

(2002) 11 CAL CK 0005

Calcutta High Court

Case No: Writ Petition No. 22263 (W) of 1998

Tapas Kumar Dutta

APPELLANT

Vs

Steel Authority of India

RESPONDENT

Date of Decision: Nov. 14, 2002

Citation: (2002) 2 ILR (Cal) 561

Hon'ble Judges: Amitava Lata, J

Bench: Single Bench

Advocate: Party in Person, for the Appellant; N.C. Bhattacharya, for the Respondent

Final Decision: Dismissed

Judgement

Amitava Lata, J.

The Petitioner invoked the writ jurisdiction of this Court upon being dissatisfied with the order of the appellate authority and Chairman of Steel Authority of India dated November 6, 1998 under which the order of the appropriate authority dated May 10, 1998 by the Chief Personnel Manager, Steel Authority of India Limited Centre for Iron and Steel, Ranchi was confirmed. From the cause title it appears that neither of the Respondents has their respective offices within the writ jurisdiction of this High Court. It is rue to say that the seat of the respected authorities cannot be the jurisdiction and it is equally true to say that only place of residence of the Petitioner where he received notice and/or order of removal or appellate order in connection thereto cannot give rise to a cause of action within the jurisdiction. The rea1 point for the purpose of determination of jurisdiction is whether there is any nexus or connection of the cause of action with the place situates within the jurisdiction or not.

2. There is no doubt a service matter. The Petitioner rendered his service at a office situates in the province of Bihar (now in Jharkhand). Due to purported illegality in the service he was removed from there. The dispute is in connection with the service either in the disciplinary proceedings or in the criminal proceedings before the Court in the province of the then Bihar. Ail records must have to be available there.

Therefore, save and except the communication of the order at the residence of the Petitioner no part of the cause of action arose within the jurisdiction or create any nexus and connection with cause of action within the jurisdiction. The Petitioner earlier invoked the jurisdiction of this High Court and obtained a direction to consider the case by the appellate authority. Such consideration was duly made and again communicated to the Petitioner having residence within the jurisdiction of this High Court. Under such circumstances, the Petitioner thought it fit that this Court would be the appropriate Court for the purpose of invocation of jurisdiction and accordingly invoked the same. The Respondents have taken the plea that this Court has no jurisdiction in respect of the matter. The Respondents have contended that the writ petition is not maintainable before this Hon"ble High Court. The entire cause of action had a reason outside the jurisdiction of. this Court. Merely because the Petitioner is at present residing within the jurisdiction of this Court will not confer the jurisdiction of this Court in respect of the cause of action which arose outside the jurisdiction of this Court". Mere incorporation of the office at Jawaharlal Nehru Road, Calcutta 700 071 cannot give any cause of action for the purpose of forum because such office is a separate unit and is known as central marketing organisation with whom the Petitioner had No. relationship during his service career. Both the disciplinary proceeding and the criminal case were proceeded at Ranchi. The Petitioner was convicted by the trial Court of Ranchi and also by the High Court at Patna, Bihar, Ranchi Bench. The Petitioner was, at the time of removal, working at Ranchi. Order of removal by the disciplinary authority and the decision of the appellate authority both were made outside the jurisdiction of this Court. Therefore, no part of the cause of action is arising within the jurisdiction.

3. According to me, from the bundle of facts, the cause of action arises at a place where the jurisdiction of the Court is to be invoked. Mere place of residence or the office, even seat or venue of the Respondents cannot give rise to a cause of action. Nexus or connection with the bundle of facts for the purpose of invocation of jurisdiction gives rise to a cause of action. In further receiving a notice or order cannot be equated. This is different with issuance of governmental notifications which has its face value wherefrom it was circulated and wherever it has issued. That apart, cause of action is totally different from the residence and place of business and that too in respect of the Petitioner to whom the order was communicated. It is needless to mention the ratio of Oil and Natural Gas Commission v. Utpal Basu and Ors. 1994 (1) S.C.C. 711 is still holding the field. After pronouncement of such judgment wherever further judgments were reported till this date Courts were directly or indirectly followed the ratio of such judgment. Therefore, mere place of residence for the purpose of communication of the departmental order cannot give rise to a cause of action within the jurisdiction of this Court. In C.B.I. Anti Corruption Branch, [C.B.I. Anti-Corruption Branch, Mumbai Vs. Narayan Diwakar](#), Supreme Court held that since the criminal case arose within the jurisdiction of the Bombay High Court but the writ Petitioner transferred to

Arunachal Pradesh which is Within the jurisdiction of the Guahati High Court the wireless message was communicated thereof cannot give rise to a cause of action before the Guahati High Court in respect of the same.

4. Therefore, taking into totality of the matter I am of the view that this Court is lacking jurisdiction in determining the issue.

5. So far the question of forum convenience is concerned cannot also give any chance to the Petitioner to establish his case within "this Court irrespective of the fact that this point has been considered the erstwhile writ jurisdiction of this High Court took up the matter and passed an order for consideration of the case by the appropriate authority. According to me, wrong will be followed by right but not by another wrong. Nullus commodum capere potest de injuria suo propria which means no one can take advantage by his own wrong. In any event when the Respondents accepted the verdict of this Court in the earlier writ petition and considered the case conditions of submission to the jurisdiction had been fulfilled there. But the situation of the present case arising of the fresh cause of action is different. In this case, Respondents have vehemently opposed on that score.

6. Thus, I hold that I shall not go into the merit of the case which is yet open for the Petitioner, if he is advised, to take up before the appropriate Court having jurisdiction over and in respect of the cause of action. All points are kept open for the purpose of redressal of grievance there. However, the writ petition stands dismissed due to lack of jurisdiction. No order is passed as to costs.

7. Let an urgent Xeroxed certified copy of this judgment, if applied for, be given to the Learned Advocates for the parties within two weeks from the date of putting the requisites.