



2026:AHC:165183

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 39679 of 2017

Yadvendra Singh

.....Petitioner(s)

Versus

Union Of India And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Ambarish Chatterji, Pooja Agarwal, Raghav Dev Garg, Sangam Singh, Shyam Surat Shukla, Sonu Malik, Sushant Verma, Ulajhan Singh Bind, Vijay Gautam(Senior Adv.)
Counsel for Respondent(s)	:	A.S.G.I., C.S.C., Raghuraj Kishor Mishra, Ravi Prakash Singh

Court No. - 34
(SN.40)

AFR

HON'BLE ANISH KUMAR GUPTA, J.

1. Heard Sri Sangam Singh, learned counsel for the petitioner and Sri Ravi Prakash Singh, learned counsel for the respondents.
2. The instant writ petition has been filed seeking quashing of the order dated 15.06.2017 passed by the respondent no. 3, Administrative Officer, 9 Fields Ordnance Depot, Kangra, Himachal Pradesh.
3. The briefly stated facts of the case are that the petitioner had applied for the post of Tradesman Mate (erstwhile Mazdoor), in the 9 Field Ordnance Depot and he belongs to OBC male category and he was finally being selected in all the stages of selection. However, despite being selected, due to pendency of the criminal cases against the petitioner his candidature was cancelled and the appointment letter was withdrawn. Being aggrieved, the instant writ petition has been filed by the petitioner herein.
4. A preliminary objection has been raised on behalf of the respondents that this Court do not have the territorial jurisdiction to entertain the instant writ petition as the authority which has passed the impugned order is situated in the State of Himachal Pradesh and merely on the basis of the

residence of the petitioner, this Court will not have jurisdiction.

5. In support of his submission, learned counsel for the respondents has relied upon the judgment of the Apex Court in ***Lt. Col. Khajoor Singh v. Union of India, 1960 SCC OnLine SC 12***, which is a seven-judges Bench judgment. Paragraph 13 of the said judgment reads as under:

"13. This brings us to the first question, namely, whether the Government of India as such can be said to be located at one place, namely, New Delhi. The main argument in this connection is that the Government of India is all-pervasive and is functioning throughout the territory of India and therefore every High Court has power to issue a writ against it, as it must be presumed to be located within the territorial jurisdiction of all State High Courts. This argument in our opinion confuses the concept of location of a Government with the concept of its functioning. A Government may be functioning all over a State or all over India; but it certainly is not located all over the State or all over India. It is true that the Constitution has not provided that the seat of the Government of India will be at New Delhi. That, however, does not mean that the Government of India as such has no seat where it is located. It is common knowledge that the seat of the Government of India is in New Delhi and the Government as such is located in New Delhi. The absence of a provision in the Constitution can make no difference to this fact. What we have to see, therefore, is whether the words of Article 226 mean that the person or authority to whom a writ is to be issued has to be resident in or located within the territories of the High Court issuing the writ? The relevant words of Article 226 are these-

"Every High Court shall have power... to issue to any person or authority... within those territories..."

So far as a natural person is concerned, there can be no doubt that he can be within those territories only if he resides therein either permanently or temporarily. So far as an authority is

concerned, there can be no doubt that if its office is located therein it must be within the territory. But do these words mean with respect to an authority that even though its office is not located within those territories it will be within those territories because its order may affect persons living in those territories? **Now it is clear that the jurisdiction conferred on the High Court by Article 226 does not depend upon the residence or location of the person applying to it for relief; it depends only on the person or authority against whom a writ is sought being within those territories. It seems to us therefore that it is not permissible to read in Article 226 the residence or location of the person affected by the order passed in order to determine the jurisdiction of the High Court. That jurisdiction depends on the person or authority passing the order being within those territories and the residence or location of the person affected can have no relevance on the question of the High Court's jurisdiction.** Thus if a person residing or located in Bombay, for example, is aggrieved by an order passed by an authority located, say, in Calcutta, the forum in which he has to seek relief is not the Bombay High Court though the order may affect him in Bombay but the Calcutta High Court where the authority passing the order is located. It would, therefore, in our opinion be wrong to introduce in Article 226 the concept of the place where the order passed has effect in order to determine the jurisdiction of the High Court which can give relief under Article 226. The introduction of such a concept may give rise to confusion and conflict of jurisdictions. Take, for example, the case of an order passed by an authority in Calcutta, which affects six brothers living, say, in Bombay, Madras, Allahabad, Jabalpur, Jodhpur and Chandigarh. The order passed by the authority in Calcutta has thus affected persons in six States. Can it be said that Article 226 contemplates that all the six High Courts have jurisdiction in the matter of giving relief under it? The answer must obviously be "No", if one is to avoid confusion and conflict of jurisdiction. **As we read the relevant**

*words of Article 226 (quoted above) there can be no doubt that the jurisdiction conferred by that Article on a High Court is with respect to the location or residence of the person or authority passing the order and there can be no question of introducing the concept of the place where the order is to have effect in order to determine which High Court can give relief under it. It is true that this Court will give such meaning to the words used in the Constitution as would help towards its working smoothly. If we were to introduce in Article 226 the concept of the place where the order is to have effect we would not be advancing the purposes for which Article 226 has been enacted. On the other hand, we would be producing conflict of jurisdiction between various High Courts as already shown by the illustration given above. Therefore, the effect of an order by whomsoever it is passed can have no relevance in determining the jurisdiction of the High Court which can take action under Article 226. Now, functioning of a Government is really nothing other than giving effect to the orders passed by it. Therefore it would not be right to introduce in Article 226 the concept of the functioning of Government when determining the meaning of the words "any person or authority within those territories". By introducing the concept of functioning in these words we shall be creating the same conflict which would arise if the concept of the place where the order is to have effect is introduced in Article 226. There can, therefore, be no escape from the conclusion that these words in Article 226 refer not to the place where the Government may be functioning but only to the place where the person or authority is either resident or is located. So far therefore as a natural person is concerned, he is within those territories if he resides there permanently or temporarily. **So far as an authority (other than a Government) is concerned, it is within the territories if its office is located there.** So far as a Government is concerned it is within the territories only if its seat is within those territories."*

6. Learned counsel for the petitioner has relied upon the judgments passed by Odisha High Court in ***Jyoti Prakash Nayak vs. Union of India : 2007 (23) RCR (Civil) 166 : Writ Petition Civil No. 1181 of 2006*** dated 15.03.2007. Another passed by the Rajasthan High Court in ***Kishan Lal Jat vs. Union of India : 2024 NCR JD 23088 : Civil Miscellaneous Writ Petition No. 8253 of 2024*** dated 22.05.2024 and the Judgement of the Division Bench passed by this High Court in ***Rajendra Kumar Mishra vs. Union of India, 2005 (1) ACJ 375***.

7. In ***Jyoti Prakash*** (supra), the Odisha High Court has observed as under:

"7. Right to invoke jurisdiction under Article 226 of the Constitution of India to enforce fundamental rights and other legal rights against the State or authority or its agency is a constitutional right. Such right should not be made illusory or unenforceable upon narrow construction of the concept of cause of action. In the present case, the advertisement was published inviting applications for 9 categories of posts. The Petitioner at the relevant time was residing at his permanent residence within the State of Orissa and he applied for the post of Manager (Law) from Orissa by giving his permanent address. The Petitioner was called to attend written test at Bhubaneswar in the State of Orissa. The Union Bank of India is a nationalized bank having its head office at Mumbai with all India representation. In other words, the Bank has its network of Offices and establishments at different places of India, which includes Orissa. The above fact is revealed from the advertisement itself. That means, there is possibility of a candidate to be posted in Orissa. Moreover, the Petitioner having attended the written test at Bhubaneswar, it can safely be said that a part of cause of action has arisen in Orissa. According to Article 226(2) of the Constitution of India, which speaks of the territorial jurisdiction of the High Court, the power conferred by Clause (1) of Article 226 to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause

of action, wholly or in part, arises for the exercise of such power notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories. That apart, the bank with its establishment and network of branches in Orissa is not likely to be prejudiced or to suffer irreparable loss in meeting the legal challenge of the Petitioner in this Court. The decisions cited by the Opposite Parties have no application to this case since the facts involved in those cases are different and they arose out of arbitration case and civil suit. Even otherwise, no advertisement for employment can oust the jurisdiction of the High Court, which flows from Article 226 of the Constitution of India.

8. In view of the above, this Court is of the view that the present Writ Petition is maintainable. It may now be listed for hearing before the appropriate Bench.

9. I agree."

8. In **Kishan Lal Jat** (supra), the Rajasthan High Court has held as under:

"10. Before proceeding, we would like to reproduce rule 6(1)(ii) of the Rules of 1987, determinative of the powers of the Tribunal, so far as territorial jurisdiction is concerned. Rule 6(1)(ii) reads as under:-

"6. Place for filing application.-(1) An application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction-

(i) the applicant is posted for the time being, or

(ii) the cause of action, wholly or in part, has arisen;

Provided that with the leave of the Chairman the application may be filed with the Registrar of the Principal Bench and subject to the orders under Section 25, such application shall be heard and disposed of by the Bench which has jurisdiction over the matter."

11. Clause 20.4 of CEN reads thus:-

“Any legal issues arising out of this CEN shall fall within the legal jurisdiction of respective Central Administrative Tribunals under which the RRB/RRC concerned is located.”

12. True it is, that if the clause 20.4 of CEN alone is considered, it gives an impression that the dispute relating to subject recruitment has to be raised before the Bench of the Tribunal at Mumbai, but in any case, clause 20.4 is only a condition of the advertisement, whereas clause (ii) of sub-rule (1) of rule 6 is a statutory provision. The Rules of 1987 shall have precedence over any condition of recruitment/advertisement and hence, the Original Application cannot be rejected or returned.

13. The Railways/Union of India or any instrumentality of State cannot incorporate a condition in the advertisement and confine the jurisdiction to suit its convenience if not whims. The Union of India cannot take away or bar jurisdiction by unilaterally appending a clause in the advertisement.

14. According to us, invoking jurisdiction of the Tribunal under section 19 of the Act of 1985, is essentially a substitute of writ petition under Article 226 of the Constitution of India and therefore, a citizen's right to take remedies cannot be curtailed by way of any administrative instructions or terms of an advertisement.

15. In our considered view, when the RRB, Mumbai has provided and established a center at Udaipur to appear in the examination and when the recruitment was opened to all the citizens residing in length and breadth of this vast country, the persons/candidates situate in different parts of the country cannot be compelled to approach the Tribunal at Mumbai. This according to us, would be violative of fundamental rights of a citizen and such condition in the CEN would be in the teeth of Article 14 of the Constitution of India."

9. Since in the instant case, the respondent no. 2 as well as respondent no. 3, 9th Field Ordnance Depot, both are situated at Kangra, Himachal Pradesh, who had issued the advertisement in the year 2015 for the post of Fireman, Tradesman Mate and Multi-Tasking Staff and the entire selection process was also held in Kangra, Himachal Pradesh and the impugned order was also passed by the respondent no. 2, which is also situated in Himachal Pradesh. In view of the categorical observation by the Apex Court in ***Lt. Col. Khajoor Singh*** (supra), apparently, this Court will not have any jurisdiction to entertain the instant petition.

10. Accordingly, the instant petition is ***dismissed*** for want of jurisdiction.

11. Liberty is granted to the petitioner to approach the courts of appropriate jurisdiction for redressal of his grievance.

(Anish Kumar Gupta,J.)

August 6, 2026

Shubham Arya