

(2007) 06 KAR CK 0039
In the Karnataka High Court
Case No : Writ Petition No. 8229 of 2005

Sri. Shivananjaiah

APPELLANT

Vs

The Chief Mechanical Engineer (P)/Appellate Authority,
K.S.R.T.C. and The Divisional Controller, K.S.R.T.C.,
Mangalore Division

RESPONDENT

Date of Decision : 06-06-2007

Acts Referred:

Industrial Disputes Act, 1947 — Section 10 (4A), 25 F

Citation : (2008) 116 FLR 29 : (2007) ILR (Kar) 3260 : (2007) 6 KarLJ 309 :
(2007) 4 KCCR 2277

Hon'ble Judges : Subhash B. Adi, J

Bench : Single Bench

Advocate : S.B. Mukkannappa, for the Appellant; R.I. D'sa, for the Respondent

Final Decision : Dismissed

Judgement

Subhash B. Adi, J.—Award dated 30th August 2004 in I.D.N. 129/1996 is called in question.

2. Petitioner raised a dispute u/s 10-4A of the Industrial Disputes Act (hereinafter referred to as "the Act") inter alia alleging that the dismissal order dated 13.3.1996 passed by the Corporation is illegal and violative of Section 25-F of the Act.

3. An enquiry was initiated against the petitioner for remaining unauthorised absent. The enquiry was concluded with a finding that, the charge is proved. Based on the enquiry report, the Disciplinary Authority passed an order of dismissal.

4. On service of the dismissal order, the petitioner raised a dispute before the Labour Court, Bangalore. The Labour Court without going into the merits, held that it has no jurisdiction, as the petitioner was working at Mangalore Division and a disciplinary action was initiated at Mangalore Division. Further, an order of

dismissal was also passed by the Mangalore Division and held that the substantial cause of action accrued to the petitioner at Mangalore Division and the Labour Court at Bangalore had no jurisdiction.

5. Sri. S.B. Mukkannappa, learned Counsel for the petitioner submitted that the Head Office of the Corporation is situated in Bangalore. He was appointed by the Head Office and the dismissal order is served within the Bangalore Division and further submitted that an appeal was filed before the Appellate Authority, which is situated in Bangalore Division. In view of this, he submitted that the Bangalore Labour Court has jurisdiction and not the Mangalore. He further submitted that it is either the place of residence or the place where he was working or where the cause of action arisen, such Labour Court has the jurisdiction to entertain the dispute. In this regard, he relied on a judgment reported in *Neslin Joseph Prim Vs. The Presiding Officer, Central Government Industrial Tribunal Cum Labour Court, Chennai and Another*, and referred to para-9 of the judgment and submitted that the jurisdiction of the Labour Court is to be decided either on the place of residence of the employee or the place where he was working or the cause of action accrued to the petitioner.

6. He further submitted that the place of residence of the petitioner being Turuvekere, where the dismissal order was served, the Labour Court, Bangalore has the territorial jurisdiction to entertain the dispute.

7. Learned Counsel for the respondents - Corporation submitted that, it is the Labour Court within whose jurisdiction the substantial cause of action has arisen and not the place where the Appellate Authority is situated. Insofar as the service of the dismissal order on the petitioner at Turuvekere is concerned, learned Counsel for the respondents submitted that the allegation against the petitioner is of unauthorisedly remaining absent and on account of his absentism, the dismissal order was served on the petitioner at his native place, as he was not residing at Mangalore. For the purpose of deciding the place of residence of an employee, it is the place where he was working, would be the place of residence. In this case, admittedly, the petitioner was working in Mangalore Division where the disciplinary action was initiated and where the order of dismissal is passed and for the purpose of jurisdiction, the place of residence should be Mangalore only and not the place where he is born. It is the ordinary place of residence, which means the place where he was working. In support of her contention, she relied on a judgment reported in 2002 II LLJ 691 in the matter of *Management of Best and Crompton Engineering Limited, Automotive Products Division, Madras v. Presiding Officer, I Additional Labour Court, Madras and Anr.* By relying on this judgment, learned Counsel for the respondents submitted that it is the place where the substantial cause of action has arisen, will be the place of jurisdiction and she also pointed out that, in the judgment of the Madras High Court, the earlier judgment of the Apex Court reported in *Hindustan Aeronautics Ltd. Vs. The Workmen and Others*, and also the other judgments are referred and followed. Relying on the Apex Court judgment, the

Madras High Court has held that, it is the place, where the substantial cause of action accrued will be the place of jurisdiction and not any other place.

8. It is clear from the findings of the Labour Court that, the petitioner was working in Mangalore. He remained absent from duty while he was working at Mangalore. It is also not in dispute that the disciplinary proceedings were initiated and concluded at Mangalore, For the purpose of deciding the jurisdiction, it is the residence, where the employee is working and ordinarily resides, would be the place of residence. In this case, admittedly, the petitioner was working at Mangalore and it should be the place of residence where he is required to reside ordinarily. Since the petitioner remained unauthorisedly absent, he was not present in the place where he was working and the dismissal order was served on him at his native place, that by itself will not confer jurisdiction on the petitioner to raise a dispute at Bangalore. Such a contention cannot be accepted, as sometime the native place would be outside the State and that does not mean that the dispute is to be raised in other State. It is the place where the employee ordinarily resides i.e., where is working would be the place for the purpose of jurisdiction and not a place where he is born or native place.

9. As far as Head Office is concerned, no doubt, the Head Office of the Corporation is situated at Bangalore, nevertheless, substantial cause of action admittedly has arisen at Mangalore and it is not in dispute that, Mangalore has got a Labour Court, which has jurisdiction to deal with the matter. The Labour Court has relied on the judgment of the Madras High Court and also another judgment reported in 2003 LLR page 875. Even the Apex Court has held that it is the place where the substantial cause of action has arisen would be the place of jurisdiction. Undisputedly, Mangalore would be the place where the substantial question of action has arisen. The Appellate Authority is situated at Bangalore, it cannot be treated as the place of jurisdiction. The place of jurisdiction has to be decided based on the original cause of action and not cause of action of appeal. Learned Counsel for the petitioner has also relied on a judgment reported in 1996 LLR 326 in the matter of M.P. State Road Transport Corporation v. Industrial Court, M.P., Indore wherein the Madhya Pradesh High Court has held that the Labour Court within the territorial jurisdiction, which is either of the parties working or located, would be competent to entertain the dispute and also observed that the Corporation Head Office is at Bhopal, the dispute is appealable to the jurisdiction of the Labour Court, Bhopal. Since the Apex Court has taken a view that, it is the substantial cause of action is the basis for the purpose of deciding the jurisdiction, I do not find any reason to follow the judgment of the Madhya Pradesh High Court. However, in my view, the judgment reported in 2002 II LLJ 691 (supra), wherein the Apex Court judgment is referred is more reliable and I follow the said judgment and hold that the Mangalore Labour Court has jurisdiction to deal with the matter.

Accordingly, the Writ Petition fails and is dismissed. However, liberty is reserved

to the petitioner to raise a dispute before the appropriate Labour Court.