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IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE

BEFORE
HON'BLE SHRI JUSTICE VIJAY KUMAR SHUKLA

ON THE 21st OF JULY, 2022

WRIT PETITION No. 5400 of 2019

Between:-

**CHANDRAHAS NAMDEV S/O SHRI KRISHNA
NAMDEV, AGED 37 YEARS, OCCUPATION: JR.
ENGINEER, R/O: K/7, SHRI KANWAR COLONY,
BARWAH, DISTT. KHARGONE (MADHYA
PRADESH)**

.....PETITIONER

**(BY SHRI ROHIT KUMAR MANGAL AND MS. GEETANJALI
CHAURASIA, LEARNED COUNSEL)**

AND

1. **MP POWER TRANSMISSION COMPANY LTD.
MANAGING DIRECTOR BLOCK NO. 4, VIDHYUT
NAGAR, RAMPUR, JABALPUR (MADHYA
PRADESH)**
2. **CHIEF ENGINEER INSPECTION AND
TRANSMISSION M.P. POWER TRANSMISSION
COMPANY LTD. (MADHYA PRADESH)**
3. **SUPERINTENDING ENGINEER, 400 KV SUB
CENTRE MP POWER TRANSMISSION COMPANY
LTD. CIRCLE KHANDWA (MADHYA PRADESH)**

.....RESPONDENTS

**(BY SHRI G.S. PATWARDHAN, LEARNED SENIOR COUNSEL WITH
MS. ANKITA VERMA, LEARNED COUNSEL)**

.....
*This petition coming on for orders this day, the court passed the
following:*

ORDER

The respondents have raised a preliminary objection regarding maintainability of the present petition on the ground that this Bench has no

territorial jurisdiction in the matter. It is submitted that the order of punishment of stoppage of 2 increments with cumulative effect was passed at Khandwa which is within the territorial jurisdiction of this Court at Jabalpur. It is further submitted that the departmental appeal filed by the petitioner was decided at Jabalpur which is also within the territorial jurisdiction of Principal Bench at Jabalpur.

Counsel for the petitioner submits that when the impugned order of punishment was passed, he was posted at Barwah, Dist. Barwah which is within the territorial jurisdiction of this Bench.

The impugned order of punishment was communicated by the respondents to him at Barwah. It is further submitted that the appellate order passed by the respondents at Jabalpur was also communicated to the petitioner at Barwah, Dist. Barwah and, therefore, part of cause of action has arisen within the territorial jurisdiction of this Court and this Court has the jurisdiction. In support of his arguments, he has placed reliance upon the judgment of Full Bench of this Court in the case of ***K.P. Govil vs. Jawaharlal Nehru Krishi Vishwavidyalaya*** reported in 1987 MPLJ (32) 396 wherein the Full Bench has held as under :-

"Held, that the Writ Petition was maintainable before the Bench at Gwalior. The expression in the Presidential Notification dated 28.11.1968 "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 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 of places within the specific revenue districts, the Gwalior Bench will

have jurisdiction. The fact that the order of appointment was accepted by joining the post at Gwalior would form part of cause of action and it would arise at the place where the order is implemented by joining the post. A part of the cause of action having arisen at Gwalior, the Gwalior Bench had jurisdiction to entertain petition."

He has further placed reliance upon the judgment passed by the Supreme Court in the case of **Nawal Kishore Sharma Vs. Union of India and others** reported in **2014 (9) SCC 329** wherein Hon'ble Supreme Court has held the petition to be maintainable. Considering the part cause of action arising at a particular place and as in para 17 is held as under :-

"17. We have perused the facts pleaded in the writ petition and the documents relied upon by 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 muscles 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, appellant was suffering from serious heart muscles disease (Dilated Cardiomyopathy) and breathing problem which forced him to stay in 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"

In the case of **Shanti Devi @ Shanti Mishra Vs. Union of India and others** reported in **2020 (10) SCC 766**. The three Judges Bench of Supreme Court has considered the aspect of territorial jurisdiction on the ground of forum conveniences and as held as under :-

"32. As noted above, the learned single Judge has also observed that petitioner ought to have filed the writ petition in Jharkhand High Court where his earlier writ petition was pending. The earlier writ petition which was initially filed in 2006 in Patna High Court was for refund of the amount as noted above. After

dismissal of the writ petition by Patna High Court on the ground of lack of territorial jurisdiction, Shri B.N. Mishra had filed a Writ Petition No.4930 of 2013 in Jharkhand High Court for the relief which was claimed in Writ Petition No.13955 of 2006. As noted above, the cause of action for filing the Writ Petition No. 5999 of 2014 was entirely different. Stoppage of pension and asking for refund of more than Rs. 08 lakhs amount had serious adverse effect on the petitioner, who was staying at his native place Darbhanga. A retired employee, who is receiving pension, cannot be asked to go to another court to file the writ petition, when he has a cause of action for filing a writ petition in Patna High Court. For a retired employee convenience is to prosecute his case at the place where he belonged to and was getting pension. The submission of the learned counsel for the respondent Nos.1 to 3 on principle of forum non conveniens has no substance."

In the aforesaid judgments, it has been held that for constituting a cause of action, it is not only the place where the order is made, but also at a place where the consequences fall on the person concern. In the present case, the impugned order of punishment and the appellate order were communicated to the petitioner in district Barwah and its consequences has fallen on the petitioner in the district Barwah which is within the territorial jurisdiction of this Bench, therefore, it is held that this Court has territorial jurisdiction in the matter and the objection raised by the respondents is rejected.

Parties are also heard on merit.

The appellate authority has dismissed the appeal by order dated

13.11.2017 on the ground of delay.

Counsel for the petitioner submits that there is delay of about 45 days whereas according to the counsel for respondent, the delay is about 110 days. It is further submitted by him that the appellant did not file any application for condonation of delay in view of the provisions of Proviso 2 Rule 25 of M.P. Civil Services Classification (Control & Appeal) Rules 1966 (hereinafter referred as Rules 1966).

Considering the aforesaid submissions, I deem it proper to grant an opportunity to the petitioner to file an application for condonation of delay in view of the provisions of Proviso to Rule 25 of the "Rules 1966" before the appellate authority and if such application is filed before the said authority within two weeks from today, the same shall be considered and decided by the said authority in accordance with the provisions of law within a period of 2 months from the date of filing of the application for condonation of delay. This Court hopes and trusts that the appellate authority shall consider the appeal and the application of the petitioner objectively.

With the aforesaid, the writ petition is allowed and disposed off.

(VIJAY KUMAR SHUKLA)
JUDGE