
(2004) 12 DEL CK 0097
In the Delhi High Court
Case No : WPC 1736 of 2001

Manohar Lal

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 15-12-2004

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 141, 20
Constitution of India, 1950 — Article 226(2)

Citation : (2005) 116 DLT 469 : (2006) 2 SLJ 98

Hon'ble Judges : Gita Mittal, J; Dr. M.K. Sharma, J

Bench : Division Bench

Advocate : Pankaj Vivek, for the Appellant; Sameer Aggarwal, for the Respondent

Judgement

Mukundakam Sharma, J.—In this writ petition a preliminary objection is raised by the respondents contending, inter alia, that no part of the cause of action has arisen within the territorial jurisdiction of this court and, Therefore, this writ petition cannot be entertained by this court. In support of the said preliminary objection raised by the respondents, it was pointed out that what is challenged in the present writ petition is the order passed by the Commandant on 27th May, 2000 awarding to the petitioner the punishment of compulsory retirement from service. Being aggrieved by the aforesaid order the petitioner filed an appeal before his Appellate Authority, namely, the Deputy Inspector General of Police, Central Reserve Police Force. The said appeal was considered and disposed of by the Appellate Authority located in Allahabad, U.P by issuing an order from Allahabad, UP which is dated 5th December, 2000. The petitioner could have filed a revision petition as against the aforesaid order but the said revisional remedy has not been invoked by the petitioner. It is pointed out that even the revisional authority is located at Lucknow.

2. In the context of the aforesaid facts, it was submitted by the counsel appearing for the respondents that the incident, which was the subject-matter of

the departmental proceedings initiated against the petitioner, having taken place at Kanpur and the order of punishment having been issued from Kanpur and the Appellate Authority having disposed of the appeal at Allahabad, no part of the cause of action could be said to have been arisen within the territorial jurisdiction of this court and, Therefore, this court has no territorial jurisdiction to entertain this petition.

3. Being faced by the aforesaid position and plea of the respondent counsel appearing for the petitioner submitted that by virtue of the provisions of Article 226(2) of the Constitution of India, this court shall have extra territorial jurisdiction. He specifically submitted that the office of the Director General, CRPF is located in New Delhi and, Therefore, this court shall have territorial jurisdiction to decide this writ petition.

4. In the light of the aforesaid submissions, we proceed to decide the preliminary issue, which was raised regarding the maintainability of the writ petition. It cannot be disputed that the incident, which was the subject-matter of the departmental proceeding, had taken place at Kanpur. The order of the disciplinary authority was also passed in Kanpur whereas the order of the appellate authority was passed in Allahabad. Therefore, no part of the cause of action in the present writ petition has arisen within the territorial jurisdiction of this court. The only plea that is taken before us is that this court shall have extra territorial jurisdiction to entertain this petition in view of the provisions of Article 226(2) of the Constitution of India and also because the office of the Director General, CRPF is located in Lodhi Colony, New Delhi. In our considered opinion, the aforesaid submission of the counsel appearing for the petitioner is misconceived and is required to be rejected outright. In this connection, we derive support from a decision of the Supreme Court in *Kusum Ingots and Alloys Ltd. Vs. Union of India (UOI) and Another*. In the said decision 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 141 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 material, 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 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. In para 22 of the said judgment in *Kusum Ingots (supra)* the Supreme Court has clearly stated that the court must have requisite territorial jurisdiction in absence of which a writ petition cannot be entertained. The Supreme Court has also discussed the relevancy of the situs of the office of the respondents. 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 Vs. Union of India (UOI) and Others*, . 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 situated having regard to the fact 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.

6. 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 cannot be sustained. In view of the above finding, the writ petition is liable to be dismissed....""

7. In *Aligarh Muslim University v. Vinay Engineering Enterprises Ltd.*, (1994) 4 SCC 710 the Supreme Court has 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 absolutely 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."''

8. In that view of the matter and in the light of the law laid down by the Supreme Court in the aforesaid decision, we hold that in the present case, no part of cause of action has arisen within the territorial jurisdiction of this court. We find no reason to entertain the present writ petition in this court. The petition is held to be not maintainable for want of territorial jurisdiction. It shall, however, be open to the petitioner to file an appropriate writ petition on the same cause of action in a court having territorial jurisdiction in the light of the observations made hereinabove. The writ petition stands disposed of accordingly.