

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.155 of 2026

In

Civil Writ Jurisdiction Case No.9289 of 2022

Sanjay Kumar Singh S/o Sri Umeshwar Prasad Singh, Resident of Village
Patori, P.S. Satar Katiya, District Saharsa.

... .. Appellant/s

Versus

1. Union of India through its Secretary, Ministry of Home Affairs, Jaisalmer House, 26, Mansingh Road, New Delhi-110011.
2. The Director General, Boarder Security Force, Block No.10, CGO Complex-10, Lodi Road, New Delhi-3.
3. The D.G. Command. Frontier Headquarter, B.S.F., Chiloda Road, B.S.F. Campus, Gandhi Nagar, Gujarat, PIN-382045.
4. I.G, B.S.F. Frontier Headquarter, B.S.F., Chiloda Road, B.S.F. Campus, Gandhi Nagar, Gujarat, PIN-382045.
5. The DIG BSF, Headquarter B.S.F., Chiloda Road, Regional Head Office, B.S.F. Campus, Gandhi Nagar, Gujrat, PIN-382045.
6. The Commandant, 53 Bn. BSF, Chiloda Road, B.S.F. Campus, Gandhi Nagar, Gujrat, PIN - 382045.
7. The DIG, SHQ, B.S.F., Chiloda Road, B.S.F. Campus, Gandhi Nagar, Gujrat, PIN-382045.

... .. Respondent/s

Appearance :

For the Appellant/s : Mr. Pravin Kumar, Advocate
For the Respondent/s : Mr. Awadesh Kumar Pandey, Sr. C.G.C.
Mr. Arvind Kumar, C.G.C.
Mr. Lokesh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA

CAV JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 03-07-2026

The appellant by filing the instant Letters Patent
Appeal questions the conclusion of the learned Single Judge
in the impugned Order, dated 31.01.2026 in C.W.J.C. No.



9289 of 2022, whereby the learned Single Judge disposed of the Writ Petition holding that, *“in view of the aforesaid submission, since the cause of action relating to the petitioner has arisen within the State of Chhattisgarh, the present writ petition stands disposed of with liberty to the petitioner to avail his appropriate remedy before the competent court at Chhattisgarh within a period of 90 days from the date of this order. With the aforesaid observations and directions, the present writ petition stands disposed of”*. The appellant seeks the quashing of the impugned order.

2. Before examining the merits of the matter, to consider the matter in its correct perspective, it is essential to briefly summarize the appellant's case.

3. The appellant, an employee of the Border Security Force, joined service on 28.08.1994 and was compulsorily retired on 31.07.2021 vide Order, dated 10.07.2021 at the age of 46.5 years having rendered twenty-seven years service. He alleges that the crux of the matter was the irregularities in the canteen pointed out by him during his posting in 53 Battalion, B.S.F. Respondent No. 6, in retaliation thereto, penalised the appellant for seven days' which the appellant strongly refuted, by filing a representation before the Higher Officer i.e. Respondent No. 3 who set aside his penalty vide Order, dated 25.08.2012. Pursuant to the setting aside of the Order, Respondent No.



6 started harassing the appellant against which the appellant complained, vide his representation, dated 24.10.2019. He was issued a final show-cause notice, dated 13.11.2019 by Respondent No. 6 for retirement of the appellant under B.S.F. Rules, 1969. Thereafter, several communications ensued from the side of the appellant to various authorities assailing the actions against him as being illegal and arbitrary. Ultimately, the appellant approached the Hon'ble High Court of Delhi by filing Writ Petition (C) No. 455 of 2021, dated 11.01.2021, which was disposed of by the Hon'ble High Court on 19.01.2021 with a direction to the respondents to furnish the Inquiry Officer's Report to the appellant and also to process the medical bills of the appellant within two weeks. Despite such directions, the respondents failed to take steps, and instead issued show-cause notice dated 11.06.2021 towards the appellant for retirement on grounds of unsuitability, alleging poor performance, to which he filed his show-cause.

4. Without considering the show-cause of the appellant, the Commandants 53 BN B.S.F. at COB, Phulpar District Kankarbagh (CG) issued a letter bearing Memo No. 8302-13, dated 10.07.2021, by which the appellant was compulsorily retired from service with effect from 31.07.2021, on grounds of unsuitability under Rule 26 of Border Security Force Rules, 1969 (hereinafter referred to as "B.S.F. Rules") read with Rule 40 of CCS (Pension) Rules,



1972.

5. The appellant filed an appeal before the Director General of B.S.F. on 27.07.2021, which was rejected vide Letter/Order, dated 31.01.2022 and the appellant was 'forcefully' retired from service with effect from 31.07.2021. Hence the prayers of the appellant.

6. The learned Single Judge, after considering the rival contentions, passed the impugned order, the relevant portion has been extracted hereinabove.

7. By filing the instant L.P.A., the appellant seeks the following reliefs:-

“(i) To set aside the impugned Judgment;

(ii) For quashing the Order, dated 10.07.2021, passed by the Commandant 53 Battalion, BSF, by which the appellant/petitioner was retired from service with effect from 31.07.2021 and granted pension at the rate of 50 per cent of emoluments or average of emoluments, whichever is higher, with other pensionary benefits and;

(iii) For quashing the Order, dated 31.01.2022, passed by Inspector General, Phantiyar Headquarters, BSF, Gandhi Nagar, Gujarat, by which the plea of the appellant for reinstatement in service was rejected.”

8. Learned counsel for the appellant advanced the contentions that he is only assailing the Order of the learned Single Judge to the extent that the Writ Court had no jurisdiction in the matter. He does seek to agitate the



merits of the case. Relying on the judgment in L.P.A. No. 384 of 2022 of this High Court in **Rameshwar Prasad vs. The Union of India and Ors.**,¹ it was urged that in the said matter, the Writ Court dealt with a similar matter and concluded that an order of dismissal becomes effective only when it is communicated or made known to the person concerned. The appellant herein received his order of dismissal, sent from his place of posting (Srinagar) at his native home situated in Bihar. In such a circumstance, this High Court had the territorial jurisdiction to hear and decide the matter.

9. Reliance was also placed on a decision of the Hon'ble Supreme Court being **Civil Appeal No. 3630 of 2020 in Shanti Devi @ Shanti Mishra vs. Union of India and Ors.**, learned counsel put forth the argument that in the said matter an appeal was filed before the Supreme Court questioning the judgment of the Division Bench of this High Court, in Letters Patent Appeal No. 1265 of 2017 which dismissed the Letters Patent Appeal. The Letters Patent Appeal had been filed against the Judgment of the learned Single Judge, dated 04.08.2017, by which the Writ Petition No. 5999 of 2014 was dismissed, by the learned Single Judge, on the ground of lack of territorial jurisdiction. The Hon'ble Supreme Court while setting aside the decision of the Division Bench of this High Court (supra)

1 2003 (2) PLJR 151



observed that the learned Single Judge and the Division Bench had failed to notice the decision of its own High Court in **Saryu Singh vs. The Union of India and Ors.**,² and allowed the case of **Shanti Devi** (supra) with the observation that both the Single Judge and the Division Bench were in error in dismissing the Writ Petition on ground of territorial jurisdiction. The Writ Petition was accordingly revived before this High Court. It is urged by learned counsel that in the instant case, the same consideration ought to be extended to the appellant as a part of cause of action arose in the territorial jurisdiction of this Court.

10. *Per contra*, learned counsel for the State-Respondents supported the impugned Order and contended that it did not warrant any interference.

11. Having given due consideration to the rival submissions advanced by learned counsel for the parties and perused all materials on record, in the first instance, it would be worthwhile to contemplate on Article 226(2) of the Constitution of India, which is extracted hereinbelow for convenience:-

*“ 226. Power of High Courts to
issue certain writs.-*

(1).....

*(2) The power conferred by
clause (1) to issue directions,
orders or writs to any*

² 2015 (2) PLJR 256,



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 to residence of such person is not within those territories.

.....
....”

12. A bare perusal of the provision is revelatory of the fact that even if a part of the cause of action accrues within the jurisdiction of the Court, it will lend jurisdiction in the matter. On this facet, it would be worthwhile to walk back in the time when, in 1963, by the Constitution (Fifteenth) Amendment, Clause (1-A) was inserted in Article 226 of the Constitution of India, which was subsequently renumbered as Clause (2), by the Constitution (Forty-second) Amendment Act of 1976. Pursuant to the insertion of this provision, the High Court could issue a writ when the person or the Authority against whom the writ is issued, is located outside its territorial jurisdiction, if the cause of action wholly or partially arises within the Court’s territorial jurisdiction.

12.1 In ***Kusum Ingots and Alloys Ltd.*** vs. ***Union of India and Another***,³ the Hon’ble Supreme Court held that, although in view of Section 141 of the Code of

3 (2004) 6 SCC 254



Civil Procedure, 1908 (for short "CPC"), the provisions of Section 20(c) of the CPC would not apply to Writ proceedings, however, the phraseology used in Section 20(c) of the CPC and Clause (2) of Article 226 of the Constitution, being in *pari materia*, the decisions of the Supreme Court rendered on interpretation of Section 20(c) of the CPC, shall apply to the Writ proceedings also. That, keeping in view the expressions used in Clause (2) of Article 226 of the Constitution, indisputably even if a small fraction of cause of action accrues within the jurisdiction of the Court, the Court will have jurisdiction in the matter. That, although cause of action has not been defined in any statute, but judicially interpreted would, *inter alia*, mean every fact which would be necessary for the Plaintiff to prove, if traversed, in order to support his right to the judgment of the Court. Relevantly it is worth noticing that in ***Kunjan Nair Sivaraman Nair vs. Narayanan Nair and Ors.***⁴, the Court explained the expression 'cause of action' while referring to the definition elucidated in Halsbury's Laws of England which explained as follows:-

16. *The expression "cause of action" has acquired a judicially settled meaning. In the restricted sense cause of action means the circumstances forming the infraction of the right or the immediate occasion for the action. In the wider sense, it means the necessary conditions for the maintenance of the*

4 (2004) 3 SCC 277



suit, including not only the infraction of the right, but the infraction coupled with the right itself. Compendiously the expression means every fact which would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court. Every fact which is necessary to be proved, as distinguished from every piece of evidence which is necessary to prove each fact, comprises in "cause of action".

17. 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 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."

12.2. In **Nawal Kishore Sharma vs. Union of India and Others**",⁵ the Appellant therein was employed in the Off-Shore Department of the Shipping Corporation of India and on medical examination found unfit for service at sea. His registration as a seaman was

5 (2014) 9 SCC 329



cancelled and a copy of the letter sent to the Appellant in Bihar, his native place, where he had settled, after being found medically unfit. The Appellant sent a representation from his home to the Respondents, claiming disability compensation to which, a response was sent by the employer. The Hon'ble Supreme Court found that, the employer had issued the order cancelling his registration as seaman, to his Gaya address, where he had settled and all claims and representations were made by the Petitioner from his home address at Gaya. These were entertained by the Respondent and responded to in his Bihar address. It was held that the Writ Petition ought not to have been dismissed for want of territorial jurisdiction, as a part or fraction of cause of action arose within the jurisdiction of the Patna High Court.

13. A bench of this Court in **Rameshwar Prasad vs. The Union of India & Ors.** (supra) was dealing with a matter wherein the petitioner/appellant was dismissed from service and he received his order of dismissal by post having been sent from his place of posting (Srinagar) to his native home situated in Bihar. This Court was of the following view:-

"6. Admittedly the appellant is a resident of the State of Bihar and he has been dismissed from service on the ground that he was on unauthorized leave. The assertion of the appellant-writ



petitioner is that the order of dismissal and the appellate order might have been passed at Srinagar and New Delhi but those orders were made known to him through communications at his village situate in the District of Ara, Bihar and in support of the said facts he has relied upon the two Annexures-'9' & '10' respectively. Learned single Judge relied upon the averments made in paragraph 5 of the counter affidavit wherein it has been stated that adverse orders have been passed, issued and communicated to the petitioner at Srinagar in the State of Jammu & Kashmir and as such this Court has no territorial jurisdiction so as to decide the controversy involved in this case.

7. The law is well settled that so far the order of dismissal is concerned that becomes effective only when it is communicated or made known to the person concerned. There is no averment in the written statement that the order of dismissal was communicated or served personally to the appellant at Srinagar or it was made known to him at that place. The fact is that it was sent from that place through post to him and was served upon him at his village home. It does not mean that the order of dismissal was brought to his knowledge at his place of posting at Srinagar. As the order of dismissal was sent to the appellant-writ petitioner at his village home and received by him there, the order became known to



him at his village home situate in the State of Bihar, and as such this Court has the territorial jurisdiction to hear and decide the matter. Accordingly the impugned order passed by the learned single Judge is set aside and the matter is remanded for fresh consideration in accordance with law."

14. On the anvil of the foregoing legal position while examining the case of the appellant, it is evident that Annexure-10 is a representation, dated 13.09.2021 addressed by the appellant from his native place in Bihar to the Director General, Border Security Force, Lodhi Road, New Delhi. In response to the above communication, the Director General, Border Security Force responded vide Annexure- R-7 to the appellant at his address in Bihar, Saharsa. It is also seen that the Assistant Commandant of the Border Security Force has addressed a letter to the appellant vide Annexure- R-8, dated 08.06.2022 refusing to reinstate the appellant on grounds that the representation filed by him lacks in merit.

15. In view of the foregoing circumstances, we are of the considered view that a part of the cause of action has arisen in the State of Bihar. In the consequent obtaining circumstances, an error arises in the finding of the learned Single Judge which dismissed the Writ Petition on grounds of lack of jurisdiction.



16. Accordingly on the question of jurisdiction, the impugned Order, dated 31.01.2026 passed in C.W.J.C. No. 9289 of 2022, is set aside. The Writ Petition being C.W.J.C. No. 9289 of 2022, is revived and the matter shall be heard on merits by the learned Single Judge.

17. At this juncture, it is relevant to reiterate that learned counsel for the appellant emphasized before this Court that he is not agitating the merits of his case before this Court.

18. The instant Letters Patent Appeal stands disposed of accordingly.

19. Interlocutory Application(s), if any, also stand disposed of.

(Meenakshi Madan Rai, CJ)

(Soni Shrivastava, J)

Guddukr/-

AFR/NAFR	
CAV DATE	24.06.2026
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