

[2022] 3 S.C.R. 61

V G JAGDISHAN

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v.

M/S. INDOFOS INDUSTRIES LIMITED

(Civil Appeal No. 2976 of 2022)

APRIL 19, 2022

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[M. R. SHAH AND B. V. NAGARATHNA, JJ.]

Labour Laws – Territorial jurisdiction of Labour Court – Retrenchment / termination of appellant-workman – The workman was employed as a driver at Ghaziabad office – He was working at Ghaziabad – His services were retrenched at Ghaziabad – All throughout during the employment, the workman stayed and worked at Ghaziabad – After retrenchment/termination, the workman shifted to Delhi from where he served a demand notice at Head Office of the Management situated at Delhi – Whether the Labour Court at Delhi had jurisdiction to try the complaint/case of appellant-workman – Held: Merely because appellant-workman after termination/ retrenchment shifted to Delhi and sent a demand notice from Delhi and the Head Office of the Management was at Delhi, it cannot be said that a part cause of action had arisen at Delhi – Considering the facts that the workman was employed at Ghaziabad; was working at Ghaziabad and his services were terminated at Ghaziabad, the facts being undisputed, only the Ghaziabad Labour Court would have territorial jurisdiction to decide the case.

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Labour Laws – Issue touching territorial jurisdiction of the Labour court – Procedure and manner of adjudication – Held: When the issue touches the question of territorial jurisdiction, as far as possible the same shall have to be decided first as preliminary issue – In the present case, the Labour Court did not commit any error in deciding the issue with respect to the territorial jurisdiction as a preliminary issue in the first instance.

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Dismissing the appeal, the Court

HELD: It is not much in dispute that the workman was employed as a driver at Ghaziabad office. He was working at Ghaziabad. His services were retrenched at Ghaziabad. All throughout during the employment, the workman stayed and

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- A worked at Ghaziabad. Only after the retrenchment/termination the workman shifted to Delhi from where he served a demand notice at Head Office of the Management situated at Delhi. Merely because the workman after termination/retrenchment shifted to Delhi and sent a demand notice from Delhi and the Head Office of the Management was at Delhi, it cannot be said that a part cause of action has arisen at Delhi. Considering the facts that the workman was employed at Ghaziabad; was working at Ghaziabad and his services were terminated at Ghaziabad, the facts being undisputed, only the Ghaziabad Court would have territorial jurisdiction to decide the case. [Para 6.1][65-D-F]
- B cause of action has arisen at Delhi. Considering the facts that the workman was employed at Ghaziabad; was working at Ghaziabad and his services were terminated at Ghaziabad, the facts being undisputed, only the Ghaziabad Court would have territorial jurisdiction to decide the case. [Para 6.1][65-D-F]
- C *Eastern Coalfields Ltd. and Ors. v. Kalyan Banerjee (2008) 3 SCC 456 – relied on.*
Singareni Collieries Co. Ltd. v. Ande Lingaiah and Anr (2000) 10 SCC 294; Bikash Bhushan Ghosh and Ors. v. Novartis India Ltd. and Anr (2007) 5 SCC 591 : [2007] 5 SCR 985; and Nandram v. Garware Polyester Limited (2016) 6 SCC 290 : [2016] 2 SCR 672 and D.P. Maheshwari v. Delhi Administration and Ors. (1983) 4 SCC 293 : [1983] 3 SCR 949 – held inapplicable.
- D Case Law Reference
- E [2016] 2 SCR 672 held inapplicable Para 4
[2007] 5 SCR 985 held inapplicable Para 4
(2000) 10 SCC 294 held inapplicable Para 4
- F [1983] 3 SCR 949 held inapplicable Para 4.1
(2008) 3 SCC 456 relied on Para 6.1

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2976 of 2022.

- G From the Judgment and Order dated 06.07.2015 of the High Court of Delhi at New Delhi in LPA 412 of 2015.

Mrs. V. Mohana Sr. Adv., B. Raghunath, Mrs. N.C. Kavitha, Vijay Kumar, Advs. for the appellant.

The Judgment of the Court was delivered by

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M. R. SHAH, J.

1. Leave granted.

2. Feeling aggrieved and dissatisfied with impugned judgment and order dated 06.07.2015 passed by the High Court of Delhi at New Delhi in Letters Patent Appeal No. 412/2015, by which the High Court has dismissed the said appeal preferred by the appellant herein – workman and it is held that the Labour Court at Delhi would have no jurisdiction to try the case and that the Labour Court at Ghaziabad would have jurisdiction to try the complaint/case, the workman has preferred the present appeal.

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3. The dispute in the present appeal is in a very narrow compass. The appellant herein – workman was working as a driver at Ghaziabad. He was employed at Ghaziabad and was also working at Ghaziabad. His services were terminated at Ghaziabad. Subsequent to his termination, the workman shifted to Delhi. He sent a demand notice challenging his termination to the head office at Delhi. Thereafter, he filed a claim before the Conciliation Officer at Delhi. Before the Labour Court, Delhi, the Management – respondent herein raised the objection about maintainability of proceedings at Delhi. It was also pointed out that the workman had already raised the same dispute before the Deputy Labour Commissioner, Ghaziabad. The Labour Commissioner, Delhi proceeded further with the complaint/conciliation proceedings. The dispute was referred to the Labour Court, Delhi. Before the Labour Court, respondent – management raised a preliminary objection that the Labour Court, Delhi had no territorial jurisdiction since the workman was appointed at Ghaziabad; he was working in the factory of management – respondent herein at Ghaziabad and his services were also retrenched at Ghaziabad. It was the case on behalf of the workman that as the demand notice was served at Head Office at Delhi, it can be said that the dispute has arisen giving rise to substantial cause of action at Delhi. Therefore, it was the case on behalf of the workman that the Labour Court at Delhi has territorial jurisdiction to try the case.

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3.1 The Labour Court vide award dated 18.04.2006 held the preliminary issue in favour of the management and held that the Labour Court at Delhi has no territorial jurisdiction to decide the case/complaint/reference. The Labour Court held that merely because the Corporate

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- A Office of the management was at Delhi the same will not vest the Labour Court, Delhi with territorial jurisdiction. The Labour Court held that as the cause of action has arisen at Ghaziabad, the Court at Ghaziabad alone had the jurisdiction to try the case.

3.2 Feeling aggrieved and dissatisfied with the award/order passed

- B by the Labour Court holding that the Labour Court, Delhi has no territorial jurisdiction to try the case, the workman preferred the writ petition before the learned Single Judge of the High Court. The learned Single Judge dismissed the said writ petition vide order dated 09.04.2015. The Letters Patent Appeal (LPA) against the order passed by the learned Single Judge has been dismissed by the Division Bench of the High Court by the impugned judgment and order. Hence, the workman has preferred the present appeal.

4. Ms. V. Mohana, learned Senior Advocate appearing on behalf of the appellant herein – workman has vehemently submitted that in the

- D present case it cannot be said that there is a total lack of jurisdiction in the Labour Court, Delhi. It is submitted that as the Head Office, where the demand notice was sent was at Delhi and the demand notice was served from Delhi where the workman was staying after the termination, it can be said that a part cause of action has arisen in Delhi. It is submitted that when a part of the cause of action has arisen in Delhi, the Court at E Delhi would have territorial jurisdiction. Reliance is placed on the decisions of this Court in the cases of **Nandram Vs. Garware Polyester Limited; (2016) 6 SCC 290, Bikash Bhushan Ghosh and Ors. Vs. Novartis India Ltd. and Anr; (2007) 5 SCC 591 and Singareni Collieries Co. Ltd. Vs. Ande Lingaiah and Anr; (2000) 10 SCC 294.**

- F 4.1 It is further submitted by Ms. V. Mohana, learned Senior Advocate appearing on behalf of the appellant that in the present case, the Labour Court had decided the preliminary issue and held that the Labour Court, Delhi has no territorial jurisdiction to decide the case. It is submitted that Labour Court ought to have given its decision on all issues.

- G Reliance is placed upon the decision of this Court in the case of **D.P. Maheshwari Vs. Delhi Administration and Ors.; (1983) 4 SCC 293**. It is submitted that as held by this honourable Court, tribunals should dispose of all the issues, whether preliminary or otherwise, at the same time.

4.2 Making the above submissions and relying upon above decisions

- H of this Court, it is prayed to quash and set aside the order(s) passed by

the Labour Court, learned Single Judge and the Division Bench of the High Court and direct the Labour Court, Delhi to decide and dispose of the case at the earliest. A

5. As per the office report, service is not complete on sole respondent No. 1 and as per the post tracking report, notice has not been delivered to respondent No. 1 with postal remarks as “Addressee left without instructions”. However, the present Special Leave Petition (SLP) is of the year 2016 and for the reasons hereinbelow, we see no reasons to interfere with the order passed by the High Court. We proceed further with the SLP ex-parte so far as sole respondent No. 1 is concerned. B

6. The question which is posed for the consideration of this Court is, whether, the Labour Court, Delhi would have territorial jurisdiction to decide the case or the Labour Court, Ghaziabad would have territorial jurisdiction to decide the case. C

6.1 From the findings recorded by the Labour Court, Delhi and the learned Single Judge and the Division Bench of the High Court, it is not much in dispute that the workman was employed as a driver at Ghaziabad office. He was working at the Ghaziabad. His services were retrenched at Ghaziabad. All throughout during the employment, the workman stayed and worked at Ghaziabad. Only after the retrenchment/termination the workman shifted to Delhi from where he served a demand notice at Head Office of the Management situated at Delhi. Merely because the workman after termination/retrenchment shifted to Delhi and sent a demand notice from Delhi and the Head Office of the Management was at Delhi, it cannot be said that a part cause of action has arisen at Delhi. Considering the facts that the workman was employed at Ghaziabad; was working at Ghaziabad and his services were terminated at Ghaziabad, the facts being undisputed, only the Ghaziabad Court would have territorial jurisdiction to decide the case. As such the issue involved in the present case is no longer res integra in view of the decision of this Court in the case of **Eastern Coalfields Ltd. and Ors. Vs. Kalyan Banerjee; (2008) 3 SCC 456**. In the case of **Eastern Coalfields Ltd.** (supra) the workman was employed in Mugma area in the district of Dhanbad, Jharkhand. His services were terminated at Mugma. However, the workman filed a writ petition before the Calcutta High Court. On a preliminary objection taken the Calcutta High Court held that since the workman was serving at Mugma area under the General D

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- A Manager of the area which is the State of Jharkhand, the Calcutta High Court had no jurisdiction. Affirming the aforesaid decision, this Court held that the entire cause of action arose in Mugma area within the State of Jharkhand and only because the head office of the company was situated in the State of West Bengal, the same by itself will not confer any jurisdiction upon the Calcutta High Court particularly when the head office had nothing to do with the order of punishment passed against the workman. In the present case also, the workman was employed at Ghaziabad; he was working at Ghaziabad and his services were also terminated at Ghaziabad by the office at Ghaziabad where he was employed.
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- C 6.2 Now, so far as the reliance placed upon the decision of this Court in the case of **Singareni Collieries Co. Ltd.** (supra) is concerned, apart from the fact that the same is not applicable to the facts of the case on hand, it is required to be noted that the order passed by this Court in the said case was a consent order and the order was passed in
- D exercise of power under Article 142 of the Constitution of India and the question of law was left open. Therefore, no reliance can have been placed on the said decision.
- E 6.3 Now, as far as the decision of this Court in the case of **Bikash Bhushan Ghosh** (supra) is concerned, on facts, the said decision also is not applicable to the facts of the case on hand. That was a case where it was specifically found that the part cause of action had arisen at both places. In the present case as observed, it cannot be said that any part cause of action has arisen at Delhi.
- F 6.4 Reliance placed upon the decision of this Court in the case of **Nandram** (supra) is also of no assistance to the appellant. Again, on facts, the said decision is not applicable to the facts of the case on hand. That was also a case where it was found that part cause of action had arisen in both the places, namely, Pondicherry and Aurangabad. Therefore, it was found on facts that both, the Labour Courts at Pondicherry and Aurangabad had the jurisdiction to deal with the matter and therefore, the Labour Court at Aurangabad was well within its jurisdiction to consider the complaint.
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- H 6.5 In the case of **D.P. Maheshwari** (supra) is pressed into service by learned Senior Advocate appearing on behalf of the appellant in support of the submission that the Labour Court ought not to have given the

decision only on preliminary issue and ought to have disposed of all the issues, whether preliminary or otherwise at the same time. On facts the said decision is not applicable to the facts of the case on hand. In the aforesaid decision no absolute proposition of law was laid down by this Court that even the issue touching the jurisdiction of the court cannot be decided by the court as a preliminary issue and the court has to dispose of all the issues, whether preliminary or otherwise, at the same time. When the issue touches the question of territorial jurisdiction, as far as possible the same shall have to be decided first as preliminary issue. Therefore, in the present case, the Labour Court did not commit any error in deciding the issue with respect to the territorial jurisdiction as a preliminary issue in the first instance.

7. In view of the above and for the reasons stated above, the present Appeal fails and the same deserves to be dismissed and is accordingly dismissed. In the facts and circumstances of the case, there shall be no order as to costs.

Bibhuti Bhushan Bose

Appeals dismissed.