

(2007) 08 PAT CK 0067
In the Patna High Court
Case No : LPA No. 452 of 2007

Mithilesh Kumar Singh

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 10-08-2007

Acts Referred:

Constitution of India, 1950 — Article 226(2)

Citation : (2007) 4 PLJR 292

Hon'ble Judges : J.N. Bhatt, C.J.; Mihir Kr. Jha, J

Bench : Division Bench

Advocate : Sheojee Mishra, for the Appellant; R. Ranjan, for the Respondent

Final Decision : Dismissed

Judgement

1. In this Letters Patent Appeal under Clause 10 of the Letters Patent of the Patna High Court, the challenge is against the order of the learned Single Judge, dated 23.3.2007, passed in CWJC No. 2738 of 2004, whereby, the writ petition came to be dismissed only on the ground that no cause of action had arisen within the territorial jurisdiction of this Court. Thus, the writ petition came to be dismissed on the ground of lack of territorial jurisdiction. Upon joint request of the parties, this matter is taken up for final disposal at the stage of admission itself.
2. We have heard the learned counsel for the parties and have also considered the text and texture of the impugned order.
3. It has been contended on behalf of the appellant-original writ petitioner, that the learned Single Judge has committed serious error in finding that there was no territorial jurisdiction. In that, It has been submitted that the intimation of discharge of the appellant-original writ petitioner from the service of the Indian Navy was received within the territorial jurisdiction of this Court and, therefore, there is a cause of action.
4. Undoubtedly, prima facie, such a submission would appear to be very

attractive and alluring but when one gets into the facts and law, it is not recognizable or acceptable both on facts, as well as, on law.

5. So far as legal position is concerned, some intimation to the appellant original writ petitioner, given by the respondent, could not be said to have furnished the cause of action within the territorial jurisdiction of the Court where the intimation has been received. In this connection, let it be mentioned that under Clause (2) of Article 226 of the Constitution of India, it has been provided that the power conferred by clause (1) of Article 226 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.

6. It is not the case herein that the office of the Indian Navy is situated within the territorial jurisdiction of this Court. What is submitted is that the intimation of discharge from service was received by the appellant original writ petitioner within the territorial jurisdiction of this Court.

7. In this connection, a plain perusal of the factual profile will show that such submission is running diametrically opposite to the facts.

8. The original writ petitioner, appellant, before us was undergoing training in the Indian Naval Service at Chilka (Orissa State). Thereafter, on medical examination, he was found unfit and, therefore, he came to be discharged. Letter of discharge from Naval Service was communicated and he left the place Chilka on 20.6.2003. It is, therefore, by way of abundant precaution, the Divisional Officer of INS, Chilka, sent a letter to the original writ petitioner-appellant through his father, dated 21.6.2003. Again, a duplicate intimation came to be forwarded on 17.9.2003 to the original writ petitioner appellant. Factually, therefore, the aforesaid submission is not with merit.

9. In this connection, reliance has been placed to a decision of the Division Bench of this Court rendered in the case of Rameshwar Prasad Vs. The Union of India (UOI) and Others, . We have examined the said case law. On facts, it is not applicable, as well as, on law, a different view has been taken by the Hon'ble Apex Court in the case of Additional General Manager/Human Resource Bharat Heavy Electricals Ltd. Vs. Suresh Ramkrishna Burde, . In that case, the respondent got appointment on a post reserved for Scheduled Caste by submitting a false caste certificate. The employer referred the caste certificate to District Collector, Nagpur and also to the Chairman, Scheduled Tribe Caste Certificate Scrutiny Committee for verification. The Scrutiny Committee found such certificate to be false and thus the services of the respondent came to be terminated at Hyderabad on the basis of the said report of the Scrutiny Committee. It is in these factual pro file, it came to be held by the Hon'ble Apex Court that in such circumstances the writ petition challenging the termination of

services before the Nagpur Bench of the Bombay High Court was not maintainable being beyond its territorial jurisdiction. Therefore, the Division Bench decision of this Court relied upon by the Original Writ petitioner-appellant also does not help him. After having taken into consideration all the facts and as well as proposition of law and the facts, which we have discussed hereinabove, we are of the view that this appeal is meritless and the view taken by the learned Single Judge requires no interference. The appeal, shall therefore, stand dismissed. No costs.