

G. Rangaraj Vs. the Commandant, Cisf Unit, Rsp - Rourkela Steel Plant and ors.

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Court : Chennai

Decided On : Dec-08-2000

Reported in : (2001)1MLJ258

Appellant : G. Rangaraj

Respondent : The Commandant, Cisf Unit, Rsp - Rourkela Steel Plant and ors.

Judgement :

P. Sathasivam, J.

1. Since identical relief is prayed for in all these writ petitions, they are being disposed of by the following common order. Aggrieved by the orders of dismissal from service as well as confirmation order passed by the Appellate Authority/Revisional Authority, the petitioners have filed the above writ petitions for quashing those orders.

2. For the convenience, the case of the petitioner in W.P.No. 9380 of 1995 is briefly stated here-under:

According to the petitioner, he was enlisted at Madras as Constable in the Central Industrial Security Force in 1985 by the Assistant Inspector General, Central Industrial Security Force (in short 'CISF') Unit, RSP, Rourkela. He was issued with

a charge memo containing nine charges by the Commandant (Admn.), Disciplinary Authority. The charge sheet was served on him on 4.7.1980 and he submitted his reply on 18.7.1990 denying the charges totally. An enquiry was conducted by the Inspector and on his submitting his report on 14.2.1991, the Commandant passed an order on 11.3.1991 removing him from service. The petitioner preferred an appeal on 14.3.1991 to the Deputy Inspector General, CISF-RSP Rourkela 11. After it was rejected on 24.4.1990. On 20.6.1991 he preferred a revision petition to the Inspector General, Calcutta-17. It was also rejected on 27.11.1991. The order of his removal from service is illegal, unjust and arbitrary. The Appellate and Revisional authorities have failed to consider his case. Having no other further remedy, the petitioner has filed the above writ petition. Similar averments have been made in other writ petitions.

3. The respondents have filed separate counter affidavit in all these writ petitions. Here again, for the convenience, I shall refer the stand of the respondents in the first writ petition, namely, W.P.No. 9380 of 1995. It is stated that while the petitioner was serving in the CISF Unit, RSP, Rourkela, he was dealt with under Rule 34 of CISF Rules, 1969 by the Commandant, RSP, Rourkela by framing a charge. The petitioner denied the charge levelled against him. An enquiry officer was appointed to enquire into the facts of the case. The enquiry officer after conducting a proper departmental enquiry submitted his report holding the petitioner guilty of the charge. A copy of the enquiry report was sent to the petitioner by the disciplinary authority by his letter dated 25.2.1991. The petitioner submitted his reply on 7.3.1991. After considering the findings of the enquiry officer and the representations submitted by the petitioner, the disciplinary authority passed an order on 11.3.1991 removing him from service. Aggrieved by the said order, the petitioner preferred an appeal on 10.4.1991. The same was considered by the Deputy Inspector General, CISF Unit, Rourkela and rejected the same on 24.4.1991. The petitioner had submitted a revision petition to the Inspector General (ES), who duly considered the said revision petition and rejected the same being devoid of merits by his order dated 27.11.1991, against which the petitioner has filed the above writ petition.

4. Apart from disputing the various averments made by the petitioner and also high-lighting how the enquiry was conducted and orders passed by the original, appellate and revisional authorities, in some cases, the respondents have raised an objection regarding maintainability of the writ petitions before this Court in the counter-affidavit.

5. Heard the learned Counsel for the petitioners as well as respondents.

6. Even at the outset, learned Additional Central Government Standing Counsel appearing in all these cases, raised a preliminary objection regarding jurisdiction of this Court in dealing with the impugned orders passed by various authorities. According to them, this Court has no territorial jurisdiction to consider and decide the orders passed by various officers of the Central Industrial Security Force (in short 'CISF') Unit at Rourkela, Bokaro, Bhilai, etc. In the light of the said contention, I shall first consider whether this Court has jurisdiction to consider the impugned orders passed by the respondents herein. In this regard, the following factual particulars furnished by the learned respective Additional Central Government Standing Counsel are very relevant:

(1)W.P.No. 9380 of 1995:

(1) Misconduct of the petitioner was held at RSP Rourkela, Orissa while he was serving in that unit.

(2) Charge Sheet U/R-34 was issued by Commandant, CISF Unit, RSF Rourkela, Orissa, dated 3.6.1990.

(3) Petitioner denied the charge at RSP, Rourkela, Orissa.

(4) Detailed Departmental Enquiry was conducted at RSP Rourkeia, Orissa.

(5) Impugned order dated 11.3.1991 (Removal from service) was issued by Commandant, RSP, Rourkela, Orissa.

(6) Appeal rejected dated 24.4.1991 by D.I.G., RSP Rourkela, Orissa.

(7) Revision rejected dated 27.11.1991 by IG/ES, Calcutta, West Bengal.

(2)W.P.No. 1304 of 1997:

- (1) Misconduct of the petitioner was held at CISF Unit, NALCO Damanjodi, Orissa.
- (2) Charge Sheet U/R-34 was issued by Commandant, CISF Unit, NALCO, Damanjodi, Orissa.
- (3) Detailed Departmental Enquiry was conducted at NALCO Damanjodi, Orissa.
- (4) Impugned Order dated 23/24.10.1991 (Reversion to his subs, rank of Cost.) issued by Commandant, NALCO Damanjodi, Orissa.
- (5) Appeal rejected dated 10/11.2.1992 by by DIG/EZ, Calcutta, West Bengal.
- (6) Petitioner not availed the opportunity of statutory revision.

(3)W.P.No. 11530 of 1997:

- (1) Misconduct of the petitioner was held at CISF Unit, BSL Bokaro, Bihar.
- (2) Charge sheet U/R-34 was issued by Commandant, BSL Bokaro, Bihar.
- (3) Petitioner denied the charges at BSL Bokaro, Bihar.
- (4) Detailed Departmental Enquiry conducted at BSL Bokaro, Bihar.
- (5) Impugned order dated 1.5.1995 (Removal from service) was issued by Commandant, BSL Bokaro, Bihar.
- (6) Appeal rejected dated 5.8.1995 by DIG, BSL, Bokaro, Bihar.
- (7) Revision rejected dated 31.10.1996 by IG/ES, Calcutta, West Bengal.

(4)W.P.No. 4613 of 1998:

- (1) Misconduct of the petitioner was held at CISF Unit, BSP Bhilai, (M.P.).
- (2) Charge sheet U/R-34 was issued at CISF Unit, BSP, Bhilai, (M.P.)
- (3) Petitioner denied the charges at BSP, Bhilai, M.P.

(4) Detailed Departmental Enquiry conducted at BSP, Bhilai, M.P.

(5) Impugned order dated 31.8.1995 was issued by Commandant, BSP, Bhilai, M.P.

(6) Appeal rejected dated 3/4.11.1995 by DIG, BSP, Bhilai, (M.P.)

(7) Revision rejected dated 7.6.1996 by IG/NS, New Delhi.

(5) W.P.No. 7146 of 1999:

(1) Misconduct of the petitioner regarding suppression of facts was done while he was at CISF Unit, ONGC Jorhat, Assam.

(2) Charge sheet U/R-34 was issued by Commandant, CISF Unit, ONGC Jorhat, Assam.

(3) Petitioner denied the charges at CISF Unit, ONGC Jorhat, Assam.

(4) Detailed Departmental Enquiry conducted at CISF Unit, ONGC Jorhat, Assam.

(5) Impugned order dated 14.5.1997 (Dismissal from service) issued by Commandant, ONGC Jorhat, Assam.

(6) Appeal rejected dated 25.2.1998 by DIG/

NEZ, Calcutta, West Bengal.

(7) The petitioner not availed the opportunity of statutory provision of revision.

(6) W.P.No. 19122 of 1999:

(1) The petitioner was terminated from service for unsatisfactory performance by DIG CISF NEZ Headquarters, Calcutta, West Bengal vide order dated 4.6.1999 while he was serving at CISF, NPM Jagiroad, Assam. (7) W.P.No. 797 of 2000;

(1) Misconduct of the petitioner was held at CISF Unit, BCCL Jharia, Bihar.

(2) Charge Sheet U/R-34 was issued by Commandant, BCCL Jharia, Bihar.

(3) Stoppage of one increment for 5 years without cumulative effect vide order dated 3.11.1990 and later modified the same as stoppage of one increment for 3 years without cumulative effect vide order dated 17.3.1997 was issued by Commandant, BCCL Jharia, Bihar.

(4) While the petitioner was serving at CISF Unit SHAR Centre, A.P., the DG/CISF, New Delhi passed an order dated 29.9.1999 rejecting his representations dated 25.12.1996 and 25.7.1998. The petitioner averment that he is serving at CISF unit NLC Neyveli is false.

(8) W.P.No. 5613 of 2000:

(1) Misconduct of the petitioner was held at CISF Unit, BCCL Dhanbad, Bihar.

(2) Charge Sheet U/R-34 was issued by Commandant, BCCL Dhanbad, Bihar.

(3) Petitioner denied the charge at CISF Unit, BCCL Dhanbad, Bihar.

(4) Detailed Departmental Enquiry conducted at CISF Unit, BCCL Dhanbad, Bihar.

(5) Impugned order dated 15.4.1999 (Dismissal from service) was issued by Commandant, BCCL Dhanbad, Bihar.

(6) Appeal rejected dated 16.3.2000 by DIG, BCCL, Dhanbad, Bihar.

(7) Petitioner not availed the opportunity of statutory provision of revision.

(9) W.P.No. 5827 of 2000:

(1) Misconduct of the petitioner was held at CISF Unit, SBSS (PG) Salakati, Assam.

(2) Charge U/R-34 was issued by Group Commandant, Guwahati, Assam.

(3) Petitioner pleaded innocent at CISF Unit SBSS (PG), Salakati, Assam.

(4) Detailed Departmental Enquiry was conducted at SBSS (PG), Salakati, Assam.

(5) Impugned order dated 17.6.1999 (removal from service) was issued by Group Commandant, Guwhati, Assam.

(6) Appeal rejected dated 18.1.2000 by DIG/NEZ Calcutta, West Bengal.

(7) The petitioner not availed the opportunity of statutory provision of revision.

(10) W.P.No. 6413 of 2000:

(1) Misconduct of the petitioner was held at CISF Unit, ONGC Nazira, Assam.

(2) Charge Sheet U/R-34 was issued by Commandant, ONGC Unit, Nazira, Assam.

(3) Petitioner denied the charge at ONGC Nazira, Assam.

(4) Detailed Departmental Enquiry conducted at ONGC Nazira, Assam.

(5) Impugned order dated 14.8.1998 (Dismissal from service) was issued by Commandant, ONGC Nazira, Assam.

(6) Appeal rejected dated 19.11.1998 by DIG, NEZ Headquarters, Calcutta, West Bengal.

(7) Revision rejected dated 22.11.1999 by Government of India, MHA.

7. Though some of the learned Counsel for the petitioners have contended that orders were served on the petitioners, who were residing within the territorial jurisdiction of this Court, the abundant factual information furnished by the respondents would show that this Court has no territorial jurisdiction to consider the orders passed by the respondents. In this regard, learned Additional Central Government Standing Counsel very much relied on an earlier order of mine rendered in *M. Krishnan v. Government of India*, represented by Secretary to Government, Ministry of Home Affairs, New Delhi and two others W.P.No. 4989 of 1992 dated 6.9.2000. The facts in that case are identical to the facts of the present cases. There also the learned Counsel appearing for the respondents had raised the objection stating that this Court has no territorial jurisdiction to try the case and

prayed for dismissal of the writ petition. There also similar contention namely that the impugned order was served in the petitioner's native place namely, Odacherry village in Tamil Nadu. By pointing out the said factual position, it was contended that this Court has got territorial jurisdiction in view of the fact that the communication was received by him in Tamil Nadu. After considering the matter in detail, in view of the decision of the Apex Court in Oil and Natural Gas Commission v. Utpal Kumar Basu : (1994)4SCC711 and after holding that this Court has no territorial jurisdiction to try the case of the petitioner, I have dismissed the said writ petition. The judgment of mine referred to above is squarely applicable to the facts of the present cases.

8. The discussion and the ultimate conclusion of their Lordships in the above case, namely, Oil and Natural Gas Commission v. Utpal Kumar Basu : (1994)4SCC711 , with regard to jurisdiction of the High Court under Article 226 of the Constitution of India are as follows:

12...Notwithstanding the strong observations made by this Court in the aforesaid decision and in the earlier decisions referred to therein, we are distressed that the High Court of Calcutta persists in exercising jurisdiction even in cases where no part of the cause of action arose within its territorial jurisdiction. It is indeed a great pity that one of the premier High Courts of the country should appear to have developed a tenancy to assume jurisdiction on the sole ground that the petitioner before it resides in or carries on business from a registered office of the State of West Bengal. We feel all the more pained that notwithstanding the observations of this Court made time and again, some of the learned Judges continue to betray that tendency. Only recently while disposing of appeals arising out of Aligarh Muslim University v. Vinay Engineering Enterprises (P) Limited S.L.P.Nos. 10065-66 of 1993, this Court observed:

We are surprised not a little, that the High Court of Calcutta should have exercised jurisdiction in a case where it had absolutely no jurisdiction.

In that case the contract in question was executed at Aligarh, the construction work was to be carried out at Aligarh, the contracts proved that in the event of dispute the Aligarh court alone will have jurisdiction, the arbitrator was appointed

at Aligarh and was to function at Aligarh and yet merely because the respondent was a Calcutta-based firm, it instituted proceedings in the Calcutta High Court and the High Court exercised jurisdiction where it had none whatsoever. It must be remembered that the image and prestige of a court depends on how the members of that institution conduct themselves. If an impression gains ground that even in cases which fall outside the territorial jurisdiction of the court, certain members of the court would be willing to exercise jurisdiction on the plea that some event, however, trivial and unconnected with the cause of action had occurred within the jurisdiction of the said court, litigants would seek to abuse the process by carrying the cause before such members giving rise to avoidable suspicion. That would lower the dignity of the institution and put the entire system to ridicule. We are greatly pained to say so but if we do not strongly deprecate the growing tendency we will, we are afraid, be failing in our duty to the institution and the system of administration of justice. We do hope that we will not have another occasion to deal with such a situation.

9. It is also brought to my notice an unreported decision of Madhya Pradesh High Court rendered in *Shyamlal Dwivedi v. Group Commandant, Central Industrial Security Force, Madras and others* W.P.No. 1627 of 1988 dated 9.7.1988. In that case, the writ petition was filed under Article 226 of the Constitution of India for quashing the charge memo dated 22.1.1987, enquiry report dated 27.8.1987, order of removal from service dated 8.10.1987 as well as the order of the appellate authority dated 12.1.1988 rejecting his appeal against the order of removal, by issuance of an appropriate writ, order or direction. There also a similar plea was raised stating that the charge memo was served on him in the State of Tamil Nadu, enquiry was also held there and the disciplinary and appellate authorities too had passed orders in the State of Tamil Nadu, i.e., none of the acts had taken place within the State of Madhya Pradesh, i.e., within the territorial jurisdiction of Madhya Pradesh High Court. After referring the decision of the Apex Court reported in *Oil and Natural Gas Commission v. Utpal Kumar Basu* : (1994)4SCC711 , a learned single Judge of the Madhya Pradesh High Court came to the following conclusion:

In view of the aforesaid authority, I do not have the slightest hesitation in rejecting the submission of the learned Counsel that residence itself shall not confer territorial jurisdiction to this Court.

In para.6 the learned Judge further observed thus:

6. Expression 'cause of action' means the bundle of facts which the petitioner must prove, if traversed, to entitle him to a judgment in his favour. Here in the present case, according to the learned Counsel, as the appellate order rejecting the appeal of the petitioner against the order of removal passed by the disciplinary authority, has been served at Rewa, this is a part of cause of action and accordingly, this Court shall have jurisdiction to entertain the writ petition. However, it is beyond any controversy that the disciplinary authority as well as appellate authority have passed the orders at the place beyond the territorial jurisdiction of this Court. In fact, the petition was ordered on merits. This submission may invoke sympathy for the petitioner but the line of reasoning suggested by the learned Counsel cannot be invoked to decide the writ petition on merit. It is well settled that existence of alternative remedy does not bar the jurisdiction of this Court and it is a rule of discretion and not of jurisdiction, i.e., in the face of existence of alternative remedy, this Court does not entertain the writ petition. This rule of discretion may not apply in a case when the writ petition is admitted or kept pending for long years, but the same analogy cannot be applied in case of lack of territorial jurisdiction. In my opinion, when this Court is not possessed of territorial jurisdiction, the question of discretion does not arise at all, and it has no option than to decline decision on merits on the ground of lack of territorial jurisdiction. I having not been left with any discretion in matter of territorial jurisdiction, I am not inclined to go into the merits of the case, only on the ground that the writ petition has been admitted and remained pending for 10 years.

10. The above referred decision of the Supreme Court as well as the Madhya Pradesh High Court are directly on the point in issue and the objection raised by the learned Additional Central Government Standing Counsel is well-founded.

11. It was also brought to my notice a recent Division Bench judgment of this Court in Indian Institute of Architects v. Union of India : 2000(121)ELT609(Mad) . The

following observations of the Division Bench are relevant: (Paras.7 and 8)

7. Learned Counsel for the appellant referred to Article 226 of the Constitution of India, particularly Clause (2) of Article 226 and submitted/that the cause of action has arisen in part within the jurisdiction of this Court and hence the writ petition is maintainable. The expression, 'cause of action' in Article 226 was the subject matter of consideration by the Supreme Court in *Oil and Natural Gas Commission v. Utpal Kumar Basu* : (1994)4SCC711 and the Supreme Court has held that the expression, cause of action means bundle of facts which the petitioner must prove, if traversed, to entitle him to a judgment in his favour by the court. The Supreme Court has quoted with approval the following observations of Lord Watson in *Chand Kaur v. Partab Singh* I.L.R. (1889) Cal. 98:..the cause of action has no relation whatever to the defence which may be set up by the defendant, nor does it depend upon the character of the relief prayed for by the plaintiff. It refers entirely to the ground set forth in the plaint as the cause of action, or in other words, to the media upon which the plaintiff asks the court to arrive a conclusion in his favour.

The Supreme Court has held that in determining the objections as to the lack of territorial jurisdiction, the court must take all the facts pleaded in support of the cause of action into consideration albeit without embarking upon an enquiry as to the correctness or otherwise of the said facts. In other words, when the question arises whether the court has territorial jurisdiction or not to entertain the writ petition, it must be determined on the basis of the averments made in the writ petition and it is not necessary to go into the question of correctness of the statement made in the writ petition.

8. Applying the tests laid down by the Supreme Court in *Oil and Natural Gas Commission's case* : (1994)4SCC711 , it is seen from the affidavit filed in support of the writ petition that the petitioner has chosen to file the writ petition on the file of this Court on the basis that its President is a resident of Chennai. In our view, the residence of the President of the Indian Institute of Architects is not quite germane or is of no consequence in considering the question whether the cause of action or a part of the cause of action has arisen within the limits of the jurisdiction of this Court. No doubt, in the reply affidavit filed by the appellant, it has been

stated that the petitioner in Tamil Nadu has a chapter of the Indian Institute of Architects. However, the writ petition has not been filed by the Tamil Nadu Chapter of the Indian Institute of Architects espousing the cause of architects carrying on the profession within the jurisdiction of this Court. On the other hand, the writ petition, as already observed by us, is filed by the appellant challenging the levy of service-tax on all the members residing throughout the length and breadth of the country. We are of the view that if this Court entertains the writ petition, it may not be able to exercise effective control over the action, if any, done by the authorities exercising jurisdiction outside the outer territorial limits of this Court. As already observed, the appellant's registered office is at Mumbai and the third respondent has been impleaded only to bring the cause within the jurisdiction of this Court.

12. I have already referred to the orders passed by the original, appellate and revisional authorities and admittedly all these authorities are not within the jurisdiction of this Court. Merely because the petitioners are residents of this State, the impugned orders cannot be canvassed before this Court. I am satisfied that the misconducts committed by the delinquents/petitioners herein were outside Tamil Nadu, namely, at Rourkela/Damanjodi, Bokaro/Bhilai/Assam, etc. and that at no point of time the cause of action in respect of a single instance has arisen at Madras so as to file the writ petitions before this Court under Article 226 of the Constitution of India. I am satisfied that misconducts were reported to have been committed at various places as stated above, that charge sheets were issued only in those places, that disciplinary inquiries, were initiated and completed only in those places and that the respective disciplinary authorities in those places had passed final orders. In such a circumstance, by applying the principles enunciated in the decisions referred to above, I hold that this Court lacks territorial jurisdiction to consider the respective claim of the petitioners.

13. Under these circumstances, all the writ petitions stand dismissed. No costs. W.M.P.No. 10689 of 1999 is also dismissed.