jurisdiction of this Court. But on those facts this Court cannot entertain this writ petition when the original order of dismissal which is the sole cause of action of the Petitioner was passed outside the territorial jurisdiction of this Court and was served upon the Petitioner also outside the territorial jurisdiction of this Court. Incidentally, it may be mentioned that the Hon'ble Supreme Court has strongly deprecated the practice of some High Courts which have allowed the litigants to invoke its jurisdiction regardless of cause of action merely on the ground of residence of the Petitioner. The said opinion of the Hon'ble Supreme Court has been expressed very strongly in the three Judge Bench judgment of the Supreme Court in the case of Oil and Natural Gas Commission Vs. Utpal Kumar Basu and Others, . The said decision of the Supreme Court is binding on this Court under Article 141 of the Constitution of India and this Court is also in respectful agreement" with the same.

7. In that view of the matter, this Court dismisses this writ petition not on merits but on the ground that this Court has no territorial jurisdiction to entertain this writ petition.

8. However, if the Petitioner is so advised, he may file another writ petition in accordance with law before the Court where the cause of action lies. No order as to cost.