

(2006) 08 P&H CK 0167
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 5335 of 2005

Yashwant Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 10-08-2006

Acts Referred:

Citation : (2006) 144 PLR 691

Hon'ble Judges : M.M.S. Bedi, J; M.M. Kumar, J

Bench : Division Bench

Advocate : Balwinder Singh, for the Appellant; Aman Chaudhary, for the Respondent

Final Decision : Dismissed

Judgement

M.M. Kumar, J.—The petitioner is resident of village and Post Office Santokhgarh, Tehsil and District Una (H.P.). He has filed this petition with a prayer for quashing order dated 29.10.1997 (Annexure P.2) passed by Commandant, CISF unit, DSP, Durgapur-08 District Burdwan (W.B.). A further prayer has been made for quashing order dated 26.7.2004 (Annexure P.8) passed by the appellate authority - Deputy Inspector General, CISF Unit DSP Durgapur -08 District Burdwan (W.B.), modifying the order of removal from service into compulsory retirement. It is also prayed that the order of compulsory retirement may be set aside by reinstating the petitioner in service.

2. Mr. Aman Chaudhary, learned Counsel for the respondents has raised a preliminary objection at the outset and asserted that this Court completely lacks territorial jurisdiction to entertain and adjudicate the present petition as the entire cause of action has taken place in the State of West Bengal. According to the learned Counsel, charge sheet was issued on 20.1.1997 which was served at his residential quarter at at CDLB Brooklyne Family Complex, Type II,. Quarter No. 413, Paharpur Road, Calcutta 24 (WB). Inspector of CISF Unit ASP Durgapur was appointed as Enquiry Officer to enquire into the charges levelled against the petitioner. A letter issuing charge sheet as well as the letter appointing Enquiry

Officer came back with the remarks "not available". Consequently the orders were sent to the native place of the petitioner on 18.3.1997. On 1.4.1997, the petitioner sent an application to the office of respondent No. 5 for accepting his resignation from service w.e.f. 28.4.1996. The whole subsequent correspondence has taken place between the petitioner and the department at Durgapur. Eventually, ex-parte enquiry was held and he was found guilty of the charges. Respondent No. 4 by accepting the enquiry report passed the order of his removal from service by an order dated 29.10.1997 (Annexure P.2) which was passed at Durgapur 08 (WB) and thereafter appeal was partially accepted at the same place by converting the order of removal from service to that of compulsory retirement. It is in the afore-mentioned backdrop that the preliminary objection raised by the learned Counsel is required to be considered. In support of his submission, the learned Counsel has placed reliance on a judgement of this Court in the case of Lt. Col. Sanjay Sitanshu v. Union of India and Ors. Cr.W.P. No. 922 of 2004 decided on 13.1.2006 and a Full Bench judgement of the Allahabad High Court in the case of Rajendra Kumar Mishra v. Union of India and Ors. 2005 Lab. I.C. 2229.

3. Mr. Balwinder Singh, learned Counsel for the petitioner, on the other hand, has placed reliance on a judgement of the Hon'ble Supreme Court in the case of Dinesh Chandra Gahtori v. Chief of Army Staff .

4. We have thoughtfully considered the submissions made by the learned Counsel for the parties and are of the view that this Court does not have any territorial jurisdiction to deal with the dispute raised. The petitioner was posted at Durgapur (WB) on 20.1.1997 when the charge sheet was issued to him . The enquiry proceedings culminated into passing an order of removal from service. The appeal filed by the petitioner was also decided by respondent No. 4 at the same place in West Bengal. The petitioner is residing in Himachal Pradesh and there is no cause of action which might have arisen within the States of Punjab and Haryana and Union Territory, Chandigarh.

5. In the case of Rajendra Kumar Mishra (supra), the jurisdiction of the Allahabad High Court was sought to be invoked by a person who was serving the Indian Army when he was posted at Kanchanpura at Calcutta (WB). Similarly Court martial was also held at the same place and he was awarded punishment. He challenged the order of punishment alongwith other summary court martial proceedings. The petitioner was residing within the jurisdiction of the Allahabad High Court and merely on that basis the Full Bench of the Allahabad High Court refused to entertain the petition by observing that no part of cause of action has arisen within the territorial jurisdiction of that Court.

6. Similarly a Seven Judges Bench decision of the Supreme Court in the case Lt. Col. Khajoor Singh Vs. The Union of India and Another, has taken the view that merely because the petitioner resides within the territorial jurisdiction of a Court would not be sufficient to clothe such a Court with the territorial jurisdiction. Similar view has also been taken in the cases of Board of Trustees for the Port of

Calcutta and another Vs. Bombay Flour Mills Pvt. Ltd. and another, ; Oil and Natural Gas Commission Vs. Utpal Kumar Basu and Others, ; Rajasthan High Court Advocates' Association v. Union of India AIR 2001 SC 416. The judgement of the Hon"ble Supreme Court on which reliance has been placed by the learned Counsel for the petitioner has also been dealt with by the Full Bench of the Allahabad High Court by observing that the same cannot be construed to mean that any absolute proposition had been laid down by keeping it open to the petitioner to file a writ petition in any High Court of the country.

7. Such an absolute proposition has not been accepted as it would lead to conflicting decisions as different petitions could be filed in different High Courts by co-accused in the same case and conflicting decisions could be given. The law laid down by seven Judges Bench in the case of Lt. Col. Khajoor Singh (supra) and other cases has been held to be binding.

8. In view of the above, we dismiss the writ petition for want of territorial jurisdiction by leaving it open to the petitioner to file any other petition on the same cause of action in a Court which has territorial jurisdiction.