

S.i. Vasudevan Vs. Chief General Manager

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Court : Karnataka

Decided On : Nov-14-1991

Reported in : ILR1991KAR4389; 1992(1)KarLJ452

Judge : S.P. Bharucha, C.J. and ;S.A. Hakeem, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : W.A. No. 2530 of 1990

Appellant : S.i. Vasudevan

Respondent : Chief General Manager

Advocate for Def. : S.G. Bhat, Adv.

Advocate for Pet/Ap. : P.S. Rajagopal, Adv.

Disposition : Appeal dismissed

Judgement :

S.P. Bharucha, C.J.

1. The learned Single Judge by the Order under Appeal noted that the punishment of censure which was imposed upon the appellant was in the year 1982 and thereafter it had been found that he was fit to be continued in service on the ground of meritorious service rendered by him in the year 1987. The learned

Single Judge did not think that, in the circumstances, the punishment of censure had any relevance to the appellant's case for being considered for promotion in August 1986. The apprehension of the appellant being ill-founded, the petition was rejected.

2. We may state that at the time of rejection of the Writ Petition, the respondents had not been given notice and they had not appeared. They have appeared before us and have filed a objection statement (respondents-1 to 3). It is contended therein that this Court had no jurisdiction to entertain the Writ Petition in as much as no part of the cause of action had arisen within its province. At all relevant times, the appellant had been working in the State of Madhya Pradesh. The punishment imposed upon him had been imposed there.

3. It was submitted, on behalf of the appellant that this Court has jurisdiction to entertain the Writ Petition because the appellant had posted at Bangalore a Review Petition to the Reviewing Authorities at Bombay and that the order on Review Petition had been communicated to him at Bangalore. Reliance was placed upon the Judgment of this Court in *MANAGEMENT OF MESSRS KARUR VYSYA BANK LTD. v. KARUR VYSYA BANK EMPLOYEES UNION*, : (1991) IILLJ254Kant . The dispute in this case related to the payment of higher bonus to employees of the appellant-Bank. It was not in dispute that that Bank had 9 Branches in the State of Karnataka and that the disputed higher payment of bonus covered employees serving in the Branches in Karnataka. The Court held that, therefore, a part of the cause of action had arisen in the State of Karnataka. Reliance was placed upon the phraseology used under Article 226(2) of the Constitution and the contention that a substantial portion of the dispute had arisen outside this Court's territorial jurisdiction was rejected.

4. Counsel for the appellant also relied upon the Judgment of the Calcutta High Court in *PUNJAB NATIONAL BANK AND ORS. v. DILIP KUMAR DE*, 1988(1) LLJ 32. The Court after considering the respective contentions of the parties in the Appeal found that there was no manner of doubt that the Writ Petitioner (respondent before it) had suffered serious hardship and was still suffering immense hardship for remaining under suspension for almost 12 years. The

criminal trials against him had not been proceeded with diligently and the Bank and its Officers had very casually proceeded in the matter and had definitely contributed to the unusual delay in concluding the said trials. Having discussed this aspect further, the Division Bench held that no interference was called for with the direction given by the learned Single Judge in regard to the continued suspension of the appellant. Having said this, the Court considered the question of jurisdiction to entertain the Writ Petition and said:

'In the special facts and circumstances of the case it cannot be contended that no part of the cause of action has arisen within the territorial jurisdiction of this Court. The Writ Petitioner is a suspended employee of the Bank and admittedly he is residing within the territorial jurisdiction of this Court during the period of suspension to the knowledge of the Bank. Admittedly, he is making the correspondence from his place of residence within the territorial jurisdiction of this Court with the head Office of the Bank in Delhi and on the basis of this representation, his suspension allowance is being paid from a branch office in Calcutta. The Bank administration had also given replies to the representation of Sri De to consider his prayer for revocation of the order of suspension at his residence within the territorial jurisdiction of this Court and he has felt aggrieved by such decision communicated to him at the address within the territorial jurisdiction of this Court. In the aforesaid circumstances, it cannot be contended that no part of cause of action has arisen within the territorial jurisdiction of this Court. It may be noted that in the matter of interpretation of the scope and ambit of Constitutional provisions, a liberal construction as far as practicable should be given. It is not like a case where a Writ Petitioner has been usually carrying on his business, profession or duties and functions outside the territorial jurisdiction of this Court and a formal communication has been sent to the Writ Petitioner at an address within the territorial jurisdiction of this Court and only on the basis of such communication a Writ Petition is sought to be moved before this Court although from all other facts, the jurisdiction of this Court to entertain the Writ Petition cannot be established.'

5. The appellant's Counsel also relied upon the Judgment of the Division Bench of the Gujarat High Court in MODERN FOOD INDUSTRIES (INDIA) LTD. v. M.D.

JUVERKAR, 1989 Labour & Industrial Cases 224. The order of dismissal of the employee had been served upon him within the jurisdiction of High Court of Gujarat. The Court held that passing of a dismissal order is not enough, it cannot become effective unless it is published and communicated to the concerned employee. Therefore, one of the essentials of an effective dismissal order is communication thereof to the concerned employee and this, in its view, constituted an important link in the chain of events constituting the cause of action.

6. On behalf of the respondents, reliance was placed on the Judgment of the Supreme Court in STATE OF RAJASTHAN AND ORS. v. SWAIKA PROPERTIES AND ANR., : [1985]3SCR598 . Reference was made to the terse definition of 'cause of action' in Mulla's Code of Civil Procedure: 'The 'cause of action' means every fact which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a Judgment of the Court.' In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. In the case before it, the Notification of acquisition of land within the State of Rajasthan was issued by the Rajasthan Government and published in the Official Gazette of that State. Immediately thereupon it became effective; the service of notice upon the Writ Petitioner in State of West Bengal was not necessary. The jurisdiction to entertain the Writ Petition was, therefore, held to lie within the province of the Rajasthan High Court and not of the Calcutta High Court.

7. Now the appellant in his Writ Petition prays that the charge sheet issued to him on 3rd May 1986 should be set-aside; that the order of punishment by way of censure dated 29-3-1989 should be set-aside; that the appellate order communicated to the appellant by a letter dated 11th of August 1989 should be set-aside; that the order of the Reviewing Authority communicated to the appellant by a letter dated 19th April 1990 should be set-aside; that it be declared that the debarment policy adopted by the respondent-Bank insofar as it denied promotion on the basis of ranking assigned to the Officer-employees by the Selection Committee in cases where the penalty of censure was imposed as illegal, and that the respondents be directed to give effect to the ranking assigned to the appellant by the Selection Committee in the matter of promotions to Senior Management

Grade Scale-IV with effect from 1-8-1986 and to give him all consequential benefits including the arrears of salary and pension.

8. It is clear that the charge sheet related to acts performed by the appellant while in service in Bhopal; that the punishment of censure after summary proceedings was imposed upon the appellant in Bhopal; that the appeal was preferred and considered at Bhopal and the order thereon communicated to the appellant at Raipur. Thus, all these events took place within the jurisdiction of the Madhya Pradesh High Court. As to the order under review, the consideration of the application in that behalf took place at Bombay, which is the Head Office of the respondents-Bank. That the review application was posted by the appellant to the Head Office from Bangalore does not, in our view, form a material part of cause of action nor, in the circumstances, the communication of the order thereon declining to review the orders earlier passed.

9. It, in our opinion, therefore, cannot be said that any part of the cause of action that accrued to the appellant fell within the jurisdiction of this Court. The objection as to jurisdiction raised by the respondents must therefore be upheld.

10. The Writ Appeal is, therefore, dismissed, but, it is made clear that we dismiss the Appeal only on the ground that this Court has no jurisdiction to entertain or try the appellant's Writ Petition.

11. Each party shall bear his own costs.