

THE HIGH COURT OF MADHYA PRADESH
Writ Petition No.29401/2018
Rajendra Singh Bhadoriya Vs. Union of India and others

Gwalior, Dated :24/09/2019

Shri Alok Katare, Advocate for petitioner.

Shri Vivek Khedkar, Assistant Solicitor General for respondents/Union of India.

This petition under Article 226 of the Constitution of India has been filed challenging the order dated 28/3/2014 passed by Deputy Commandant, CISF Unit, MTPS, Mejia (West Bengal).

2. A preliminary objection has been raised by the respondents with regard to the territorial jurisdiction of this Court.

3. It is submitted by the counsel for the petitioner that the petitioner was an employee of CISF and he has been compulsorily retired and thereafter, he is residing in Gwalior, which is within the territorial jurisdiction of this Court and, therefore, the place of residence would give rise to a part of cause of action because the petitioner is suffering the consequence of rejection of his claim for grant of second MACP. If the second MACP is granted to the petitioner, then it will have an impact on the amount of pension, which the petitioner is losing and as a consequence of the impugned order is being faced by the petitioner at Gwalior, therefore, this Court has a territorial jurisdiction to entertain this petition.

4. *Per contra*, it is submitted by the counsel for the respondents

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that the place of residence cannot be said to be a part of cause of action. Although the petitioner was an employee of CISF, but by the impugned order his services were not terminated and he was merely denied second MACP. It is further submitted that the petitioner had earlier filed a writ petition before the High Court at Calcutta, which was registered as Writ Petition No.15722 (W) of 2014 and the said writ petition was decided by order dated 9/6/2014 and since the representation of the petitioner was pending, therefore, the respondents authorities were directed to ensure that the petitioner's case is duly considered after July, 2014 when the petitioner becomes eligible for second MACP.

5. It is submitted by the counsel for the petitioner that the Deputy Commandant, CISF Unit, MTPS, Mejia (West Bengal) has rejected the claim of the petitioner for second MACP by order dated 28/3/2014 and District Bankura (West Bengal) is beyond the territorial jurisdiction of this Court and since the cause of action has arisen in West Bengal, therefore, the petitioner must challenge the impugned order by filing a petition before the High Court of Calcutta.

6. Heard learned counsel for the parties.

7. The preliminary contention of the petitioner is that since he was an employee of CISF, therefore, he can challenge the impugned

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order before the Court within whose territorial jurisdiction the petitioner is residing, whereas it is the contention of the counsel for the respondents that by the impugned order since the services of the petitioner were not terminated, therefore, he has to challenge the order before the High Court within whose territorial jurisdiction the cause of action had arisen.

8. Heard the learned counsel for the parties.

9. The Division Bench of this Court in the case of **Shrikishan Yadav vs. Commandant, Central Reserve Police Force and others**

reported in **2004 (1) MPLJ 205** has held as under:-

“21. In view of the aforesaid, we are of the considered opinion that law laid down in the case of *Dinesh Chandra Gahtori* (supra) though rendered in regard to Chief of Army Staff it shall be applicable to the Director General of CRPF, which comes within the expression of armed forces of the Union. Thus, on this foundation, we have no hesitation in holding that the writ petition before this court is maintainable.”

The Supreme Court in the case of **Dinesh Chandra Gahtori vs. Chief of Army Staff and another** reported in **(2001) 9 SCC 525**

has held as under:-

“3. The appellant filed a writ petition before the High Court at Allahabad to quash a communication sent to his wife which stated that the appellant had been tried by a Summary Court Martial and had been found guilty of using criminal force against his superior officer and

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awarded the sentence of dismissal from service. The High Court dismissed the writ petition at the admission stage by holding:

“In view of the fact that the summary court-martial proceedings were conducted in the State of Punjab and orders were also passed in Punjab by the West Command, we are of the view that this Court has got no territorial jurisdiction to entertain this writ petition.”

4. The writ petition was filed in 1992. The impugned order was passed in 1999. This is a fact that the High Court should have taken into consideration. More importantly, it should have taken into consideration the fact that the Chief of Army Staff may be sued anywhere in the country. Placing reliance only on the cause of action, as the High Court did, was not justified.”

A coordinate Bench of this Court in the case of **S.P. Tiwari vs.**

UOI & Ors. reported in **2006 (II) MPJR 411** has held as under:-

“7. After hearing learned counsel for the parties on the preliminary objection, I am of the view that the preliminary objection in regard to territorial jurisdiction is devoid of any substance. In the case of **Dinesh Chandra Gahtori** (supra) the employee of the army staff was subjected to court martial and was awarded the sentence of dismissal from service. The High Court dismissed the writ petition at the admission stage by holding that the summary court martial proceeding were conducted in the State of Punjab and orders were also passed there and therefore the writ petition was dismissed on account of territorial jurisdiction. The decision of the High Court was assailed by Dinesh Chandra by filing petition in the Supreme Court. The Supreme Court categorically held that the High Court should have taken into consideration the fact that Chief of Army Staff may be sued any where in the country

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and placing reliance only on the cause of action as the High Court did it was not found to be justified. The Apex Court allowed the appeal by setting aside the order of the High Court and directed the High Court to decide the petition on its own merit. The said decision of the Apex Court **Dinesh Chandra Gahtori** (supra) was placed reliance by the division bench of this court in the case of **Ram Narain Singh** (supra). In the present case also the impugned order Annexure P/3 was passed and served to the petitioner in Punjab, but, the important fact which cannot be marginalized and blinked away is that the Chief of the Army Staff can be sued anywhere in the country as held by the Supreme Court in the case of **Dinesh Chandra** (supra). On these premised reasons and by following the decision of Supreme Court in the case of **Dinesh Chandra** (supra) and the Division Bench decision of this Court **Ram Narain Singh** (supra), and preliminary objection in regard to the maintainability of this writ petition on the ground of territorial jurisdiction cannot be accepted and the same is hereby overruled and this petition is held to be maintainable.”

The Division Bench of this Court in the case of **Ram Narain Singh v. Chief of Army Staff and others** reported in **2002 (2) JLLJ 86** has held that the High Court having territorial jurisdiction over the place at which the decision on appeal is communicated to the petitioner, will have the jurisdiction.

10. From the plain reading of all above judgments, it is clear that the order of dismissal were challenged by the persons concerned. In none of the petitions, none of the orders, which were passed during the service period of the persons concerned, were under challenge.

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Furthermore, in the present case it is not the claim of the petitioner that the impugned order was communicated to him at Gwalior, on the contrary, undisputedly the impugned order was communicated to the petitioner at a place falling within the territorial jurisdiction of State of West Bengal.

11. It appears that thereafter sometime in the year 2018 the petitioner was compulsorily retired and after his retirement, he has settled down in Gwalior.

12. It is submitted by the counsel for the petitioner that against the order of his compulsory retirement, he has already filed a writ petition, which has been registered as W.P. No.27675/2018, in which it has been held by this Court that this Court has a territorial jurisdiction to entertain the subject matter of the said writ petition and thus, it is submitted that the interim order passed in the said case is binding on this Court.

13. Considered the submissions made by the counsel for the petitioner with regard to the adjudication of the question of territorial jurisdiction in another writ petition (W.P. No.27675/2018) filed by the petitioner. Admittedly, the another writ petition has been filed by the petitioner against the order of his compulsory retirement. Thus, the subject matter of the said writ petition is covered by the judgments passed by the Supreme Court as well as by this Court as

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mentioned above. In the present case, the situation is different. The petitioner was in service when the impugned order of refusal to extend the benefit of second MACP was passed. Thereafter, the said order was never challenged by the petitioner and only after his compulsory retirement, the present petition has been filed. The words “cause of action” have not been defined, however, the words “cause of action” have been defined in Mulla's Code of Civil Procedure and approved by the Supreme Court in the case of **State of Rajasthan Vs. Swaika Properties and another** reported in (1985) 3 SCC 217, which reads as under:-

“8. The expression “cause of action” is tersely defined 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. The mere service of notice under Section 52(2) of the Act on the respondents at their registered office at 18-B, Brabourne Road, Calcutta i.e. within the territorial limits of the State of West Bengal, could not give rise to a cause of action within that territory unless the service of such notice was an integral part of the cause of action. The entire cause of action culminating in the acquisition of the land under Section 52(1) of the Act arose within the State of Rajasthan i.e. within the territorial jurisdiction of the Rajasthan High Court at the Jaipur Bench. The answer to the question whether service of notice is

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an integral part of the cause of action within the meaning of Article 226(2) of the Constitution must depend upon the nature of the impugned order giving rise to a cause of action. The notification dated February 8, 1984 issued by the State Government under Section 52(1) of the Act became effective the moment it was published in the Official Gazette as thereupon the notified land became vested in the State Government free from all encumbrances. It was not necessary for the respondents to plead the service of notice on them by the Special Officer, Town Planning Department, Jaipur under Section 52(2) for the grant of an appropriate writ, direction or order under Article 226 of the Constitution for quashing the notification issued by the State Government under Section 52(1) of the Act. If the respondents felt aggrieved by the acquisition of their lands situate at Jaipur and wanted to challenge the validity of the notification issued by the State Government of Rajasthan under Section 52(1) of the Act by a petition under Article 226 of the Constitution, the remedy of the respondents for the grant of such relief had to be sought by filing such a petition before the Rajasthan High Court, Jaipur Bench, where the cause of action wholly or in part arose.

9. It is to be deeply regretted that despite a series of decisions of this Court deprecating the practice prevalent in the High Court of passing such interlocutory orders for the mere asking, the learned Single Judge should have passed the impugned ad interim ex parte prohibitory order the effect of which, as the learned Attorney General rightly complains, was virtually to bring to a standstill a development scheme of the Urban Improvement Trust, Jaipur viz. Civil Lines Extension Scheme, irrespective of the fact whether or not the High Court had any territorial jurisdiction to entertain a petition under Article 226 of the Constitution. Such arbitrary exercise of power by the High Court at the public expense

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reacts against the development and prosperity of the country and is clearly detrimental to the national interest.”

14. Article 226 of the Constitution of India confers the power upon the High Court to issue directions etc. in relation to the territories within which the cause of action wholly or in part arises for the exercise of such power.

15. The coordinate Bench of this court in the case of **Prem Prakash Ambedkar vs. Union of India** reported in **2001 (1) MPHT 176** has held as under:-

“12. From this passage it is clear that the cause of action consists of bundle of facts which give cause to enforce the legal injury for redress in a Court of law. From the above referred judgment it would clearly appear that unless the cause of action wholly or in part or an action which is an integral part of the cause of action comes into play within the territories of a particular Court, the said Court would have no jurisdiction. The petitioner has placed his reliance on a judgment of Sikkim High Court in the matter of Brg. Kanwar Kuldip Singh Vs. Union of India and others, (1996) Vol. 2 All Indian Services Law Journal 72, to say that if a decision is conveyed to a particular person at the place of his residence, then the Court within whose jurisdiction such person resides would have the jurisdiction to entertain the lis. The case of M/s. Swaika Properties was taken into consideration in the said matter. Without being disrespectful to the Hon'ble Judge who decided the case in the matter of Brg. Kanwar Kuldip Singh (supra), I am bound to say that the judgment proceeded on certain wrong assumptions and misreading of the Supreme Court judgment in the

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matter of M/s. Swaika Properties. The Hon'ble Judge observed in the said case that the question of jurisdiction came up incidentally and the main point involved in the case was otherwise. It was also observed that the decision of the Hon'ble Apex Court made scattering remarks about the tendency of the Calcutta High Court to take up and pass ex party prohibitory orders in the matters which do not strictly fall within its territorial jurisdiction. The learned Judge lastly observed that the Apex Court did not strictly hold that service of notice would never give rise to cause of action. A fair reading of the judgment of the Supreme Court in the matter of Swaika Properties Ltd., would show that against the entertainment of the petition and grant of ad-interim writ by Calcutta High Court, the State of Rajasthan felt aggrieved. The contention of the State Govt. before the Supreme Court was that the Calcutta Court had no jurisdiction. The question of jurisdiction did not come up incidentally, but in fact that was the sole issue before the Supreme Court. In the matter of Swaika Properties, the Supreme Court clearly observed that the Calcutta Court had no jurisdiction and if the petitioner (M/s. Swaika Properties) felt aggrieved by the acquisition of their lands situate at Jaipur and wanted to challenge the validity of the notification issued by the State Govt. of Rajasthan under Section 52(1) of the Act by a petition under Article 226 of the Constitution of India, the remedy of the respondents (M/s. Swaika Properties) for grant of such relief had to be sought by filing such a petition before the Rajasthan High Court, Jaipur Bench where the cause of action wholly or in part arose. I am unable to concede to the judgment of the Sikkim High Court in the matter of Brg. Kanwar Kuldip Singh.

13.So far as the petitioner's residence is concerned, it would always depend upon his own choice. He may settle in any part of India, but his settlement would not clothe such Court within

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whose jurisdiction he is residing any territorial jurisdiction. It is only that the Court, where the cause of action either in whole or in part arises, would have the jurisdiction to hear and decide a lis.”

The Supreme Court in the case of **Oil and Natural Gas Commission vs. Utpal Kumar Basu** reported in **1994 (4) SCC 711** has held as under:-

“6. It is well settled that the expression “cause of action” means that bundle of facts which the petitioner must prove, if traversed, to entitle him to a judgment in his favour by the Court. In *Chand Kour v. Partab Singh* Lord Watson said:

“... 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 at a conclusion in his favour.”

Therefore, in determining the objection of 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 the question whether a High Court has territorial jurisdiction to entertain a writ petition must be answered on the basis of the averments made in the petition, the truth or otherwise whereof being immaterial. To put it differently, the question of territorial jurisdiction must be decided on the facts pleaded in the petition. Therefore, the question whether in the instant case the Calcutta High Court had jurisdiction to entertain and decide the writ petition in question even on the facts alleged must

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depend upon whether the averments made in paragraphs 5, 7, 18, 22, 26 and 43 are sufficient in law to establish that a part of the cause of action had arisen within the jurisdiction of the Calcutta High Court.

7. XXXXX

8. From the facts pleaded in the writ petition, it is clear that NICCO invoked the jurisdiction of the Calcutta High Court on the plea that a part of the cause of action had arisen within its territorial jurisdiction. According to NICCO, it became aware of the contract proposed to be given by ONGC on reading the advertisement which appeared in the *Times of India* at Calcutta. In response thereto, it submitted its bid or tender from its Calcutta office and revised the rates subsequently. When it learnt that it was considered ineligible it sent representations, including fax messages, to EIL, ONGC, etc., at New Delhi, demanding justice. As stated earlier, the Steering Committee finally rejected the offer of NICCO and awarded the contract to CIMMCO at New Delhi on 27-1-1993. Therefore, broadly speaking, NICCO claims that a part of the cause of action arose within the jurisdiction of the Calcutta High Court because it became aware of the advertisement in Calcutta, it submitted its bid or tender from Calcutta and made representations demanding justice from Calcutta on learning about the rejection of its offer. The advertisement itself mentioned that the tenders should be submitted to EIL at New Delhi; that those would be scrutinised at New Delhi and that a final decision whether or not to award the contract to the tenderer would be taken at New Delhi. Of course, the execution of the contract work was to be carried out at Hazira in Gujarat. Therefore, merely because it read the advertisement at Calcutta and submitted the offer from Calcutta and made representations from Calcutta would not, in our opinion, constitute facts forming an integral part of the cause of action. So also the mere fact that it sent fax messages from

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Calcutta and received a reply thereto at Calcutta would not constitute an integral part of the cause of action. Besides the fax message of 15-1-1993, cannot be construed as conveying rejection of the offer as that fact occurred on 27-1-1993. We are, therefore, of the opinion that even if the averments in the writ petition are taken as true, it cannot be said that a part of the cause of action arose within the jurisdiction of the Calcutta High Court.”

The Supreme Court in the case of **M/s Kusum Ingots & Alloys Ltd. vs. Union of India and another** reported in **2004 (6)**

SCC 254 has held as under:-

“**25.** We must, however, remind ourselves that even if a small part of cause of action arises within the territorial jurisdiction of the High Court, the same by itself may not be considered to be a determinative factor compelling the High Court to decide the matter on merit. In appropriate cases, the Court may refuse to exercise its discretionary jurisdiction by invoking the doctrine of forum conveniens. (*See Bhagar Singh Bagga v. Dewan Jagbir Sawhany, AIR 1941 Calcutta; Mandal Jalan v. Madanlal, (1945) 49 CWN 357; Bharat Coking Coal Limited v. M/s Jharia Talkies & Cold Storage Pvt. Ltd., 1997 CWN 122; S.S.Jain & Co. & another v. Union of India & others, 1994 (1) CHN 445 and M/s. New Horizon Ltd. v. Union of India, AIR 1994 Delhi 126.*)”

The Supreme Court in the case of **Nawal Kishore Sharma vs. Union of India and Others** reported in **(2014) 9 SCC 329** has held as under:-

“**17.** We have perused the facts pleaded in the writ petition and the documents relied upon by

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the appellant. Indisputably, the appellant reported sickness on account of various ailments including difficulty in breathing. He was referred to hospital. Consequently, he was signed off for further medical treatment. Finally, the respondent permanently declared the appellant unfit for sea service due to dilated cardiomyopathy (heart muscle disease). As a result, the Shipping Department of the Government of India issued an Order on 12-4-2011 cancelling the registration of the appellant as a seaman. A copy of the letter was sent to the appellant at his native place in Bihar where he was staying after he was found medically unfit. It further appears that the appellant sent a representation from his home in the State of Bihar to the respondent claiming disability compensation. The said representation was replied by the respondent, which was addressed to him on his home address in Gaya, Bihar rejecting his claim for disability compensation. It is further evident that when the appellant was signed off and declared medically unfit, he returned back to his home in the district of Gaya, Bihar and, thereafter, he made all claims and filed representation from his home address at Gaya and those letters and representations were entertained by the respondents and replied and a decision on those representations were communicated to him on his home address in Bihar. Admittedly, the appellant was suffering from serious heart muscle disease (dilated cardiomyopathy) and breathing problem which forced him to stay in his native place, wherefrom he had been making all correspondence with regard to his disability compensation. Prima facie, therefore, considering all the facts together, a part or fraction of cause of action arose within the jurisdiction of the Patna High Court where he received a letter of refusal disentitling him from disability compensation.”

The Jammu and Kashmir High Court in the case of **Jaswant**

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Singh Vs. UOI and Ors. reported in **2017 LIC 2996** has held as
under:-

“15. In view of the pleadings of the parties and the uncontroverted stand taken by the respondents in their objection, it is evident that no legal right of the petitioner has prima facie either been infringed or threatened to be infringed by the respondents within the territorial limits of this Court’s jurisdiction. The petitioner has merely filed a statutory appeal during his tenure of posting at Jammu which does not amount to infringement of legal right of the petitioner within the territorial jurisdiction of this Court. Mere posting of the petitioner at the time of filing of the petition within the territorial jurisdiction of this Court taking into account the fact that entire action taken against the petitioner which is subject matter of challenge of this petition has been taken place beyond the territorial jurisdiction of this Court would not confer any territorial jurisdiction on this Court to entertain the writ petition. The decision relied on by the learned senior counsel for the petitioner in the case of Nawal 12 Kishor Sharma Supra has no application to the fact situation of the case as the appellant in the said case was suffering from serious heart ailment which forced him to stay in the native place. Besides that, it is pertinent to mention here that the respondents responded to his representations and the same were communicated to him on his home address in Bihar. In the instant case, the representation submitted by the petitioner from the State of Jammu and Kashmir have failed to evoke any response, therefore it cannot be said that any part of the cause of action has arisen within the territorial jurisdiction of this Court. In the aforesaid context, the Supreme Court has held that part of cause of action has arisen within the jurisdiction of Patna High Court, which is not the

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case here.

16. In view of conclusion arrived at by this Court that no part of cause of action has arisen within the territorial jurisdiction of this Court, it is not necessary to deal with the matter on merits. In the result, the writ petition fails. Needless to state that the petitioner would be at liberty to approach the appropriate forum for redressal of his grievances.

16. The moot question for consideration is that:-

“Whether the place of residence can be said
to be the integral part of cause of action or not?”

17. The cause of action would mean those disputed issues which are required to be decided while adjudicating the claim of the litigating parties. When the place of residence of a litigating party has no relevance with the subject matter of the *lis*, then the same cannot be said to be an integral part of cause of action.

18. Further, Article 226 of the Constitution of India reads as under:-

226. Power of High Courts to issue certain writs

(1) Notwithstanding anything in Article 32 every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including [writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose].

(2) The power conferred by clause (1) to

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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.

(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without-

(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard,

makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.

(4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32.”

19. Thus, Article 226 of the Constitution of India does not provide that the residence of the petitioner would give rise to a part of cause

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of action.

20. The Full Bench of this Court in the case of **K.P. Govil v. Jawaharlal Nehru Krishi Vishwa Vidyalaya, Jabalpur and another** reported in **1987 JLJ 341** has held as under:-

“8. The Presidential Order dated 28-11-1968 reads as follows :--

"In exercise of the powers conferred by Sub-section (2) of **Section 51** of the States Reorganisation Act, 1956 (37 of 1956), I, Zakir Husain, President of India, after consultation with the Governor of Madhya Pradesh and the Chief Justice of the High Court of Madhya Pradesh, hereby establish a permanent Bench of the Madhya Pradesh High Court at Gwalior and further direct that such Judges of the High Court of Madhya Pradesh, being not less than two in number, as the Chief Justice may from time to time nominate, shall sit at Gwalior in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the revenue districts of Gwalior, Shivpuri, Datia, Guna, Vidisha (Bhilsa), Bhind and Morena :

Provided that the Chief Justice may, for special reasons, order that any case or class of cases arising in any such district shall be heard at Jabalpur."

It is not disputed that the jurisdiction of this Bench to hear cases is regulated by the said order of the President.

9. The first thing that is to be determined is the meaning of the expression "in respect of cases arising in the revenue districts of Gwalior, Shivpuri, Datia, Guna, Vidisha (Bhilsa), Bhind and Morena" used in the Presidential Order dated 28-11-1986. In *Nasiruddin* (supra), the Supreme Court considered the meaning of a similar

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expression used in first proviso to Paragraph 14 of the High Court (Amalgamation) Order, 1948, which was to the following effect :--

"14. The new High Court, and the judges and division courts thereof, shall sit at Allahabad or at such other places in the United Provinces as the Chief Justice may, with the approval of the Governor of the United Provinces, appoint:

"Provided that unless the Governor of the United Provinces with the concurrence of the Chief Justice, otherwise directs, such judges of the Court, not less than two in number, as the Chief Justice, may, from time to time nominate, shall sit at Lucknow in order to exercise in respect of cases arising in such areas in Oudh, as the Chief Justice may direct, the jurisdiction and power for the time being vested in the new High Court:

Provided further that the Chief Justice may in his discretion order that any case or class of cases arising in the said areas shall be heard at Allahabad."

After holding the conclusion and the reasoning of the Allahabad High Court to be incorrect, the Supreme Court concluded :

".....the expression 'cause of action' in an application under [Article 226](#) would be as the expression is understood and if the cause of action arose because of the appellate order or the revisional order which came to be passed at Lucknow then Lucknow would have jurisdiction though the original order was passed at a place outside the area in Oudh. It may be that the original order was in favour of the person applying for a writ. In such case an adverse appellate order might be the cause of action. The expression 'cause of action' is well known. If the cause of action arises wholly

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or in part at a place within the specified Oudh areas, the Lucknow Bench will have jurisdiction. If the cause of action arises wholly within the specified Oudh areas, it is indisputable that the Lucknow Bench would have exclusive jurisdiction in such a matter, If the cause of action arises in part within the specified areas, in Oudh it would be open to the litigant dominus litis to have his forum convenient. The litigant has the right to go to a Court where part of his cause of action arises. In such cases, it is incorrect to say that the litigant chooses any particular Court. The choice is by reason of the jurisdiction of the Court being attracted by part of cause of action arising within the jurisdiction of the Court. Similarly, if the cause of action can be said to have arisen partly within specified areas in Oudh and partly outside the specified Oudh areas, the litigant will have the choice to institute proceedings either at Allahabad or Lucknow. The Court will find out in each case whether the jurisdiction of the Court is rightly attracted by the alleged cause of action."

Similarly in Kanti Prasad (supra) this Court held :

"The ordinary dictionary meaning of the word 'case' is a thing that has happened. In its technical legal sense it means a cause or a state of facts which furnishes an occasion for exercise of the jurisdiction by a Court of justice, vide 14 C.J.S.L. In the present context the word 'case' means the facts or events which furnish a cause of action to a party."

It must, therefore, follow and we hold that the expression "in respect of cases arising in the revenue districts of Gwalior, Shivpuri, Datia, Guna, Vidisha (Bhilsa), Bhind and Morena" means the place or places within the specified

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revenue districts where the whole or a part of cause of action arises. If the cause of action arises wholly or in part at a place or places within the specified revenue districts, the Gwalior Bench will have jurisdiction.

10.That being the position, the fact that the order of appointment was made and the further fact that the appointment was accepted by joining the post would form part of a cause of action and it would arise at the place the order is made, as also at the place the order is implemented by joining the post. We accordingly hold that a part of cause of action having arisen at Gwalior, this Bench has jurisdiction to entertain the petition.”

21. Taking clue from the judgment passed by the Full Bench in the case of **K.P. Govil (supra)** it is submitted by the counsel for the petitioner that since the order has been implemented at Gwalior, therefore, a part of cause of action has arisen at Gwalior.

22. The submission made by the counsel for the petitioner cannot be accepted. The impugned order was passed while the petitioner was posted in State of West Bengal and the order was communicated to him at the same place and the order was also implemented in the same place. Merely because the petitioner was subsequently compulsorily retired and the petitioner has settled down at Gwalior, would not give rise to even a slightest part of cause of action even by any stretch of imagination. It is true that the re-fixation of salary is a continuous cause of action, but continuous cause of action and the territorial jurisdiction are two different things. The concept of

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continuous cause of action can be looked into while deciding the question of delay in filing the petition or approaching the Court, whereas the concept of continuous cause of action cannot be considered for the purpose of adjudicating the question of territorial jurisdiction of the Court. If the submission made by the counsel for the petitioner is accepted, then any person by shifting to a place of his choice, falling within the territorial jurisdiction of a particular Court, may claim that the said Court has a territorial jurisdiction. That cannot be the intention of the Legislature. The territorial jurisdiction of a Court is not dependent upon the mercy of the petitioner, but it is dependent upon the cause of action. Therefore, this Court is of the considered opinion that the impugned order dated 28/3/2014 was passed in District Bankura (West Bengal), the order was communicated to the petitioner at Bankura (West Bengal) and by the said order, the services of the petitioner were not terminated, but the benefit of second MACP was not extended and thereafter, the petitioner remained in service for a considerable long time, but he never challenged the impugned order dated 28/3/2014 and now after suffering compulsory retirement, the petitioner is trying to bring the aforesaid order within the territorial jurisdiction of this Court by saying that since he is residing in Gwalior and as he was working in CISF, therefore, this Court has a territorial jurisdiction to entertain

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this petition, which cannot be accepted.

23. Accordingly, it is held that looking to the controversy involved in the present case, although the petitioner was an employee of CISF, this Court has no territorial jurisdiction to consider the correctness and genuineness of the order dated 28/3/2014 passed by the Deputy Commandant, CISF Unit, MTPS Mejia, District Bankura (West Bengal).

24. Resultantly, this petition fails and is hereby **dismissed on the ground of lack of territorial jurisdiction.**

Arun*

(G.S. Ahluwalia)
Judge