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*Editorial*

## **WELCOME 2024!**

As we welcome the year 2024 let us not forget amid the festivities and economic highs, the poly crisis the world is going through post-Covid. Despite the world normalising— hotels and airlines are packed and airports all over the world are setting new footfall records— economic challenges are real and political ones more than ever.

The negotiation on the pending wage settlement has entered a crucial stage and hopefully, some good news will follow by the time this issue reaches your hand. Maybe for the first time, the settlement is going to be clinched within six months of submitting the Charter of Demands. This was possible even without resorting to strikes or other harsh trade union activities. The details of the consensus reached between IBA and the Officers' Organisation regarding major points

of the Charter of Demand have been shared in this issue for the information of our readers. An impression is sought to be created that the quick resolution of the charter of demands is possible for the benevolent attitude of the DFS and IBA. We know that this has been made possible due to the resolute unity of the bank men under the banner of UFBU and the correct strategic stand of AIBOC.



**A JUG FILLS DROP BY DROP**

The conclusion of the wage settlement will on probability be followed by the declaration of general election for constituting the new Parliament. The Parliament is expected to be formed by May and naturally, the whole concentration of the nation including the bank men will be on the election and there may be a temporary lull in so far as the intensification of the trade union programmes is concerned. It is only around June or July 2024, that we will be able to guess the direction of the new

government's economic policy and accordingly may decide our response pattern.

We extend our Happy New Year greetings to all our readers, patrons, and well-wishers. As we wrap up 2023, here's to hoping 2024 will kick these problems to the curb and be a year of resilience and joy for all of us.

#March on comrades,  
#NationAgainstPrivatisation  
#BankBachaoDeshBachao

## BIPARTITE TALKS

Circular No. 2023/44

Date: 08.12.2023

Dear Comrade,

### BIPARTITE TALKS WITH IBA NEGOTIATING COMMITTEE MEETING – ROUND 6

We reproduce below the text of UFBU Circular No. 2023/18 dated 08.12.2023 for your information.

#OurUnityLongLive

With greetings,

Sd/-  
Rupam Roy  
General Secretary

**Text of UFBU Circular No. 2023/18 dated 08.12.2023**

*Dear Comrades,*

### \* CONGRATULATIONS – MOU SIGNED WITH IBA

Further to the last round of discussions held with the IBA's Negotiating Committee on 9-11-2023, one more round of bipartite discussion was held with the main Negotiating Committee yesterday i.e., 7-12-2023. IBA's team was led by Mr. M V Rao (MD & CEO, Central Bank of India) who is the Chairman

IN THE SKY THERE IS NO DISTINCTION OF EAST AND WEST

of the Negotiating Committee. UFBU was represented by our constituent unions.

There were continuous and prolonged discussions for more than eight hours and we are happy that we could reach certain conclusions and understandings based on which an MoU was signed between our Unions and IBA.

### **SALIENT FEATURES:**

\* The Wage Revision Settlement would be effective from 1-11-2022 and it would be for a period 5 years upto 31-10-2027.

\* This wage revision settlement would cost Rs. 12,449 Crores per annum, i.e., an increase of 17% over the cost of payslip components of the wage bill pertaining to the financial year 2021-22.

\* The revised pay scales would be worked out by merger of Dearness Allowance upto 8088 points of consumer price index and with an additional loading of 3% thereon.

\* Regarding introduction of 5 Day Banking, while IBA has already recommended the same to the Government, IBA agreed to pursue the matter with the Government so that the same is cleared

without further delay. We have emphasized and urged that in any case it should be introduced before our final settlement.

\* While we demanded updation of pension for all the pensioners, after discussion, IBA came forward and agreed that as a onetime measure, grant of additional monthly ex-gratia pension for all pensioners/family pensioners from 1-11-1986 would be considered. Details will be worked out during further discussions.

\* All other issues would be discussed further and final settlement would be arrived at within the next 6 months.

We convey our congratulations to all our unions and members for these satisfactory understandings and this MoU could be secured only because of the unity of all our members under the banner of United Forum of Bank Unions.

With greetings,

Yours comradely,

Sd/-  
**Sanjeev K Bandlish**  
Convenor

## **CIRCULARS**

44 dated 08th December, 2023 : Text of UFBU Circular No. 2023/18 dated 08.12.2023 on Bipartite talks with IBA, Negotiating Committee Meeting – Round 6

THERE HAS TO BE EVIL SO THAT GOOD CAN PROVE ITS PURITY ABOVE IT

## PSB HAVE A HUMAN CAPITAL PROBLEM

**Given losing market share and a diminishing pool of talent, the pay and tenure of senior executives urgently need an overhaul**

**"It is unsustainable for such (pay) differentials to continue without a major adverse impact on the recruitment and retention of talented managers in public-sector banks"**

**---P.J.Nayak Committee report to "review governance of boards of banks in India" (May 2014)**

In FY23, the State Bank of India (SBI) reported a 57.4 per cent jump in its net profit to ₹ 55,684.17 crore. But the annual pay of the chairman of the country's largest bank, Dinesh Khara, for this creditable performance was just 37 lakh (his peers at state-run banks are no better off). Look at his private bank rivals most pocketed in excess of 7 crore annually plus stock options. Talk of perks at state-run banks not being taken into account in such comparisons amount to mere quibbles.



### MISSING HUMAN FACTORS

**There's been no sizing study on HR in state-run banks, save for the A K Khandelwal Committee report (June 2010)**

**Recommendation 2.2 of the P.J.Nayak Committee made an explicit reference to the compensation constraints and short average tenures of state-run bank bosses**

**The 12<sup>th</sup> Bipartite Settlement-between the Indian Banks' Association and bank unions-is in the works. More than half a century after industry-wide wage pacts for state-run banks came into effect (April 1, 1966), the parameters to assess pay should be up for a deeper review, given the mergers in the public sector banking system**

**Bank desk-jobs are no longer attractive; talent is being wooed by wider India inc**

Nearly two decades after the Nayak committee's report, the competitive landscape in the financial world has completely changed. Private banks' share of both incremental credit and deposits is on the rise; technology has reshaped business models; fintechs stomp around; and it's a stiff fight to attract and retain talent. For talented finance professionals, a desk job at a bank is not the first option as it was in the past they are being wooed by wider India Inc.

### COST-TO-INCOME RATIO OF BANKS



Source: Report on Trend and Progress of Banking in India 2021-22

Small wonder, then, that six of India's 11 state-run banks lack a non-executive chairman, with the post lying vacant for as much as two years in some banks. This fact comes as a wake-up call, just weeks after Reserve Bank of India (RBI) Governor Shaktikanta Das discussed with state-run and private bank boards the need to raise governance standards.

There's been no sizing study on human resources (HR) in state-run banks, save for the A K Khandelwal Committee report (June 2010)-the only one of its kind since liberalisation. Khandelwal's report had warned of a twister/ "Over the next five years, 80 per cent of general managers, 65 per cent of deputy general managers, 58 per cent of assistant general managers

OVERCOME ANGER BY LOVE, EVIL BY GOOD

and 44 per cent of general managers would be retiring. The pool of these experienced executives cannot be replaced only through promotions,”

Even though the report didn't refer to the pay gap between state-run and private banks, a case was made for ESOPs. "...in the future, to 15 per cent of the top performers in the executive cadre including CMD (chairman and managing directors) and EDs (executive directors)." This aspect has not even figured in the public discourse.

A related issue is state-run banks cost-to-income ratio. The Report Trend and Progress of Banking in India 2021-2022 says it was the highest for state-run banks, owing to their high wage expenditure. With capital quoting at a premium (and recapitalisation a thing of the past), it highlights The need for a harder look at HR issues.

Pay concerns should not be seen in isolation. If corner-room occupants at state run banks are to be change agents, their tenures have to be longer. Just about every private bank CEO has had a stint of at least a decade; their maximum tenures and age being 15 and 70 years respectively. O P Bhatt at SBI was an outlier -June 2006 to March 2011.

The Narasimham Committee I (1991) was for a minimum stay of five years. As for their appointment, this committee made the pitch that a

panel of retired central bank governors and eminent voices in financial services recommend to the authorities- RBI and the Ministry of Finance.

Meanwhile, the 12<sup>th</sup> Bipartite Settlement -between the Indian Banks' Association and bank unions - is in the works. More than half -a-century after industry wide wage pacts for state -run bank came into effect (April 1, 1966), the parameters to assess pay should be up for a deeper review. Consider, four sets of state -run banks have merged; a staffer may have been a top performer at a bank prior to the merger- but this might not be the case in the merged entity.

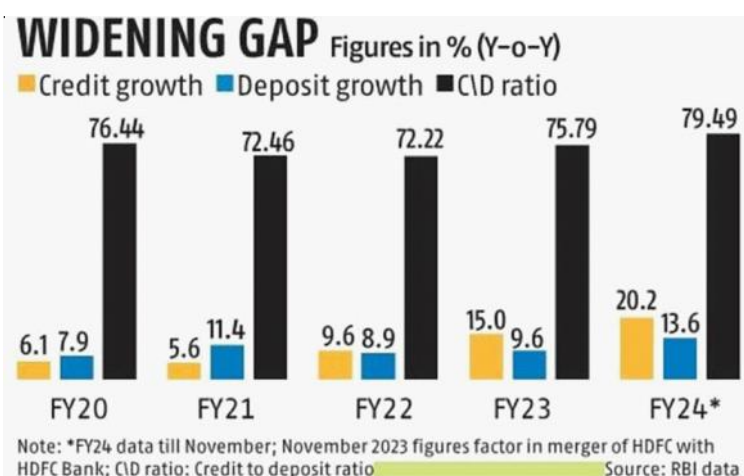
Money matters can't be swept under the carpet anymore. A hike in the remuneration for independent directors was put forward to the RBI's top brass in its interaction with the full boards of state run bank in New Delhi last month( if figured in the meeting with private bank boards in Mumbai as well). Recommendation 2.2 of the Nayak committee made an explicit reference to the compensation constrains and short average tenures of state -run bank bosses.

There's still a large talent pool in state run bank but the reality is that it may not walk in as it did in the past. The late K C Chakrabarty, a former deputy governor of the RBI, said " You need to manage people and for this you need to discriminate between them. I mean positive discrimination . "That time is well upon us. ■ **Source: Business Standard**

**MARGINS OF INDIAN BANKS MAY FALL TO 2.9% IN FY24, SAYS S&P**  
**Asset quality to stay on upward trajectory.....ABHIJIT LELE**

Standard & Poor's (S&P) on Wednesday said the credit deposit ratio (C-D ratio) of Indian banks may come under pressure due to the continued lag of deposit growth vis-à-vis the pace of credit expansion.

Trailing of deposit growth and competition for funds may lower the net interest margin (NIM) to 2.9 per cent in 2024-2025 (FY25) from 3



per cent in FY24. Over the next few years, the loan growth will align with nominal gross domestic product (GDP), with retail loans surpassing corporate loan expansion. Keeping pace with this may prove challenging for deposits thereby



weakening the credit-to deposit ratio, said Geeta Chugh, analyst at S&P Global Ratings, in an outlook for banks in India.

Nonetheless, the funding profiles of banks should stay robust, supported by a strong deposit franchise.

According to Reserve Bank of India (RBI) data, deposits of Indian banks have grown by 13.6 per cent year-on-year (Y-o-Y), and credit expanded by 20.6 per cent till mid November.

This trend factors in the merger of HDFC with HDFC Bank. The C-D ratio of the banking system stood at 79.49 per cent as on November 17, 2023.

Chugh said, "Delayed repricing of deposits, heightened competition for deposits, and a shift from low-yielding current account and savings account (CASA) to higher-interest-bearing term deposits will exert pressure on net interest margins.

While the small and mid-sized enterprise sector and low-income households are vulnerable to higher

interest rates and inflation, the interest rates in India are unlikely to rise materially. This should limit the risk for the banking industry.

Unsecured personal loans have grown rapidly and could contribute to incremental non-performing loans.

Asset quality is anticipated to remain in positive trajectory in 2024-25.

And, the proportion of weak loans will decrease to 3-3.5 per cent of gross loans by March 31, 2025.

This improvement is attributed to structural enhancements, including robust corporate balance sheets, more stringent under-writing standards, and enhanced risk-management practices, S&P added. Weak assets were around 5.2 per cent of gross loans as on March 31, 2023. This compares with 7.6 per cent as on March 31, 2022. ■

**Source: Business Standard Dt. December 14, 2023**

## JUDICIAL

**2023 LLR 1216**

**DELHI HIGH COURT**

**Hon'ble Ms. Mini Pushkarna, J.**

**Hon'ble Mr. Manmohan, J.**

**LPA 640/2022 & CM APPL. 47792/2022,**

**Dt/- 29-8-2023**

**J. Balaji**

**v.**

**The Hindu New Delhi and Anr.**

**A. TERRITORIAL JURISDICTION – *Situs of employment – Appellant was transferred from Delhi to Chennai – His representations to oppose transfer on account of family problems like the study of his children, employment of his wife in Delhi and grave illness of his father were not accepted – He joined at Chennai but came back to Delhi – After availing leave, he did not join duty at Chennai – His services were terminated – He challenged termination order under section 2A of the Industrial Disputes Act, 1947 which was dismissed holding that Delhi Courts had lost their territorial jurisdiction since the situs of employment of the appellant had shifted from Delhi to Chennai after his joining at Chennai – Appellant challenged award in writ petition which was dismissed – Appellant filed writ appeal – Held, contention of appellant is that he was working at Delhi, transfer order was made at Delhi, he took leave***

BETTER THAN A HUNDRED YEARS OF IDLENESS IS ONE DAY SPENT IN DETERMINATION

*in Delhi and did not join back at Chennai – His services were terminated at Delhi – Thus, there was nexus between the dispute and Territory of Delhi and situs of employment is not the only criterion that determines the territorial jurisdiction of Labour Courts – Claim filed under ID Act cannot be fettered by rules of territorial jurisdiction as applicable to civil suits as per law – Appellant accepted transfer by joining at Chennai – Termination order was issued owing to unauthorized absence at Chennai – Appellant repeatedly sought extension through mail to competent authority at Chennai for jointing at Chennai – Once the appellant had joined at Chennai, his services were terminated by issue of an order from Chennai, hence cause of action arose within the jurisdiction of Chennai – Merely that he was posted in Delhi prior to posting at Chennai would not confer jurisdiction on the Delhi Courts, when the cause of action did not arise in Delhi – Settled principle is that the principles for determining the jurisdiction are: (i) Where does the order of the termination of services operate; (ii) Is there some nexus between the industrial dispute arising from termination of the services of the workman and the territory of the State; and (iii) That the well-known test of jurisdiction of a civil Court including the residence of the parties and the subject-matter of the dispute substantially arising therein would be applicable – Appellant has the liberty to approach the competent Court of jurisdiction in Chennai which shall consider the case after granting benefit to the appellant in terms of section 14 of the Limitation Act, 1963 – Appeal is dismissed. Paras 14, 15, 17 to 24*

**B. CAUSE OF ACTION – Scope of –** As per settled law “cause of action” consists of a bundle of facts, i.e. , every fact on the part of defendant which gives the plaintiff his cause of complaint, or the subject-matter of grievance founding the action, not merely the technical cause of action – Situs of the place of employment of a workman would be a determinative factor in conferring territorial jurisdiction upon a Labour Court as per settled law – Place of previous posting of the appellant would not confer territorial jurisdiction upon the Delhi Courts.

For Appellants: Mr. Jawahar Raja with Ms. L. Gangmei, Ms. Meghna De, Ms. Varsha Sharma and Ms. Aditi Saraswat, Advocates.

For Respondent: Mr. Gagan Gupta, Advocate.

#### IMPORTANT POINTS

\* Since the transfer of an employee was incident of his services, only on account of family problems like the study of his children, employment of his wife in Delhi and grave illness of his father, are no ground to avoid transfer order.

\* Once an employee has joined at the place of transfer, if after availing sanctioned leave, he did not join duty at the place of his transfer, he may challenge his termination order, issued by employer from the place of transfer, before the competent authority at the place of his transfer and not at the place of his previous posting.

\* Merely that the workman was posted in Delhi prior to posting at Chennai would not confer jurisdiction on the Delhi Courts, when the cause of action did not arise in Delhi.

\* Settled principles for determining the jurisdiction are: (i) Where does the order of the termination of services operate; (ii) Is there some nexus between the industrial dispute arising from termination of the services of the workman and the territory of the State; and (iii) That the well-known test of jurisdiction of a civil Court including the residence of the parties and the subject-matter of the dispute substantially arising therein would be applicable.

\* As per settled law “cause of action” consists of a bundle of facts i.e. , every fact on the part of defendant which gives the plaintiff his cause of complaint, or the subject-matter of grievance found the cause of action and not merely the technical cause of action.

YOU WILL NOT BE PUNISHED FOR YOUR ANGER, YOU WILL BE PUNISHED BY YOUR ANGER

\* Situs of place of employment of a workman would be a determinative factor in conferring territorial jurisdiction upon a Labour Court as per settled law and place of previous posting of the appellant would not confer territorial jurisdiction upon the Courts at previous place of posting.

## JUDGMENT

**Mini Pushkarna, J.**–1. Present appeal has been filed challenging the order dated 22nd March, 2022 passed by the learned Single Judge in W.P.(C) 13561/2021. By way of the impugned order, learned Single Judge dismissed the writ petition filed on behalf appellant herein, thereby upholding the Award dated 27th August 2019 passed by the learned Labour Court. The learned Labour Court by its Award dated 27th August, 2019 had dismissed the claim petition of the appellant herein on the ground that Delhi Courts have no territorial jurisdiction to entertain the claim of the appellant herein.

2. The brief facts of the case are that appellant herein had joined the employment of respondent as a special correspondent and was posted at Vishakhapatnam in Andhra Pradesh. In June 2008, he was transferred from Vishakhapatnam to Delhi. While working in Delhi, the appellant was promoted to Senior Assistant Editor in the month of October 2013. Subsequently, appellant was transferred from Delhi to Chennai in the first week of February, 2014.

3. Appellant made representations to reconsider his transfer to Chennai owing to compelling circumstances like the study of his children, employment of his wife in a multinational company in Delhi and grave illness of his father. Since his request was not accepted, appellant joined at Chennai, but came back to Delhi after availing leave. However, after joining at Chennai and working for a few days, the appellant again proceeded on leave. As the appellant continued on leave beyond the approved period of leave, the respondents terminated the services of the appellant, by way of termination order dated 3rd July, 2014.

4. Appellant challenged the aforesaid termination order by filing a claim petition under section 2A of the Industrial Disputes Act, 1947 (ID Act). By Award dated 27th August, 2019 passed in LCA No. 07/2016

(Old DID No. 53/15), the learned Labour Court dismissed the claim petition of the appellant herein holding that Delhi Courts had lost their territorial jurisdiction since the situs of employment of the appellant had shifted from Delhi to Chennai as the appellant had joined the office at Chennai upon his transfer. Thus, learned Labour Court held as follows:–

**“Issue No. 2.** Whether the claimant/petition was employed as a Correspondent in respondent’s organization at Chennai, if so, whether this Court has territorial jurisdiction to entertain and try the present petition?

It is an admitted case as emerged from the evidence on record that workman started his job with the management at Vishakhapatnam and lastly he was working at Chennai.

As had been held in catena of judgments as relied upon by Id. AR for management, it has become manifestly clear that it is the situs of place of employment of workman which determines the question of territorial jurisdiction of a Labour Court for deciding a labour dispute raised by a workman and the place of his initial appointment or the place of his promotion would be of no help to him in conferring the territorial jurisdiction upon a Court which otherwise does not have the same.

This view of mine is further fortified by the following citations relied upon by the management:

(1) Lohia Starlinger Limited & Anr .v. Govt. of NCT of Delhi & Ors , 2006 V AD (Delhi) 732;

(2) Braham Prakash v. Govt. of NCT of Delhi & Anr . 143 (2007) Delhi Law Times 311;

(3) Harsaran Singh v. Managing Director, Modern Food Industries (India) Ltd., 163 (2009) Delhi Law Times 794;

In the light of the aforesaid citations, I have no hesitation in holding that once the workman was transferred to Chennai and had also joined there, then the situs of his employment shifted



from Delhi to Chennai and as such, the Delhi Courts had lost their territorial jurisdiction which would now vest in the Labour Courts at Tamil Nadu.

Therefore, Delhi Courts had no territorial jurisdiction to entertain the present claim. As such, the issue is answered in negative and decided in favour of management and against the workman.”

5. Against the aforesaid Award dated 27th August, 2019 passed by the learned Labour Court, appellant herein filed writ petition, W.P.(C) 13561/2021. By the impugned order dated 22nd March, 2022, learned Single Judge dismissed the writ petition filed by the appellant thereby upholding the Award passed by the learned Labour Court. Hence, the present appeal has come to be filed on behalf of the appellant.

6. On behalf of the appellant, it is contended that appellant was working at Delhi Office of the respondents and the transfer order was also made at Delhi Office. Since appellant took leave as his father was critically ill and did not join back at Chennai, his services were terminated. Thus, there was nexus between the dispute and Territory of Delhi, as such Delhi Courts have territorial jurisdiction to decide the present dispute. It is contended that situs of employment is not the only criterion that determines the territorial jurisdiction of Labour Courts. It is submitted that Industrial Courts of the place from where transfer order originates, has territorial jurisdiction.

7. It is further contended that the ID Act has no provision related to territorial jurisdiction. Therefore, claim filed under ID Act cannot be fettered by the rules of territorial jurisdiction as applicable to civil suits.

8. xxxxxxxxx

9. xxxxxxxxxxx

10. We have heard learned counsel for the parties and have perused the record.

11. At the outset, this Court notes that the appellant had been transferred from Delhi to Chennai vide order dated 03rd February, 2014 passed by respondents. Pursuant thereto, appellant had

joined his place of posting at Chennai on 2nd May, 2014. The appellant, thus, accepted his transfer to Chennai. The present proceedings have emanated from the termination order dated 3rd July, 2014 issued by the respondents owing to unauthorised absence of the appellant from his place of posting at Chennai.

12. After his transfer from Delhi to Chennai vide order dated 3rd February, 2014, appellant sent an email dated 12th February, 2014 seeking an extension of time till 6th March, 2014 to join duty at Chennai, which was acceded to by respondents. Thereafter, appellant made a second request for an extension of time to join at Chennai till 9th June, 2014 vide his e-mail dated 4th March, 2014. However, his leave was approved upto 23rd March, 2014. Subsequently, pursuant to further requests by appellant, respondents extended the time to join the transfer posting at Chennai on or before 15th April, 2014. Appellant once again wrote on 14th April, 2014 seeking further extension of leave. By communication dated 19th April 2014, appellant was informed that he had been relieved from Delhi Office and his services stood transferred to Chennai from 15th April, 2014, and that he ought to apply for leave to the Chief of Tamil Nadu Bureau who was the competent authority. Thereafter, appellant wrote to the Chief of Tamil Nadu Bureau seeking leave for six weeks on 21st April, 2014. The Chief of Tamil Nadu Bureau sent e-mail communication to appellant on 26th April, 2014, granting him leave and giving him one final opportunity to join Chennai before 02nd May, 2014. Ultimately, appellant joined duty at Chennai on 02nd May, 2014.

13. However, within a few days of joining duty at Chennai, appellant sent an e-mail on 8th May, 2014 requesting leave from 12th May, 2014 to 31st May, 2014. Though leave was approved by respondents upto 20th May, 2014, appellant reported for work only on 30th May, 2014. After working for a few days, appellant again sent an e-mail on 9th June, 2014 requesting leave for three weeks from 9th June, 2014. The request of appellant for leave was turned down by respondents on account of his frequent absenteeism by letter dated 11th June, 2014. Despite the same, appellant sent a communication to respondents stating that he

EVERY HUMAN BEING IS THE AUTHOR OF HIS OWN HEALTH OR DISEASE

would report for work only on 7th July, 2014. Since appellant took unauthorised leave and absented himself frequently from the Chennai office, his services were terminated vide letter dated 3rd July, 2014. The said letter of termination was issued to appellant from Chennai office of respondents where appellant was posted at the material time.

14. The aforesaid narrative clearly shows that the appellant had already joined his duty at the place of posting in Chennai and was posted in Chennai when his services were terminated. It is to be noted that appellant has not challenged his transfer to Chennai and rather joined service at his place of posting in Chennai. Even otherwise, transfer is an incidence of service and no employee can claim to have any vested right to continue at any particular place of posting.

15. Once the appellant had joined his place of posting at Chennai and his services were terminated from Chennai and an order of his termination was issued from Chennai, it is clear that the cause of action arose within the jurisdiction of Chennai. Merely because appellant was posted in Delhi prior to his posting at Chennai would not confer jurisdiction on the Delhi Courts, when the cause of action qua the present proceedings did not arise in Delhi.

16. Elucidating what constitutes a cause of action with respect to territorial jurisdiction, Supreme Court in the case of Om Prakash Srivastava v. Union of India and Another , (2006) 6 SCC 207 has held as follows:-

“7. The question whether or not cause of action wholly or in part for filing a writ petition has arisen within the territorial limits of any High Court has to be decided in the light of the nature and character of the proceedings under Article 226 of the Constitution. In order to maintain a writ petition, a writ petitioner has to establish that a legal right claimed by him has prima facie either been infringed or is threatened to be infringed by the respondent within the territorial limits of the Court's jurisdiction and such infringement may take place by causing him actual injury or threat thereof.

.....

11. It is settled law that “cause of action” consists of a bundle of facts, which give cause to enforce the legal inquiry for redress in a court of law. In other words, it is a bundle of facts, which taken with the law applicable to them, gives the plaintiff a right to claim relief against the defendant. It must include some act done by the defendant since in the absence of such an act no cause of action would possibly accrue or would arise. [See South East Asia Shipping Co. Ltd. v. Nav Bharat Enterprises (P) Ltd., (1996) 3 SCC 443]

.....

15. In Halsbury's Laws of England (4th Edn.) it has been stated as follows: “ ‘Cause of action’ has been defined as meaning simply a factual situation, the existence of which entitles one person to obtain from the court a remedy against another person. The phrase has been held from earliest time to include every fact which is material to be proved to entitle the plaintiff to succeed, and every fact which a defendant would have a right to traverse. ‘Cause of action’ has also been taken to mean that a particular act on the part of the defendant which gives the plaintiff his cause of complaint, or the subject-matter of grievance founding the action, not merely the technical cause of action”.

17. When the appellant was transferred to Chennai and had also joined there, then the situs of his employment shifted from Delhi to Chennai. Though the ID Act does not make any reference to the aspect of territorial jurisdiction, however, situs of the place of employment of a workman would be a determinative factor in conferring territorial jurisdiction upon a Labour Court for deciding a labour dispute raised by a workman. It has been held by Courts time and again in a catena of judgments that the situs of employment of the workman is a significant factor to decide territorial jurisdiction.

18. Supreme Court in the case of V.G. Jagdishan v. Indofos Industries Ltd , (supra) has categorically held that considering the facts of the said case that the workman therein was employed

HE WHO SEEKS HAPPINESS BY HURTING WILL NEVER FIND IT

at Ghaziabad, was working at Ghaziabad and his services were terminated at Ghaziabad, only the Ghaziabad Court would have territorial jurisdiction in the said case. Thus, Supreme Court held as follows:-

“10. 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 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.”

19. Similarly, Supreme Court in the case of Eastern Coalfields Ltd. and Others v. Kalyan Banerjee , (2008) 3 SCC 456 has held that merely because the head office of the company was situated within the State of West Bengal, the same by itself will not confer any jurisdiction upon the Calcutta High Court. It was held that the workman in the said case was serving in a place under the jurisdiction of the State of Jharkhand and his services were also terminated therein. Thus, it was held that only the State of Jharkhand had territorial jurisdiction in the said case, as follows:-

“13. In view of the decision of the Division Bench of the Calcutta High Court that the entire cause of action arose in Mugma area within the State of Jharkhand, we are of the opinion that only because the head office of the appellant 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 respondent.”

20. Place of previous posting of the appellant would not confer territorial jurisdiction upon the Delhi Courts. Once the appellant was transferred to Chennai and he joined at the place of his posting in Chennai, the Delhi Courts lost their territorial jurisdiction. It is also to be noted that appellant filed a claim petition under section 2A of the ID Act challenging his termination order only. Even otherwise, transfer order could not have been challenged by the appellant in a petition under section 2A of ID Act. Appellant was employed not in Delhi, but in Chennai at the time of his termination. The termination order was issued in Chennai. Therefore, it cannot be said by any extent of imagination that the cause of action arose in Delhi.

21. Distinguishing the judgment in the case of Workmen of Sri Ranga Vilas Motors (P) Ltd. v. Sri Rangavilas Motors (P) Ltd. and Others , AIR 1967 SC 1040 as relied upon by appellant herein and holding that no cause of action had arisen in Delhi, learned Single Judge held as follows:

“22. According to the Supreme Court, the principles for determining the jurisdiction are: (i) Where does the order of the termination of services operate; (ii) Is there some nexus between the industrial dispute arising from termination of the services of the workman and the territory of the State; and (iii) That the well-known test of jurisdiction of a civil Court including the residence of the parties and the subject matter of the dispute substantially arising therein would be applicable.

23. In the said case, the Supreme Court held that the situs of employment of the workman would be a relevant fact for determining the jurisdiction of the Labour Court concerned. In the said case, the termination orders were served at Calcutta were not only the subject matter of the dispute but the transfer orders as well because the termination was effected for not obeying the transfer order. The Supreme Court held, if the

DO NOT DWELL ON THE PAST OR FUTURE. CONCENTRATE ON THE PRESENT MOMENT

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transfer orders are set aside, then the appellant would be deemed to be posted at Calcutta. Hence, there is a direct nexus of dispute with the order of termination of their services at Calcutta. It was held that the State of West Bengal was the appropriate Government. Suffice to state, the said judgment is distinguishable on facts, inasmuch as the transfer order is not under challenge in the present case. Rather, the petitioner had joined the place of posting at Chennai and it is for unauthorised absence at Chennai, the petitioner's services were terminated. In the absence of any challenge to the transfer order, there is no cause of action which has arisen in Delhi for the petitioner to maintain the claim petition under section 2A of the ID Act."

22. The detailed discussion as aforesaid brings forth that the appellant was employed in Chennai when his services were terminated. The termination order was also issued in Chennai. Thus, the cause of action for challenging the termination order arose entirely in Chennai. Merely because respondents have a full-fledged

office in Delhi or that appellant was posted in Delhi immediately before his transfer to Chennai, would not confer territorial jurisdiction on the Delhi Courts. The judgments as relied upon by appellant do not come to his aid, as the said matters involve cases where cause of action had arisen within the territorial jurisdiction of the place in question. However, that is not the position in the present matter as no cause of action has arisen within the territorial jurisdiction of Delhi, in terms of the discussion herein above. Consequently, it is held that Delhi Courts have no territorial jurisdiction in the present case.

23. It is, however, clarified that appellant has the liberty to approach the competent Court of jurisdiction in Chennai, which shall consider the case of appellant on merits after granting benefit to the appellant in terms of section 14 of the Limitation Act, 1963.

24. In view thereof, no infirmity is found in the impugned order passed by the learned Single Judge. Accordingly, the present appeal is dismissed, along with the pending applications. ■

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