

Ram Kumar Yadav vs Union Of India And 3 Others on 1 May, 2025

Author: Ashwani Kumar Mishra

Bench: Ashwani Kumar Mishra

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:68589-DB

Court No. - 29

Case :- SPECIAL APPEAL No. - 110 of 2025

Appellant :- Ram Kumar Yadav

Respondent :- Union Of India And 3 Others

Counsel for Appellant :- Ajeet Singh

Counsel for Respondent :- A.S.G.I., Manav Chaurasia, Satish Chaturvedi

Hon'ble Ashwani Kumar Mishra, J.

Hon'ble Praveen Kumar Giri, J.

1. Heard Ms. Roshni Dwivedi, learned counsel for the appellant, Sri Pankaj Srivastava, learned counsel for the bank and Sri Manav Chaurasia, learned counsel for respondent no.1.

2. Learned Single Judge has dismissed the appellant's writ petition on the ground of lack of territorial jurisdiction. Facts of the case are noticed as per which disciplinary proceedings against the petitioner was conducted at Barmer city at Rajasthan and the order of dismissal was passed by the competent authority in New Delhi. Consequently it is held that no cause of action has arisen

within the territorial jurisdiction of this Court.

3. Learned counsel for the appellant has taken us through the records of the writ to indicate that the disciplinary action was initiated against the petitioner while he was working at Etah. The charges in respect of which such disciplinary action was taken also related to the incidents at Etah. Since the alleged misconduct, which is the basis of disciplinary action has been committed as per the employer at Etah, therefore, the part of cause of action is stated to have arisen within the territorial limits of this Court. It is, therefore, submitted that part of cause of action would arise within the jurisdiction of this Court and learned Single Judge has erred in dismissing the writ petition for lack of territorial jurisdiction.

4. Learned counsel for the appellant has placed reliance upon the judgment of Supreme Court in the Commissioner of Central Excise vs. Sun Pharmaceuticals 2006 SCC Online Mad 407 (paragraph nos.8, 9, 12, 13), Sterling Agro Industries Ltd. vs. Union of India and others (Constitution Bench) 2011 SCC Online Del 3162 (paragraph nos.32, 33, 35), Alchemist Ltd. and another vs. State Bank of Sikkim and others (2007) 11 SCC 335 (paragraph no.37), Arcadia Shipping Limited vs. Tata Steel Limited (2024) 9 SCC 335 (paragraph nos.26, 29) and Lajwanti Srivastava vs. U.P. State Agro Industrial Corporation (Special Appeal (D) No.237 of 2022 decided on 9.11.2022).

5. On the strength of the above judgments it is urged that the part of cause of action has arisen within the territorial limits of this Court and, therefore, the dismissal of writ on the ground of lack of jurisdiction ought to be interfered with.

6. Learned counsel for the respondent-bank although disputes the proposition canvassed on behalf of the appellant but it remains undisputed that the misconduct attributed to the appellant was committed at Etah. It is also not in issue that the appellant was posted at Etah when the offending act are attributed to have been committed by him which ultimately led to his dismissal from service.

7. We have examined the records and we find that the aspect pressed before us has apparently not been brought to the notice of learned Single Judge. We are of the view that the issue of jurisdiction would necessarily require an examination of attending facts and circumstances in order to ascertain as to whether part of cause of action has arisen within the jurisdiction of this Court. Article 226(2) of the Constitution of India provides as under:-

"(2). The power conferred by clause (1) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories."

8. Cause of action is a bundle of essential facts which the plaintiff must prove before he can succeed in the suit. It gives occasion for and forms the foundation of suit. The question whether the misconduct has been committed within the territorial limits of this Court and would constitute a

part of cause of action in the peculiar facts of this case requires examination.

9. In the facts of this case the appellant was posted at Etah under the administrative office of bank at Agra when he was transferred to Barmer city, under the administrative office at Jaipur vide order dated 21.11.2012. This order was apparently not complied with as such he was deemed to have voluntarily vacated his service vide order dated 16.4.2013. This order was challenged before this Court in Writ-A No.26461 of 2013. He was relegated to the remedy of appeal. A subsequent Writ-A No.30424 of 2013 was then filed before this Court challenging the transfer order dated 21.11.2012 which was dismissed on the ground of delay. Since the appellant's appeal filed in terms of the liberty given was not decided as such contempt proceedings were initiated. The respondent-bank allegedly withdrew the order dated 16.4.2013 as a result of which his appeal was dismissed as having become infructuous vide order dated 24.7.2014. This order was intimated to appellant on 7.8.2014. The appellant offered his joining on 12.8.2014 at Barmer city. The bank, nevertheless informed the appellant that disciplinary proceedings were initiated against him on 19.1.2013 and an inquiry report dated 24.12.2014 was submitted and served on him vide letter dated 9.1.2025. The appellant was also dismissed from service vide order dated 24.12.2014 on the strength of ex-parte inquiry conducted against him by the bank. This order of dismissal has been affirmed in appeal and review vide orders dated 28.4.2015 and 8.6.2016. Aggrieved by these orders the appellant filed writ petition before this Court in the year 2016, which is since dismissed on the ground of lack of territorial jurisdiction.

10. From the facts placed on record it transpires that the appellant was posted at Etah when he was transferred to Barmer at Rajasthan. He contested his transfer. Initially he was held to have voluntarily vacated his service vide order dated 16.4.2013. This order was challenged before before this Court in writ wherein grievance was permitted to be agitated by filing appeal. The appeal came to be decided holding that the order dated 16.4.2013 was withdrawn. In between pursuant to ex-parte inquiry the appellant has been dismissed from service. Although the dismissal order as also the appellate/revisional orders are not passed in U.P., rather are passed at Rajasthan and Delhi, yet, we find that a part of cause of action has arisen to the appellant before this Court. He was posted at Etah from where he was transferred to Barmer city. The transfer from Etah and the act of not joining at Barmer city have ultimately led to his dismissal from service. In between writs and contempt were filed before this Court. The disciplinary action is also in respect of charges levelled while the appellant was posted at Etah. In such circumstances, it cannot be said that part of cause of action has not arisen within the territorial limits of this Court.

11. Though it is settled that insignificant or irrelevant fact would not constitute part of cause of action but where such facts constitutes material, essential or integral part of cause of action then even a small fraction of cause of action would vest jurisdiction in the High Court to entertain the petition. Whether on fact such part of cause of action has arisen within the territorial limits of this Court is essentially a question of fact. If the facts relied upon to constitute part of cause of action is shown to have bearing on the lis and the dispute involved in the case the petition would not be maintainable. In *Alchemist Ltd. vs. State Bank of Sikkim* (2007) 11 SCC 335 the Supreme Court observed as under in para 37:-

"37. From the aforesaid discussion and keeping in view the ratio laid down in a catena of decisions by this Court, it is clear that for the purpose of deciding whether facts averred by the appellant-petitioner would or would not constitute a part of cause of action, one has to consider whether such fact constitutes a material, essential, or integral part of the cause of action. It is no doubt true that even if a small fraction of the cause of action arises within the jurisdiction of the court, the court would have territorial jurisdiction to entertain the suit/petition. Nevertheless it must be a ?part of cause of action?, nothing less than that."

12. In view of the discussions held above as also keeping in view the principles settled in law, we accept the appellant's contention that part cause of action has arisen in the facts of this case within the territorial jurisdiction of this Court. The appellant was lastly posted at Etah in U.P.; he was working under the administrative set up of bank at Agra before he was transferred; the plea of voluntary vacation of service occurred at Etah; previous writs in the case were entertained by this Court and contempt petition was also filed before this court and decided without raising any objection by the bank with regard to this Court's territorial jurisdiction in the matter; all the charges relates to the appellant's working at Etah etc. We accordingly hold that the part of cause of action in this case has arisen within the territorial limits of this Court and the writ petition was maintainable before this Court. Consequently, the judgment and order of learned Single Judge dated 23.1.2025 is set aside. The matter stands remitted to learned Single Judge for adjudication of cause on merits.

Order Date :- 1.5.2025 RA