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NANDRAM

v.

M/S. GARWARE POLYSTER LTD.

(Civil Appeal No. 1409 of 2016)

B

FEBRUARY 16, 2016

[KURIAN JOSEPH AND ROHINTON FALI NARIMAN, JJ.]

C

Jurisdiction: Service law – Appointment of appellant by respondent as boiler attendant in the Company at Aurangabad – By proceedings, transferred to Pondicherry – Termination from service on account of closure of unit at Pondicherry – Registered office of the company at Aurangabad and the decision to close the establishment at Pondicherry taken at Aurangabad – Complaint before Labour Court at Aurangabad, dismissed for lack of jurisdiction – Held: Labour Court at Aurangabad is well within its jurisdiction to consider the complaint filed by the appellant.

D

Allowing the appeal, the Court

E

HELD: 1. The appellant was employed by the Company in Aurangabad, he was only transferred to Pondicherry, the decision to close down the unit at Pondicherry was taken by the Company at Aurangabad and consequent upon that decision only the appellant was terminated. Therefore, it cannot be said that there is no cause of action at all in Aurangabad. The decision to terminate the appellant having been taken at Aurangabad necessarily part of the cause of action has arisen at Aurangabad.

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Labour Court, Pondicherry is within its jurisdiction to consider the case of the appellant, since he has been terminated while he was working at Pondicherry. But that does not mean that Labour Court in Aurangabad within whose jurisdiction the Management is situated and where the Management has taken the decision to close down the unit at Pondicherry and pursuant to which the appellant was terminated from service also does not have the jurisdiction. In the facts of this case both the Labour Courts have the jurisdiction to deal with the matter. [Para 5] [674-B-E]

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CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1409 of 2016 A

From the Judgment and Order dated 07.06.2011 of the High Court of Judicature at Bombay, Appellate Side Bench at Aurangabad in Writ Petition No. 4968 of 2009.

Manoj Swarup, Ajay Kumar, Ms. Prerna Mann for the Appellant. B

T. K. Prabhakaran, Deepak Prabhakaran, Gopal Jain for the Respondent.

The Judgment of the Court was delivered by

KURIAN, J. 1. Leave granted. C

2. The appellant was employed by the respondent initially as Boiler Attendant in the year 1983 in the Company in Aurangabad. Thereafter he was promoted as Junior Supervisor in the year 1987 and worked in the Aurangabad plant only. In the year 1995, he was again promoted as Senior Supervisor and continued in Aurangabad. However, by proceedings dated 21.10.2000, the appellant was transferred to Silvasa in Gujarat. By another order dated 20.12.2001 he was transferred from Silvasa to Pondicherry. While so, by proceeding dated 12.04.2005, appellant was terminated from service w.e.f. 15.04.2005 on account of closure of the establishment at Pondicherry. It is not in dispute that the registered office of the Company is in Aurangabad and the decision to close the establishment at Pondicherry was taken by the Company at Aurangabad. D E

3. Aggrieved by the termination, appellant moved the Labour Court at Aurangabad in complaint ULP No.56 of 2005. Despite the objection taken by the respondent that the Labour Court lacked jurisdiction, the Court held in favour of the complainant. F

4. Aggrieved, the respondent-Company took up the matter before the Industrial Court at Aurangabad in revision. The Industrial Court at Aurangabad vide order dated 04.07.2009 set aside the order passed by the Labour Court and dismissed the complaint of the appellant holding that the Labour Court at Aurangabad did not have territorial jurisdiction to entertain the complaint of the appellant, since the termination took place at Pondicherry. The appellant moved the High Court of Judicature of Bombay at Aurangabad in Writ Petition No. 4968 of 2009. The High Court by judgment dated 07.06.2011 affirmed the view taken by the Industrial Court and held that the situs of employment of the appellant H

A being Pondicherry, the Labour Court at Aurangabad did not have territorial jurisdiction to go into the complaint filed by the appellant. Thus aggrieved, the appellant is before this Court.

5. Though, the learned counsel on both sides had addressed in detail on several issues, we do not think it necessary to go into all those aspects mainly because in our view they are only academic. In the background of the factual matrix, the undisputed position is that the appellant was employed by the Company in Aurangabad, he was only transferred to Pondicherry, the decision to close down the unit at Pondicherry was taken by the Company at Aurangabad and consequent upon that decision only the appellant was terminated. Therefore, it cannot be said that there is no cause of action at all in Aurangabad. The decision to terminate the appellant having been taken at Aurangabad necessarily part of the cause of action has arisen at Aurangabad. We have no quarrel that Labour Court, Pondicherry is within its jurisdiction to consider the case of the appellant, since he has been terminated while he was working at Pondicherry. But that does not mean that Labour Court in Aurangabad within whose jurisdiction the Management is situated and where the Management has taken the decision to close down the unit at Pondicherry and pursuant to which the appellant was terminated from service also does not have the jurisdiction. In the facts of this case both the Labour Courts have the jurisdiction to deal with the matter. Hence, the Labour Court at Aurangabad is well within its jurisdiction to consider the complaint filed by the appellant. Therefore, we set aside the order passed by the High Court and the Industrial Court at Aurangabad and restore the order passed by the Labour Court, Aurangabad though for different reasons.

6. The Labour Court shall consider the complaint on merits and pass final orders within six months from today. The parties are directed to appear before the Labour Court on 08.03.2016.

7. It is made clear that all other contentions regarding the jurisdiction on other aspects in terms of the Maharashtra Recognition of Trade Union and Prevention of Unfair Labour Practices Act, 1971 are left open since such questions do not arise in the factual matrix of the present case.

8. The appeal is allowed to the above extent with no order as to costs.

Devika Gujral

Appeal allowed.

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