*** THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI**
&
***THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI**

+ WRIT PETITION NO: 16397 of 2026

% 29.09.2026

The Union Of India and Others

……Petitioners

And:

$Kunda Pradeep Babu and Others

….Respondents.

!Counsel for the petitioners : JUPUDI V.K. YAGNADUTT(CENTRAL GOVERNMENT COUNSEL)

^Counsel for the respondents : T. SREEDHAR

<Gist:
>Head Note:
? Cases referred:
1.(2024) 12 SCC 292
2.(2022) 3 SCC 133
3.1960 SCC OnLine SC 12
4.2026 SCC OnLine SC 1098
5.AIR 1953 SC 210
6.AIR 1954 SC 207
7.(2000) 7 SCC 640
8.(1994) 4 SCC 711
9.(2002) 1 SCC 567
10.(2004) 6 SCC 254
11.(2014) 9 SCC 329
12.(2023) 7 SCC 791
13.(1997) 3 SCC 261
14.(2024) 13 SCC 1
15.2026 SCC OnLine SC 1098
16.(2022) 3 SCC 133
17.(1997) 4 SCC 357
18.2006(9)SCC 583

HIGH COURT OF ANDHRA PRADESH

*** * * ***

WRIT PETITION NO: 16397 of 2026

DATE OF JUDGMENT PRONOUNCED: 29.09.2026

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE RAVI NATH TILHARI

&

THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI

1. **Whether Reporters of Local newspapers may be allowed to see the Judgments?** **Yes/No**
2. **Whether the copies of judgment may be marked to Law Reporters/Journals** **Yes/No**
3. **Whether Your Lordships wish to see the fair copy of the Judgment?** **Yes/No**

RAVI NATH TILHARI, J

PURUSHOTTAM KUMAR CHINTALAPUDI,J

Date of reserved for orders : 03.08.2026

Date of pronouncement :29.09.2026

Date of uploading :29.09.2026

APHC010301352026 [3601]

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WRIT PETITION NO: 16397 of 2026

The Union Of India and Others ...Petitioner(s)

Vs.

Kunda Pradeep Babu and Others ...Respondent(s)

****

CORAM : SRI JUSTICE RAVI NATH TILHARI
SRI JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI

DATE : 29th September 2026

Present:

Advocate for Petitioner: JUPUDI V K YAGNADUTT(CENTRAL GOVERNMENT COUNSEL)

Advocate for Respondent: T SREEDHAR

JUDGMENT: (per Hon'ble Sri Justice Ravi Nath Tilhari)

Heard Sri Challa Dhananjay, Additional Solicitor General of India, assisted by Sri Jupudi V K Yagnadutt, Central Government Counsel, for the petitioners and Sri T. Sreedhar, learned counsel for the respondent.

I. Order under challenge:

2. The Union of India, Ministry of Railways, along with others (writ petitioners) have filed this writ petition challenging the Order dated 28.01.2026 in O.A.No.933 of 2025 passed by the Central Administrative

Tribunal, Hyderabad Bench, Hyderabad (in short 'CAT'). The said O.A was filed by the present respondent (applicant), challenging the Order of Transfer issued by the Director/Estt. (Spl.), Railway Board, vide proceedings No.E(O)III-2025/TR/437, dated 29.08.2025.

3. The applicant was transferred by the said Order from SS/IRAS/South Central Railway to North Eastern Railway and posted in the cadre against an existing vacancy.

4. The O.A has finally been allowed. The order of transfer has been set aside. The writ petitioners were directed to allow the applicant to continue his services at Secunderabad with certain other directions and also granting the liberty to the writ petitioners to take appropriate action if the applicant committed any breach of the conditions imposed by the High Court while granting bail to the applicant.

II. Facts:

5. The applicant was initially given appointment in the Indian Railway Accounts Service (IRAS) vide appointment order No.2015/E (GR-I) 10/2, dated 04.12.2015. While working at Guntakal Division, Andhra Pradesh, the applicant was charged for the offences punishable under Section 61 (2) of Bharatiya Nagarik Suraksha Sanhita (BNSS) Act, 2023 (Criminal Conspiracy) and under sections 7, 8, 9, 10 & 12 of Prevention of Corruption Act (in short 'PC Act'), wherein the applicant along with several employees were apprehended by the Central Bureau

of Investigation (CBI) while laying a trap in Rc.No.2182024A0013/CBI/AC-III/New Delhi and the said crime was under investigation by the CBI. The applicant was detained beyond 48 hours by CBI and so he was placed under suspension which was subsequently extended from time to time, but finally, on the recommendations of the Review Committee, the Deputy Secretary, Railway Board had revoked the suspension of the applicant vide proceedings dated 26.08.2025. Thereafter, the applicant was transferred from South Central Railway (SCR) with immediate effect to North Eastern Railway (NER) vide Office Order dated 29.08.2025 and was consequentially relieved by relieving Order No.077 of 2025, dated 01.09.2025 issued by the Railway Board against the existing vacancy at North Eastern Railway.

6. The applicant being aggrieved from the order of transfer dated 29.08.2025 approached the Central Administrative Tribunal, Hyderbad Bench, Hyderabad in O.A.No.933 of 2025 in which he also prayed for suspension of the Order of relieving dated 01.09.2025, which the CAT declined to grant. The applicant then filed W.P.No.29679 of 2025 on 24.09.2025 in the High Court for the State of Telangana at Hyderabad, which was disposed of vide Order dated 26.09.2025 with a direction to the Central Administrative Tribunal to dispose of the stay application within a period of two weeks and also directed the writ petitioners to

continue the applicant at Guntakal till the adjudication of the stay application by the CAT. Pursuant to the said Order, the applicant reported to duty on 17.10.2025 before the Office of the Principal Financial Adviser's Officer, South Central Railway at Secunderabad, and later on the applicant made a representation dated 17.10.2025 to post him to a non-sensitive post at Guntakal of South Central Railway Headquarters, as also for payment of salary. The writ petitioners' case is that the period of absence from duty of the applicant from relieving date i.e., from 01.09.2025 from South Central Railway until the date of reporting at Headquarters of South Central Railway on 17.10.2025 (from 01.09.2025 to 16.10.2025) was not regularized. The applicant's request made by such representation was deferred.

7. In the OA, the applicant, *inter alia,* submitted that the CBI conducted searches on 04.07.2024 and implicated him as Accused No.2, and he was arrested on 05.07.2024. However, he was granted conditional bail in Crl.R.C.No.620 of 2024, vide Orders in I.A.No.1 of 2024, dated 02.08.2024 by the High Court of Andhra Pradesh. The conditions of the bail granted in the said Order were subsequently relaxed vide Order dated 09.12.2024 in I.A.No.3 of 2024.

8. The applicant also stated about his grievances or inconveniences, to be faced by such transfer Order to North Eastern Railways, including his personal grievances with respect to the health

issues and of his wife. The applicant also raised the point that the Order of Transfer was passed without providing an opportunity of hearing to him. The Order of Transfer as also the Relieving Order were said to be in violation of the Order dated 09.12.2024 granting bail, as also the Order dated 26.09.2025 in W.P.No.29679 of 2025 by the High Court for the State of Telangana, under which direction was issued to continue the applicant in Guntakal till adjudication of his stay application by the Central Administrative Tribunal.

9. The applicant also raised the issue before the CAT that the South Central Railway was further sub-divided and the Guntakal Region was merged with South Coastal Railway Zone (SCRZ) with Headquarters at Visakhapatnam, and at that time the applicant was reporting to South Central Railway at Secunderabad, which in his submission, was altogether a different zone, pursuant to the Orders of revocation of suspension. The prayer was made to declare the Order of Transfer, as also the Relieving Order, as void having been passed without providing an opportunity of hearing.

10. The writ petitioners (respondents in OA) filed their counter opposing the O.A. It was submitted that the applicant was under deemed suspension with effect from 05.07.2024 to 27.08.2025, following his arrest and detention by CBI, Anti Corruption Bureau-III on 04.07.2024 and his suspension was revoked on 26.08.2025 and the decision was taken by

the competent authority that the applicant should be transferred out of his present railway zone to avoid any possibility of the applicant in influencing the witnesses or hampering of the CBI investigation and be posted against a non-sensitive post. The applicant was transferred from South Central Railway to North Eastern Railway. The applicant did not raise any grievance on administrative side, i.e., by filing representation raising his personal grievances or problems. It was submitted that the transfer is an incidence of service, so, the applicant must have reported at work place of transfer and then ought to have made representation. The medical conditions of the applicant, as also of his wife, as mentioned in the OA, were said to be an afterthought, stated only on receipt of his transfer order, as the same were not previously reported. The recommendations of the Suspension Review Committee had the approval of the Cadre Controlling Authority (CCA) in Railway Board's office. So, the applicant was ordered for transfer from South Central Railway to North Eastern Railway on administrative exigency. The applicant was a Group-A Officer in Indian Railway Accounts Service having all India transfer liability. The Order of Transfer was in accordance with law and the conditions of service of the applicant, under administrative exigencies.

11. The applicant filed rejoinder affidavit reiterating his stand as was taken in the OA. It was further stated that the Zonal Railway transfer from Guntakal division of South Central Railway to North Eastern Railway

with its headquarters at Gorakhpur was unfair and contrary to mandatory procedure governing posting of Senior Scale Officers with IRAS rank, and the Suspension Review Committee had no authority to recommend transfer. So, any administrative action based on such recommendation was beyond its jurisdiction and was a colourable exercise of power.

III. Order of Central Administrative Tribunal dated 28.01.2026:

12. The Central Administrative Tribunal on consideration of the case of the parties as also the submissions advanced from both the sides allowed the OA. It considered and recorded the reasons for its Order. The CAT in its Order observed that in the pending OA, pursuant to the directions of the Tribunal, the writ petitioners filed instructions from the Railway Board dated 02.12.2025 and stated that since the CBI enquiry was still pending and there was no change in the administrative situation, the original transfer order dated 29.08.2025 should be maintained. There was no feasibility of accommodating the applicant to any nearer place outside Telangana and Andhra Pradesh. But considering the directions of the High Court for the State of Telangana at Hyderabad in W.P.No.29679 of 2025, dated 26.09.2025, the applicant was retained at Headquarters at Secunderabad temporarily vide Orders dated 07.01.2026 in MA.No.30 of 2026. The CAT observed that in spite of the Order of the High Court for the State of Telangana, staying the transfer order dated 29.08.2025, directing to continue the applicant at Guntakal till his stay

application was adjudicated by the Tribunal, the writ petitioners while implementing the said Order, instead of allowing the applicant to resume his duties at original place of work i.e., at Gunthakal, they posted the applicant at Headquarters Secunderabad where the applicant had joined and had been serving at Secunderabad. The main reason, according to the CAT for transferring the applicant from out of Gunthakal division was to avoid influencing of witnesses or tampering evidence, though no such reason was assigned in the transfer order. The CAT further observed that on enquiry being made from the learned Assistant Solicitor General and the officials present from the Office of the Headquarters, Secunderabad upon joining of the applicant at Secunderabad on the point as to whether the applicant was interfering with the investigation of the CBI or was indulging in any objectionable activities, the Tribunal was informed that they had not received any such complaint against the applicant. The Tribunal thereafter, recorded in paras-11 and 12 that the health issues of the applicant and his wife and she having delivered a son on 28.08.2025, and there was no other family member, except the applicant's wife's mother to look after the newly born child and the applicant's wife, so, if the applicant was forced to join at the transferred place, it would not only cause hardship to the applicant, but also to his family, the Tribunal taking into account that there were vacancies at Secunderabad where the applicant was working at the headquarters

under South Central Railways and that the applicant was earlier posted at Gunthakal prior to the order of transfer, which came under South Coast Railway after bifurcation of the South Central Railway into two zones and that the writ petitioners themselves modified the original transfer place while posting him at Secunderabad, held that the impugned Order of Transfer dated 29.08.2025 had to be declared as null and void. Thus, in view of the domestic problems and the health issues coupled with the fact that the applicant was not indulging in any activities detrimental to the administration nor interfering with the investigation by CBI, the OA was allowed and the Order of Transfer was quashed by the Tribunal. The direction was issued to allow the applicant to continue his services at Secunderabad, his present posting place observing further that, that would also enable the applicant to comply with the conditions imposed by the High Court of Andhra Pradesh in Crl.RC.No.620 of 2024 while granting bail. At the same time, the Tribunal also granted liberty to the writ petitioners to take appropriate action if the applicant committed any breach of conditions imposed in the bail order.

13. The directions issued by CAT as in paras-12 to 14 are reproduced as under:

> "12. Considering the circumstances, with the domestic problems and health issues of the applicant as well as his wife and in view of the fact that the applicant is not indulging in any activities detrimental to the administration nor interfering with the investigation, we are of the view that the applicant cannot

be insisted to carry out the impugned transfer order. Accordingly, the OA succeeds and the impugned order is quashed and set aside.

13. The respondents are directed to allow the applicant to continue his services at Secunderabad, where he is presently working. It is also in the interest of the respondents that the applicant continues at Secunderabad, thereby the condition imposed by the Hon'ble High Court not to give access to the applicant to the concerned office to avoid tampering of evidence is also complied with. However, the respondents are at liberty to take appropriate action if the applicant commits any breach of the conditions imposed by the Hon'ble High Court while granting bail.

14. The OA is allowed in above terms. MA/30/2026 stands closed. There shall be no order as to costs."

IV. Submission of the learned counsel for parties:

14. Sri Challa Dhananjay, Additional Solicitor General of India, submitted that the Order of the Tribunal cannot be maintained. He submitted that the law is well settled that the transfer is an incidence of service. The applicant's post is a transferable post and he can be transferred at any place in India. He submitted that there are well recognized grounds on which only, an order of transfer is open for interference. No such ground existed in the present case. The interference by the Tribunal with the Order of Transfer is on the grounds of the alleged personal problems, may be health issues or the distance, but in every transfer there are bound to be some issues, however, that would not be the ground on which the Order of Transfer could be interfered with. He submitted that in any case, the applicant must have obeyed the Order of Transfer first by joining at the transferred place and

thereafter, in case of any grievance, the proper way was to make a representation to the competent authority, which should have taken into consideration those factors, and could have passed an appropriate order, but it was not open for the Tribunal to interfere with the Order of Transfer on such grounds, it being an incidence of service.

15. Learned counsel for the writ petitioners placed reliance on the judgment of the Hon'ble Apex Court in ***Sri Pubi Lombi v. The State of Arunachal Pradesh***[1] to contend that the scope of judicial review is only available when there is a clear violation of statutory provision or the transfer is persuaded by *mala fide.* Non-observation of executive instructions does not confer a legally enforceable right to an employee holding a transferable post. He submitted that there was no violation of any statutory provision. The Order of Transfer was passed in the exigency of service on administrative grounds.

16. Sri T. Sreedhar, learned counsel for the applicant raised a preliminary objection to the maintainability of the writ petition in the High Court of Andhra Pradesh. He submitted that this Court has no territorial jurisdiction to entertain the writ petition under Article 226 of the Constitution of India. He submitted that the OA was decided by the Central Administrative Tribunal at Hyderabad, which falls in the State of Telangana. Previously, when in the OA interim relief was not granted by the Tribunal, the applicant approached the High Court for the State of

[1] (2024) 12 SCC 292

Telangana in W.P.No.29679 of 2025. The said writ petition was decided on 26.09.2025 after affording opportunity of hearing to the present writ petitioners. But in the said writ petition any objection with respect to the territorial jurisdiction of the High Court for the State of Telangana was not raised. The writ petitioners submitted to the jurisdiction of the High Court for the State of Telangana and consequently they are now estopped from challenging the final order of the Tribunal in this Court (High Court of Andhra Pradesh). He submitted that the remedy of the writ petitioners under Article 226 of the Constitution of India, is before the High Court for the State of Telangana.

17. Learned counsel for the applicant submitted that the cause of action has no relevance to determine the territorial jurisdiction of the High Court. He placed reliance in ***Union of India v. Alapan Bandyopadhyay***[2], ***Lt.Col.Khajoor Singh v. Union of India***[3] and ***Baksish Ahmad v. Union of India***[4].

18. Learned counsel for the applicant further submitted that any such objection was also not raised in the OA by the writ petitioners that the Tribunal at Hyderabad had no jurisdiction. He submitted that if according to the writ petitioners, the jurisdiction, cause of action was within the territorial jurisdiction of the Andhra Pradesh falling within the

[2] (2022) 3 SCC 133
[3] 1960 SCC OnLine SC 12
[4] 2026 SCC OnLine SC 1098

jurisdiction of this Court, such an objection with respect to the maintainability of OA at Hyderabad should also have been raised.

19. He submitted that at the time the Order of Transfer was passed the applicant was working at the Headquarters, South Central Railway. The territorial jurisdiction is not with this Court. The Order of Transfer has been issued from SS/IRAS/South Central Railway to North Eastern Railway by the Director/Estt (Spl), Railway Board, vide proceedings No.E(O)III-2025/TR/437, New Delhi, dated 29.08.2025.

20. Sri T. Sreedhar, learned counsel for the respondent/applicant, further submitted that the preliminary objection with respect to the territorial jurisdiction of this Court should be decided first and only thereafter, the matter could be proceeded with on the merits.

21. On such submission, learned counsel for the applicant initially avoided from advancing any arguments on the merits of the matter, submitting that the objection with respect to the territorial jurisdiction be decided first.

22. On the aspect of maintainability of the writ petition on the ground of territorial jurisdiction in the High Court of Andhra Pradesh, Sri Challa Dhananjay, learned Additional Solicitor General of India, for the writ petitioners, submitted that the transfer of the respondent/applicant is in fact from Gunthakal in South Central Railway to the North Eastern Railway, so, the transfer is from a place in the State of Andhra Pradesh.

The OA was filed, initially in the State of Andhra Pradesh, at the Circuit Bench at Vijayawada of the Central Administrative Tribunal, Hyderabad. He submitted that the Central Administrative Tribunal at Hyderabad is for both the States i.e., State of Telangana, and also for the State of Andhra Pradesh. The OA was specifically referred 'from Andhra Pradesh' and was numbered as O.A.No.933 of 2025 (**Andhra Pradesh**). He submitted that though the Central Administrative Tribunal is in the State of Telangana at Hyderabad, but for the purposes of the service matters of the Central Government employees in Andhra Pradesh, the Central Administrative Tribunal at Hyderabad is the Central Administrative Tribunal for Andhra Pradesh, and therefore, for those matters from Andhra Pradesh, the territorial jurisdiction will be of the High Court of Andhra Pradesh though the Central Administrative Tribunal is situated at Hyderabad. He submitted that it cannot be said that there is no territorial jurisdiction when the Order has been passed by the Central Administrative Tribunal at Hyderabad in the matters of the State of Andhra Pradesh.

23. Sri Challa Dhananjay, learned Additional Solicitor General of India, further submitted that the applicant was granted bail in Crl.RC.No.620 of 2024 (Accused No.2) in I.A.No.1 of 2024, subject to the conditions imposed, out of which, conditions 2 and 3 read as under:

> "2. A1 and A2 are restrained from taking access to their respective offices and to the office records during the period they are on bail.

3. They shall mark their attendance before the investigating officer on every Saturday between 11.00 AM and 2.00 PM and thereby making themselves available for investigation."

He submitted that so far as Condition No.3 is concerned, the same was slightly modified by Order dated 09.12.2024 to the following effect, and on such modification, Condition No.3 reads as under:

"A1 and A2 shall mark their attendance on 5th of every month between 11.00 AM and 2.00 PM at CBI Office, Hyderabad. It is hereby made clear that rest of the bail conditions shall stand intact."

He submitted that the only change was with respect to the attendance of the applicant that instead of 'every Saturday' to 'every month'. He submitted that Condition No.1 was not changed. Condition No.1 reads as under:

"1. Petitioners/A1 and A2 shall be released on interim bail on each executing a personal bond for a sum of Rs.30,000/- (Thirty thousand only) each to the satisfaction of the learned Special Judge for CBI Cases, Kurnool."

24. The submission is that the applicant was required to attend the enquiry only once in a month after the modified condition No.3 of the bail order, which could be attended without any inconvenience in spite of the order of transfer, though he further submitted that the hardship or inconvenience is no ground to interfere with the order of transfer.

V. Points for determination:

25. In view of the submissions advanced, the following points arise for our consideration:

A. Whether this Court (High Court of Andhra Pradesh) has territorial jurisdiction over the subject matter so as to entertain the writ petition under Article 226 of the Constitution of India?

B. Whether the impugned Order dated 28.01.2026 of the Central Administrative Tribunal, interfering with the Order of Transfer, can be sustained on the grounds it has been passed?

VI. Analysis:

26. We make it clear that so far as Point No.B is concerned, we will enter into that aspect only if we are satisfied on Point No.A that the writ petition is maintainable by the High Court of Andhra Pradesh. If there is no territorial jurisdiction, certainly we would not enter into the legality of the impugned judgment of the Central Administrative Tribunal. But if we reach the conclusion on point No.'A' that the writ petition is maintainable in the High Court of Andhra Pradesh, it having territorial jurisdiction, the legality or otherwise of the impugned judgment of the Central Administrative Tribunal would be considered in the light of the submissions advanced, as also the law on the subject of transfer.

Point No.A:

Territorial jurisdiction of the High Court under Article 226 of the Constitution of India:

27. Article 226 of the Constitution of India reads as under:

"226. Power of High Courts to issue certain writs:

(1) Notwithstanding anything in article 32 every High Court shall have powers, throughout the territories in relation to which it exercise jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warrantor and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

[(1-A) The power conferred by clause (1) 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."; was inserted after 15th Amendment]

[**Editorial comment**-The Constitution (Fifteenth Amendment) Act, 1963, this was amended to include clause (1A). It states that the High Court, whose territorial jurisdiction the cause of action originates under, may also have the ability to issue directives, orders, or writs to any government, authority, or person, even if their seat or place of abode is beyond the high court's territorial jurisdiction.]

(2) The power conferred by clause (1) 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 scat of such Government or authority or the residence of such person is not within those territories.

(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause (1), without—

a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

b) giving such party an opportunity of being heard, makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the said next day, stand vacated.

(4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme Court by clause (2) of article 32."

28. Sri T. Sreedhar, learned counsel for the respondent/applicant, vehemently placed reliance on the judgment of the Hon'ble Apex Court in ***Lt. Col. Khajoor Singh*** (supra) to contend that the concept of cause of action is alien to Article 226 of the Constitution of India. He submitted that the said concept is to be applied with respect to the suits, while considering the territorial jurisdiction, but when it comes to the writ petition under Article 226 of the Constitution of India, in view of that judgment of the Constitution Bench the question of cause of action or part of cause action does not arise at all. He referred to the various paragraphs from

that judgment. Consequently, we are referring to that judgment, though Constitution (Article 226) was amended after the judgment in ***Lt. Col. Khajoor Singh*** (supra) and the law on determination of the territorial jurisdiction of the High Court stands deleted to great extent.

29. In ***Lt.Col.Khajoor Singh*** (supra) two questions arose for consideration by the Constitution Bench consisting of Seven Hon'ble Judges. The first question was,

i. "whether the Government of India as such can be said to have a location in a particular place viz. New Delhi, irrespective of the fact that its authority extends over all the States and its officers function throughout India"

and the second question was,

ii. "whether there is any scope for introducing the concept of cause of action as the basis of exercise of jurisdiction under Article 226".

30. On the first question, namely, whether the Government of India as such can be said to have a location in a particular place viz. New Delhi, the main argument advanced was 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. The Hon'ble Apex Court with respect to that argument observed that, that argument confused 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. The Hon'ble Apex Court observed that what was to be seen was 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? Referring to Article 226 of the Constitution as it stood then, the Hon'ble Apex Court observed that 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? It was observed that 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 was further observed 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, is aggrieved by an order passed by an authority located, 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. The Hon’ble Apex Court held that it would, therefore, 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. The Hon’ble Apex Court, held that the relevant words of Article 226 as read, 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. The Hon'ble Apex Court reiterated that 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. 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". 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 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.

31. The Hon'ble Apex Court, with respect to the seat of a Government, observed that, whether the seat of a Government is mentioned in the Constitution or not, there is undoubtedly a seat from which the Government as such functions as a fact. What Article 226 requires is residence or location as a fact and if therefore there is a seat

from which the Government functions as a fact even though that seat is not mentioned in the Constitution the High Court within whose territories that seat is located will be the High Court having jurisdiction under Article 226 so far as the orders of the Government as such are concerned.

32. In ***Lt. Col. Khajoor Singh*** (supra), the view taken in *Election Commission, India v. Saka Venkata Subba Rao* and *K.S. Rashid and Son v. Income Tax Investigation Commission*, in which it was held that there are two-fold limitations on the power of the High Court to issue writs etc. under Article 226, namely,

(i) the power is to be exercised 'throughout the territories in relation to which it exercises jurisdiction', that is to say, the writs issued by the court cannot run beyond the territories subject to its jurisdiction, and

(ii) the person or authority to whom the High Court is empowered to issue such writs must be "within those territories" which clearly implies that they must be amenable to its jurisdiction either by residence or location within those territories, was held to be the correct view.

33. On the second question, namely whether it was possible to introduce the concept of cause of action in Article 226 so that the High Court in whose jurisdiction the cause of action arose would be the proper one to pass an order thereunder, the Hon'ble Apex Court in ***Lt. Col. Khajoor Singh*** (supra) held that Article 226 as it stands does not refer

anywhere to the accrual of cause of action and to the jurisdiction of the High Court depending on the place where the cause of action accrues being within its territorial jurisdiction. The proceedings under Article 226 are not suits; they provide for extraordinary remedies by a special procedure and give powers of correction to the High Court over persons and authorities and these special powers have to be exercised within the limits set for them. One of limitations is that the person or authority concerned must be within the territories over which the High Court exercises jurisdiction. The Hon'ble Apex Court held that it would be going, in the face of the express provision in Article 226 and doing away with an express limitation contained in Article 226, if the concept of cause of action were to be introduced. The concept of cause of action cannot be introduced in Article 226, for by doing so would be doing away with the express provision contained therein which requires that the person or authority to whom the writ is to be issued should be resident in or located within the territories over which the High Court has jurisdiction.

34. So far as the aforesaid second question is concerned, the concept of part of cause of action was considered irrelevant or non-considerable to determine the territorial jurisdiction of the High Court in its writ jurisdiction under Article 226 for the reason that Article 226 as it stood at that time, there was no concept under Article 226 for 'cause of action'. The writ proceedings were not the civil suits, so as to apply that concept

of part of cause of action from the Code of Civil Procedure, 1908 as applicable to suit or other proceedings, and the writ proceedings being not covered under other proceedings in Code of Civil Procedure.

35. So, on the first question it was held in **Lt. Col. Khajoor Singh** (supra) that the only limitation is that the person or authority to whom the writ is to be issued is to be resident in or be located in an area over which the High Court had the jurisdiction.

36. Learned counsel for the respondent placed much reliance in the judgment of ***Lt.Col.Khajoor Singh*** (supra) to contend that writ can be issued only to the person, resident in or the authority located within the territories over which the High Court exercises jurisdiction. The concept of part of cause of action is not to be introduced while determining the territorial jurisdiction for the cases of Article 226 of the Constitution. It was so held in ***Lt.Col.Khajoor Singh*** (supra).

37. No doubt it has been so laid down in the aforesaid judgment of ***Lt.Col.Khajoor Singh*** (supra), on both the questions, but the said judgment was rendered on 05.12.1960. Thereafter, Article 226 of the Constitution of India has been amended, Clause (IA) was inserted and thereafter, it was renumbered as Clause(2) specifically referring to the “cause of action wholly or in part” and “notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories”.

38. We are therefore of the view that now it cannot be argued on the strength of **Lt. Khajoor Singh** (supra) that while considering the territorial jurisdiction in the context of the maintainability of the writ petition before the High Court, the concept of cause of action is not relevant or is wholly irrelevant. We are of the view that the cause of action wholly or in part if arises within the territorial jurisdiction of a particular High Court, the writ petition would be maintainable in that High Court in view of Clause (2) of Article 226 of the Constitution of India.

39. We shall now refer the judgments of the Hon'ble Supreme Court on the aforesaid aspect, i.e., after the amendment of Article 226 of the Constitution of India, which also took into consideration ***Lt. Col. Khajoor Singh*** (supra) and ***Election Commission v.Saka Venkata Rao***[5], and ***K. S. Rashid and Son v. Income Tax Investigation Commission***[6], which were affirmed in ***Lt. Khajoor Singh*** (supra).

40. In ***Navinchandra N. Majithia v. State of Maharashtra***[7] on the point of territorial jurisdiction of the High Court in the context of Clause (2) of Article 226 of the Constitution, the Hon'ble Apex Court held as under in paragraphs 17, 18, 19 and 20 as under:

> "**17.** From the provision in clause (2) of Article 226 it is clear that the maintainability or otherwise of the writ petition in the High Court depends on whether the cause of action for filing the same arose, wholly or in part, within the territorial jurisdiction of that Court.

[5] AIR 1953 SC 210
[6] AIR 1954 SC 207
[7] (2000) 7 SCC 640

18. In legal parlance the expression "cause of action" is generally understood to mean a situation or state of facts that entitles a party to maintain an action in a court or a tribunal; a group of operative facts giving rise to one or more bases for suing; a factual situation that entitles one person to obtain a remedy in court from another person. (*Black's Law Dictionary*)

19. In *Stroud's Judicial Dictionary* a "cause of action" is stated to be the entire set of facts that gives rise to an enforceable claim; the phrase comprises every fact, which, if traversed, the plaintiff must prove in order to obtain judgment.

20. In "*Words and Phrases*" (4th Edn.) the meaning attributed to the phrase "cause of action" in common legal parlance is existence of those facts which give a party a right to judicial interference on his behalf."

41. In **Oil and Natural Gas Commission v. Utpal Kumar Basu**[8] on the point of territorial jurisdiction of the High Court under Article 226 of the Constitution, the Hon'ble Apex Court held that Clause (1) of Article 226 begins with a non obstante clause - notwithstanding anything in Article 32 - and provides that every High Court shall have power "throughout the territories in relation to which it exercises jurisdiction", to issue to any person or authority, including in appropriate cases, any Government, "within those territories" directions, orders or writs, for the enforcement of any of the rights conferred by Part III or for any other purpose. Under clause (2) of Article 226 the High Court may exercise its power conferred by clause (1) if the cause of action, wholly or in part, had arisen within the territory over which it exercises jurisdiction, notwithstanding that the seat

[8] (1994) 4 SCC 711

of such Government or authority or the residence of such person is not within those territories.

42**.** Paragraph 5 of ***Oil & Natural Gas Commission*** (supra) reads as under:

> "**5.** Clause (1) of Article 226 begins with a non obstante clause — notwithstanding anything in Article 32 — and provides that every High Court shall have power "throughout the territories in relation to which it exercises jurisdiction", to issue to any person or authority, including in appropriate cases, any Government, "within those territories" directions, orders or writs, for the enforcement of any of the rights conferred by Part III or for any other purpose. Under clause (2) of Article 226 the High Court may exercise its power conferred by clause (1) if the cause of action, wholly or in part, had arisen within the territory over which it exercises jurisdiction, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories. On a plain reading of the aforesaid two clauses of Article 226 of the Constitution it becomes clear that a High Court can exercise the power to issue directions, orders or writs for the enforcement of any of the fundamental rights conferred by Part III of the Constitution or for any other purpose if the cause of action, wholly or in part, had arisen within the territories in relation to which it exercises jurisdiction, notwithstanding that the seat of the Government or authority or the residence of the person against whom the direction, order or writ is issued is not within the said territories. In order to confer jurisdiction on the High Court of Calcutta, NICCO must show that at least a part of the cause of action had arisen within the territorial jurisdiction of that Court. That is at best its case in the writ petition."

43. The Hon'ble Apex Court in ***Oil & Natural Gas Commission*** (supra) considered the expression 'cause of action' and observed that it is well settled that the expression "cause of action" means that bundle of

facts which the petitioner must prove, if traversed, to entitle him to a judgment in his favour by the Court. It was held that in determining the objections of lack of territorial jurisdiction, the Court must take all the facts pleaded in support of the cause of action into consideration *albeit* without embarking upon an enquiry as to the correctness or otherwise of the said facts. In other words the question whether a High Court has territorial jurisdiction to entertain a writ petition must be answered on the basis of the averments made in the writ petition, the truth or otherwise whereof being immaterial. To put it differently, the question of territorial jurisdiction must be decided on the facts pleaded in the petition.

44. Paragraph 6 of ***Oil & Natural Gas Commission*** (supra) reads as under:

> "**6.** It is well settled that the expression "cause of action" means that bundle of facts which the petitioner must prove, if traversed, to entitle him to a judgment in his favour by the Court. In *Chand Kour* v. *Partab Singh* [ILR (1889) 16 Cal 98, 102 : 15 IA 156] Lord Watson said:
>
> "… the cause of action has no relation whatever to the defence which may be set up by the defendant, nor does it depend upon the character of the relief prayed for by the plaintiff. It refers entirely to the ground set forth in the plaint as the cause of action, or, in other words, to the media upon which the plaintiff asks the Court to arrive at a conclusion in his favour."
>
> Therefore, in determining the objection of lack of territorial jurisdiction the court must take all the facts pleaded in support of the cause of action into consideration albeit without embarking upon an enquiry as to the correctness or otherwise of the said facts. In other words the question whether a High Court has territorial jurisdiction to entertain a writ petition must be answered on the

basis of the averments made in the petition, the truth or otherwise whereof being immaterial. To put it differently, the question of territorial jurisdiction must be decided on the facts pleaded in the petition. Therefore, the question whether in the instant case the Calcutta High Court had jurisdiction to entertain and decide the writ petition in question even on the facts alleged must depend upon whether the averments made in paragraphs 5, 7, 18, 22, 26 and 43 are sufficient in law to establish that a part of the cause of action had arisen within the jurisdiction of the Calcutta High Court."

45. In ***Oil & Natural Gas Commission*** (supra) a submission was advanced that clause (2) was introduced in Article 226 of the Constitution to enlarge the scope of the writ jurisdiction of the High Court in ***Election Commission v Saka Venkata Subba Rao*** {AIR 1953 SC 210}. The Hon'ble Apex Court while interpreting Article 226 as it then stood, observed that the rule that cause of action attracts jurisdiction in suits is based on statutory enactment and cannot be applied to writs issuable under Article 226 which makes no reference to any cause of action or where it arises but insists on the presence of the person or authority 'within the territories' in relation to which the High Court exercises jurisdiction. Referring to the said judgment, the Hon'ble Apex Court in ***Oil & Natural Gas Commission*** (supra) observed that the said view, taken in ***Saka Venkata Subba Rao case*** which was followed in the subsequent cases also resulted into a situation that the High Court cannot exercise jurisdiction on the plea that the whole or part of the cause of action had arisen within its jurisdiction. The consequence as in that case

was, that only the High Court of Punjab could exercise jurisdiction under Article 226 of the Constitution against the Union of India and other bodies located in Delhi. To remedy this situation, clause (1-A) was inserted by the 15th Amendment Act, 1963, to confer on the High Courts' jurisdiction to entertain a petition under Article 226 against the Union of India or any other body or authority located in Delhi if the cause of action has arisen, wholly or in part, within its jurisdiction. Clause (1-A) was later renumbered as clause (2) of Article 226. Therefore, it was observed by the Hon'ble Apex Court that the amendment was introduced to supersede the view taken by the Hon'ble Apex Court in ***Saka Venkata Subba Rao*** (supra).

46. The Hon'ble Apex Court in ***Oil & Natural Gas Commission*** (supra) reiterated that on a plain reading of clause (2) of Article 226 of the Constitution it is clear that the power conferred by clause (1) can be exercised by the High Court provided the cause of action wholly or in part, had arisen within the territorial limits. It rejected the submission raising the preliminary objection that, the cause of action wholly or in part has no relevance in determining the territorial jurisdiction exercising the power under Article 226 of the Constitution. The submission was held contrary to the settled position. The well settled position restated was that if the cause of action wholly or any part has arisen within the territorial jurisdiction of the particular High Court, such High Court shall have the jurisdiction. With respect to ***Lt. Col. Khajoor Singh*** (supra) it was

observed that, that was 'rendered' at a time when Article 226 was unamended and did not provide for the cause of action wholly or in part arising within the territorial jurisdiction of a particular High Court. The position changed by the amendment made in the Constitution inserting clause (1A) by 15th Amendment Act 1963 i.e., after the judgment in ***Lt. Col. Khajoor Singh*** (supra), which followed the 1954 judgment. Clause (1A) was re-numbered as Clause (2) of Article 226 of the Constitution. It narrates the expression " The power conferred by clause (1) 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 scat of such Government or authority or the residence of such person is not within those territories". So, clause (1) of Article 226 is to be read along with clause (2) and the cause of action wholly or in part if it arises within the territorial jurisdiction has importance and it cannot be said that the cause of action has no relevance in determining the territorial jurisdiction of the High Court.

47. In ***Union of India v. Adani Exports Ltd.***[9] the same law has been reiterated in paragraphs 16 and 17, which read as under:

> "**16.** It is clear from the above constitutional provision that a High Court can exercise the jurisdiction in relation to the territories within which the cause of

[9] (2002) 1 SCC 567

action, wholly or in part, arises. This provision in the Constitution has come up for consideration in a number of cases before this Court. In this regard, it would suffice for us to refer to the observations of this Court in the case of *Oil and Natural Gas Commission* v. *Utpal Kumar Basu* [(1994) 4 SCC 711] (SCC at p. 713) wherein it was held:

"Under Article 226 a High Court can exercise the power to issue directions, orders or writs for the enforcement of any of the fundamental rights conferred by Part III of the Constitution or for any other purpose if the cause of action, wholly or in part, had arisen within the territories in relation to which it exercises jurisdiction, notwithstanding that the seat of the Government or authority or the residence of the person against whom the direction, order or writ is issued is not within the said territories. The expression 'cause of action' means that bundle of facts which the petitioner must prove, if traversed, to entitle him to a judgment in his favour by the court. Therefore, in determining the objection of lack of territorial jurisdiction the court must take all the facts pleaded in support of the cause of action into consideration albeit without embarking upon an enquiry as to the correctness or otherwise of the said facts. Thus the question of territorial jurisdiction must be decided on the facts pleaded in the petition, the truth or otherwise of the averments made in the petition being immaterial."

17. It is seen from the above that in order to confer jurisdiction on a High Court to entertain a writ petition or a special civil application as in this case, the High Court must be satisfied from the entire facts pleaded in support of the cause of action that those facts do constitute a cause so as to empower the court to decide a dispute which has, at least in part, arisen within its jurisdiction. It is clear from the above judgment that each and every fact pleaded by the respondents in their application does not ipso facto lead to the conclusion that those facts give rise to a cause of action within the court's territorial jurisdiction unless those facts pleaded are such which have a nexus or relevance with the lis that is involved in the case. Facts which have no bearing with the lis or the dispute involved in the case, do not give rise to a cause of action so as to confer territorial jurisdiction on the court concerned. If we apply this principle then we

see that none of the facts pleaded in para 16 of the petition, in our opinion, falls into the category of bundle of facts which would constitute a cause of action giving rise to a dispute which could confer territorial jurisdiction on the courts at Ahmedabad."

48. In ***Kusum Ingots & Alloys Ltd. v. Union of India***[10], the Hon'ble Apex Court held that the Court must have the requisite territorial jurisdiction. An order passed on a writ petition questioning the constitutionality of a parliamentary Act, whether interim or final keeping in view the provisions contained in clause (2) of Article 226 of the Constitution of India, will have effect throughout the territory of India subject of course to the applicability of the Act. It was held that where the constitutionality of a parliamentary Act is challenged, then subject to applicability of that Act, its effect throughout territory of India and that aspect be kept under territorial jurisdiction under Article 226 (2).

49. In **Kusum Lngots and Allys Ltd** (supra), the concept of cause of action was also considered. It was held that the cause of action implies a right to sue. The material facts which are imperative for the suitor to allege and prove, constitute the cause of action. Cause of action is not defined in any statute. It has, however, been judicially interpreted *inter alia* to mean that 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. Negatively put, it would mean that everything which, if not

[10] (2004) 6 SCC 254

proved, gives the defendant an immediate right to judgment, would be part of cause of action.

50. The Hon'ble Apex Court also considered Section 20 (c) of CPC, though observed that, in view of Section 141 of the Code of Civil Procedure the provisions thereof would not apply to writ proceedings, but certainly in the considered view of the Hon'ble Apex Court on the expression 'cause of action' the decisions of the Court on the interpretation of the expression 'cause of action' as used in Code of Civil Procedure could be of assistance. The Hon'ble Apex Court clearly held that even if a small fraction of cause of action accrued within the jurisdiction of the Court, the Court will have jurisdiction in the matter, in view of the expressions used in Clause (2) of Article 226 of the Constitution of India.

51. Paragraphs 6 to 10 and 22 of ***Kusum Ingots & Alloyes Ltd.*** (supra) read as under:

"***Cause of action***

6. Cause of action implies a right to sue. The material facts which are imperative for the suitor to allege and prove constitute the cause of action. Cause of action is not defined in any statute. It has, however, been judicially interpreted inter alia to mean that 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. Negatively put, it would mean that everything which, if not proved, gives the defendant an immediate right to judgment, would be part of cause of action. Its importance is beyond any doubt. For every action, there has to be a cause of action, if not, the plaint or the writ petition, as the case may be, shall be rejected summarily.

7. Clause (2) of Article 226 of the Constitution of India reads thus:

"226. (2) The power conferred by clause (1) 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."

8. Section 20(*c*) of the Code of Civil Procedure reads as under:

"20. *Other suits to be instituted where defendants reside or cause of action arises*.—Subject to the limitations aforesaid, every suit shall be instituted in a court within the local limits of whose jurisdiction—

(*a*)-(*b*)***

(*c*) the cause of action, wholly or in part, arises."

9. Although in view of Section 141 of the Code of Civil Procedure the provisions thereof would not apply to writ proceedings, the phraseology used in Section 20(*c*) of the Code of Civil Procedure and clause (2) of Article 226, being in pari materia, the decisions of this Court rendered on interpretation of Section 20(*c*) CPC shall apply to the writ proceedings also. Before proceeding to discuss the matter further it may be pointed out that the entire bundle of facts pleaded need not constitute a cause of action as what is necessary to be proved before the petitioner can obtain a decree is the material facts. The expression material facts is also known as integral facts.

10. Keeping in view the expressions used in clause (2) of Article 226 of the Constitution of India, 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.

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22. The Court must have the requisite territorial jurisdiction. An order passed on a writ petition questioning the constitutionality of a parliamentary Act, whether interim or final keeping in view the provisions contained in clause (2) of Article 226 of the Constitution of India, will have effect throughout the territory of India subject of course to the applicability of the Act."

52. In ***Nawal Kishore Sharma v. Union of India***[11] the Hon'ble Apex Court considered Article 226 of the Constitution as it stood originally, the judgment of the Constitution Bench in the case of ***Election Commission v. Saka Venkata Rao*** {AIR 1953 SC 210}, ***K. S. Rashid and Son v. Income Tax Investigation Commission*** {AIR 1954 SC 207} and ***Lt.Col.Khajoor Singh v. Union of India*** {AIR 1961 SC 532}, as also Article 226 as amended thereafter inserting Clause (1A) by the Constitution (Fifteenth) Amendment Act, 1963, subsequently renumbered as Clause (2) by the Constitution (Forty-second) Amendment Act, 1976. It was observed and held that on a plain reading of the amended provisions in Clause (2), it was clear that now the High Court can issue a writ when a person or authority against whom the writ is issued is located outside its territorial jurisdiction, if the cause of action wholly or partially arises within the territorial jurisdiction.

53. Paragraphs 7 to 9, 14, 15 & 16 of ***Nawal Kishore Sharma*** (supra) are reproduced as under:

> "**7.** The short question that falls for consideration in the facts of the present case is that as to whether the Patna High Court is correct in taking the view that it has no jurisdiction to entertain the writ petition. For answering the said question we would like to consider the provision of Article 226 of the Constitution as it stood prior to amendment. Originally, Article 226 of the Constitution reads as under:

[11] (2014) 9 SCC 329

"**226.*Power of High Courts to issue certain writs***.—(1) Notwithstanding anything in Article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories, directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred on a High Court by clause (1) shall not be in derogation of the power conferred on the Supreme Court by clause (2) of Article 32."

8. While interpreting the aforesaid provision, the Constitution Bench of this Court in *Election Commission* v. *Saka Venkata Rao* [(1953) 1 SCC 320 : AIR 1953 SC 210] , held that the writ court would not run beyond the territories subject to its jurisdiction and that the person or the authority affected by the writ must be amenable to court's jurisdiction either by residence or location within those territories. The rule that cause of action attracts jurisdiction in suits is based on statutory enactment and cannot apply to writs issued under Article 226 of the Constitution which makes no reference to any cause of action or where it arises but insist on the presence of the person or authority within the territories in relation to which the High Court exercises jurisdiction. In another Constitution Bench judgment of this Court in *K.S. Rashid and Son* v. *Income Tax Investigation Commission* [AIR 1954 SC 207] , this Court took the similar view and held that the writ court cannot exercise its power under Article 226 beyond its territorial jurisdiction. The Court was of the view that the exercise of power conferred by Article 226 was subject to a twofold limitation viz. *firstly*, the power is to be exercised in relation to which it exercises jurisdiction and *secondly*, the person or authority on whom the High Court is empowered to issue writ must be within those territories. These two Constitution Bench judgments came for consideration before a larger Bench of seven Judges of this Court in *Lt. Col. Khajoor Singh* v. *Union of India* [*Lt. Col. Khajoor Singh* v. *Union of India*, AIR 1961 SC 532] . The Bench approved the

aforementioned two Constitution Bench judgments and opined that unless there are clear and compelling reasons, which cannot be denied, writ court cannot exercise jurisdiction under Article 226 of the Constitution beyond its territorial jurisdiction.

9. The interpretation given by this Court in the aforesaid decisions resulted in undue hardship and inconvenience to the citizens to invoke writ jurisdiction. As a result, clause (1-A) was inserted in Article 226 by the Constitution (Fifteenth) Amendment Act, 1963 and subsequently renumbered as clause (2) by the Constitution (Forty-second) Amendment Act, 1976. The amended clause (2) now reads as under:

"**226.*Power of High Courts to issue certain writs***.—(1) Notwithstanding anything in Article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases any Government, within those territories, directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

(2) The power conferred by clause (1) 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.

(3)-(4)***"

On a plain reading of the amended provisions in clause (2), it is clear **that now the High Court can 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.** Cause of action for the purpose of Article 226(2) of the Constitution, for all intent and purpose must be assigned the same meaning as envisaged under Section 20(*c*) of the Code of Civil Procedure. The expression

cause of action has not been defined either in the Code of Civil Procedure or the Constitution. Cause of action is bundle of facts which is necessary for the plaintiff to prove in the suit before he can succeed. The term "cause of action" as appearing in clause (2) came up for consideration time and again before this Court.

14. In *Om Prakash Srivastava* v. *Union of India* [(2006) 6 SCC 207 : (2006) 3 SCC (Cri) 24] , answering a similar question this Court observed that on a plain reading of clause (2) of Article 226 it is manifestly clear that the High Court can exercise power to issue direction, order or writs for the enforcement of any of the fundamental rights or for any other purpose if the cause of action in relation to which it exercises jurisdiction notwithstanding that the seat of the Government or authority or the residence of the person against whom the direction, order or writ is issued is not within the said territory. In para 7 this Court observed: (SCC p. 210)

"*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."

15. In *Rajendran Chingaravelu* v. *CIT* [(2010) 1 SCC 457 : (2010) 1 SCC (Cri) 810] , this Court while considering the scope of Article 226(2) of the Constitution, particularly the cause of action in maintaining a writ petition, held as under: (SCC p. 461, paras 9 & 11)

"*9.* The first question that arises for consideration is whether the Andhra Pradesh High Court was justified in holding that as the seizure took place at Chennai (Tamil Nadu), the appellant could not maintain the writ petition before it. The High Court did not examine whether any part of cause of action arose in Andhra Pradesh. Clause (2) of Article 226 makes it clear that the High Court exercising jurisdiction in relation to the territories within which the cause of

action arises wholly or in part, will have jurisdiction. This would mean that even if a small fraction of the cause of action (that bundle of facts which gives a petitioner, a right to sue) accrued within the territories of Andhra Pradesh, the High Court of that State will have jurisdiction.

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11. Normally, we would have set aside the order and remitted the matter to the High Court for decision on merits. But from the persuasive submissions of the appellant, who appeared in person on various dates of hearing, two things stood out. *Firstly*, it was clear that the main object of the petition was to ensure that at least in future, passengers like him are not put to unnecessary harassment or undue hardship at the airports. He wants a direction for issuance of clear guidelines and instructions to the inspecting officers, and introduction of definite and efficient verification/investigation procedures. He wants changes in the present protocol where the officers are uncertain of what to do and seek instructions and indefinitely wait for clearances from higher-ups for each and every routine step, resulting in the detention of passengers for hours and hours. In short, he wants the enquiries, verifications and investigations to be efficient, passenger-friendly and courteous. *Secondly,* he wants the Department/officers concerned to acknowledge that he was unnecessarily harassed."

16. Regard being had to the discussion made hereinabove, there cannot be any doubt that the question whether or not cause of action wholly or in part for filing a writ petition has arisen within the territorial limit 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, the petitioner has to establish that a legal right claimed by him has been infringed by the respondents within the territorial limit of the Court's jurisdiction."

54. In ***State of Goa v. Summit Online Trade Solutins (P) Ltd.***[12] the Hon'ble Apex Court held that while dealing with an objection as to lack of territorial jurisdiction to entertain writ petition on the ground that the cause

[12] (2023) 7 SCC 791

of action has not arisen within its jurisdiction, that High Court, essentially has to arrive at a conclusion on the basis of the averments made in the petition memo treating the contents as true and correct, that is fundamental principle. The Hon'ble Apex Court observed that the determination of a question as to whether the facts pleaded constitute a part of the cause of action, sufficient to attract clause (2) of Article 226 of the Constitution, would necessarily involve an exercise by the High Court to ascertain that the facts, as pleaded, constitute a material, essential or integral part of the cause of action. In so determining, it is the substance of the matter that is relevant. It, therefore, follows that the party invoking the writ jurisdiction has to disclose that the integral facts pleaded in support of the cause of action do constitute a cause empowering the High Court to decide the dispute and that, at least, a part of the cause of action to move the High Court arose within its jurisdiction. Such pleaded facts must have a nexus with the subject-matter of challenge based on which the prayer can be granted. Those facts which are not relevant or germane for grant of the prayer would not give rise to a cause of action conferring jurisdiction on the court.

55. Paragraphs 14, 15, 16 and 17 of ***Summit Online Trade Solutions (P) Ltd.*** (supra) are reproduced as under:

> "**14.** While dealing with an objection as to lack of territorial jurisdiction to entertain a writ petition on the ground that the cause of action has not arisen within its jurisdiction, a High Court essentially has to arrive at a conclusion on

the basis of the averments made in the petition memo treating the contents as true and correct. That is the fundamental principle. Bearing this in mind, we have looked into the petition memo of WP (C) No. 38 of 2017 and searched in vain to trace how at least part of the cause of action has been pleaded by the petitioning company, to have arisen within the territorial jurisdiction of the High Court.

15. This is a case where clause (2) of Article 226 has been invoked by the High Court to clothe it with the jurisdiction to entertain and try the writ petitions. The constitutional mandate of clause (2) is that the "cause of action", referred to therein, must at least arise in part within the territories in relation to which the High Court exercises jurisdiction when writ powers conferred by clause (1) are proposed to be exercised, notwithstanding that the seat of the Government or authority or the residence of the person is not within those territories.

16. The expression "cause of action" has not been defined in the Constitution. However, the classic definition of "cause of action" given by Lord Brett in *Cooke* v. *Gill* [*Cooke* v. *Gill*, (1873) LR 8 CP 107] that "*cause of action means every fact which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the court*", has been accepted by this Court in a couple of decisions. It is axiomatic that without a cause, there cannot be any action. However, in the context of a writ petition, what would constitute such "cause of action" is the material facts which are imperative for the writ petitioner to plead and prove to obtain relief as claimed.

17. Determination of the question as to whether the facts pleaded constitute a part of the cause of action, sufficient to attract clause (2) of Article 226 of the Constitution, would necessarily involve an exercise by the High Court to ascertain that the facts, as pleaded, constitute a material, essential or integral part of the cause of action. In so determining, it is the substance of the matter that is relevant. It, therefore, follows that the party invoking the writ jurisdiction has to disclose that the integral facts pleaded in support of the cause of action do constitute a cause empowering the High Court to decide the dispute and that, at least, a part of the cause of action to move the High Court arose within its

jurisdiction. Such pleaded facts must have a nexus with the subject-matter of challenge based on which the prayer can be granted. Those facts which are not relevant or germane for grant of the prayer would not give rise to a cause of action conferring jurisdiction on the court. These are the guiding tests."

56. Before proceeding further we shall also refer to the judgments on the point of jurisdiction of the High Court under Article 226 of the Constitution of India over the Tribunals.

57. In ***L. Chandra Kumar v. Union of India***[13] the Hon'ble Apex Court held that the power of judicial review vested in the Supreme Court under Article 32 of the Constitution of India is part of the basic structure of the Constitution. With respect to the jurisdiction of the High Court under Article 226, it was observed that all decisions of the Tribunals, whether created pursuant to Article 323-A or Article 323-B of the Constitution, will be subject to the High Court's writ jurisdiction under Articles 226/227 of the Constitution, before a Division Bench of the High Court within whose territorial jurisdiction the particular Tribunal falls. It was further observed that the Tribunals so created are also competent to test the constitutional validity of statutory provisions and rules. All decisions of the Tribunals will be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the Tribunal concerned falls and it will not be open for the litigants to directly approach the High Court even in the cases

[13] (1997) 3 SCC 261

questioning the vires of statutory legislations except where the legislation which creates the particular Tribunal is challenged.

58. Relevant paragraphs 90 to 92 of ***L. Chandra Kumar*** (supra) read as under:

> "**90.** We may first address the issue of exclusion of the power of judicial review of the High Courts. We have already held that in respect of the power of judicial review, the jurisdiction of the High Courts under Articles 226/227 cannot wholly be excluded. It has been contended before us that the Tribunals should not be allowed to adjudicate upon matters where the vires of legislations is questioned, and that they should restrict themselves to handling matters where constitutional issues are not raised. We cannot bring ourselves to agree to this proposition as that may result in splitting up proceedings and may cause avoidable delay. If such a view were to be adopted, it would be open for litigants to raise constitutional issues, many of which may be quite frivolous, to directly approach the High Courts and thus subvert the jurisdiction of the Tribunals. Moreover, even in these special branches of law, some areas do involve the consideration of constitutional questions on a regular basis; for instance, in service law matters, a large majority of cases involve an interpretation of Articles 14, 15 and 16 of the Constitution. To hold that the Tribunals have no power to handle matters involving constitutional issues would not serve the purpose for which they were constituted. On the other hand, to hold that all such decisions will be subject to the jurisdiction of the High Courts under Articles 226/227 of the Constitution before a Division Bench of the High Court within whose territorial jurisdiction the Tribunal concerned falls will serve two purposes. While saving the power of judicial review of legislative action vested in the High Courts under Articles 226/227 of the Constitution, it will ensure that frivolous claims are filtered out through the process of adjudication in the Tribunal. The High Court will also have the benefit of a reasoned decision on merits which will be of use to it in finally deciding the matter.

91. It has also been contended before us that even in dealing with cases which are properly before the Tribunals, the manner in which justice is dispensed by them leaves much to be desired. Moreover, the remedy provided in the parent statutes, by way of an appeal by special leave under Article 136 of the Constitution, is too costly and inaccessible for it to be real and effective. Furthermore, the result of providing such a remedy is that the docket of the Supreme Court is crowded with decisions of Tribunals that are challenged on relatively trivial grounds and it is forced to perform the role of a first appellate court. We have already emphasised the necessity for ensuring that the High Courts are able to exercise judicial superintendence over the decisions of the Tribunals under Article 227 of the Constitution. In *R.K. Jain case* [(1993) 4 SCC 119 : 1993 SCC (L&S) 1128 : (1993) 25 ATC 464] , after taking note of these facts, it was suggested that the possibility of an appeal from the Tribunal on questions of law to a Division Bench of a High Court within whose territorial jurisdiction the Tribunal falls, be pursued. It appears that no follow-up action has been taken pursuant to the suggestion. Such a measure would have improved matters considerably. Having regard to both the aforestated contentions, **we hold that all decisions of Tribunals, whether created pursuant to Article 323-A or Article 323-B of the Constitution, will be subject to the High Court's writ jurisdiction under Articles 226/227 of the Constitution, before a Division Bench of the High Court within whose territorial jurisdiction the particular Tribunal falls**.

92. We may add here that under the existing system, direct appeals have been provided from the decisions of all Tribunals to the Supreme Court under Article 136 of the Constitution. In view of our above-mentioned observations, this situation will also stand modified. In the view that we have taken, no appeal from the decision of a Tribunal will directly lie before the Supreme Court under Article 136 of the Constitution; but instead, the aggrieved party will be entitled to move the High Court under Articles 226/227 of the Constitution and from the decision of the Division Bench of the High Court the aggrieved party could move this Court under Article 136 of the Constitution."

59. Recently, in ***State of H.P. v. Yogendera Mohan Sengupta***[14] the Hon'ble Apex Court reiterated that the High Court exercises the review jurisdiction under Article 226 of the Constitution over the orders of the Tribunals. The power of judicial review vested with the High Courts under Article 226 of the Constitution and the Hon'ble Apex Court under Article 32 of the Constitution, is an integral and essential feature of the Constitution, constituting part of its basic structure and therefore, the power of High Courts and the Supreme Court to test the constitutional validity of legislations can never be ousted or excluded. That power vested in the High Courts to exercise judicial superintendence over the decisions of all Courts and Tribunals within their respective jurisdictions is part of the basic structure of the Constitution. In ***Yogender Mohan Sengupta*** (supra) the Hon'ble Apex Court referred to the judgment in ***L. Chandra Kumar*** (supra).

60. Paragraphs 103, 104, 105, 108 and 109 of ***Yogender Mohan Sengupta*** (supra) read as under:

> "**103.** A Constitution Bench of this Court in *L. Chandra Kumar* v. *Union of India* [*L. Chandra Kumar* v. *Union of India*, (1997) 3 SCC 261 : 1997 SCC (L&S) 577 : (1997) 228 ITR 725 : (1997) 105 STC 618] was considering the issue regarding ouster of jurisdiction of this Court and the High Courts under Articles 32 and 226 of the Constitution of India as was provided under the Administrative Tribunals Act, 1985 (for short "the AT Act"). The AT Act was constituted under the enabling provisions of Article 323-A of the Constitution of India. Sub-clause (*d*) of clause (2) of Article 323-A specifically enables

[14] (2024) 13 SCC 1

Parliament to legislate a law for establishment of the AT Act and also provides for exclusion of jurisdiction of all the courts except jurisdiction of this Court under Article 136 with respect to disputes or complaints referred to in clause (1).

104. This Court in *L. Chandra Kumar* [*L. Chandra Kumar* v. *Union of India*, (1997) 3 SCC 261 : 1997 SCC (L&S) 577 : (1997) 228 ITR 725 : (1997) 105 STC 618] after scanning the entire law on the question as to whether the powers of this Court and High Courts of judicial review as could be found in Articles 32 and 226 respectively, amounts to basic structure or not, observed thus in paras 78 and 79: (*L. Chandra Kumar case* [*L. Chandra Kumar* v. *Union of India*, (1997) 3 SCC 261 : 1997 SCC (L&S) 577 : (1997) 228 ITR 725 : (1997) 105 STC 618] , SCC pp. 301-302)

"*78.* The legitimacy of the power of courts within constitutional democracies to review legislative action has been questioned since the time it was first conceived. The Constitution of India, being alive to such criticism, has, while conferring such power upon the higher judiciary, incorporated important safeguards. An analysis of the manner in which the Framers of our Constitution incorporated provisions relating to the judiciary would indicate that they were very greatly concerned with securing the independence of the judiciary [*Per Ahmadi, C.J.*—See Chapter VII, "*The Judiciary and the Social Revolution*" in Granville Austin, *The Indian Constitution: Cornerstone of a Nation*, Oxford University Press, 1972; the chapter includes exhaustive references to the relevant preparatory works and debates in the Constituent Assembly.] . These attempts were directed at ensuring that the judiciary would be capable of effectively discharging its wide powers of judicial review. While the Constitution confers the power to strike down laws upon the High Courts and the Supreme Court, it also contains elaborate provisions dealing with the tenure, salaries, allowances, retirement age of Judges as well as the mechanism for selecting Judges to the superior courts. The inclusion of such elaborate provisions appears to have been occasioned by the belief that, armed by such provisions, the superior courts would be insulated from any executive or legislative attempts to interfere with the making of their decisions. The Judges

of the superior courts have been entrusted with the task of upholding the Constitution and to this end, have been conferred the power to interpret it. It is they who have to ensure that the balance of power envisaged by the Constitution is maintained and that the legislature and the executive do not, in the discharge of their functions, transgress constitutional limitations. It is equally their duty to oversee that the judicial decisions rendered by those who man the subordinate courts and tribunals do not fall foul of strict standards of legal correctness and judicial independence. The constitutional safeguards which ensure the independence of the Judges of the superior judiciary, are not available to the Judges of the subordinate judiciary or to those who man tribunals created by ordinary legislations. Consequently, Judges of the latter category can never be considered full and effective substitutes for the superior judiciary in discharging the function of constitutional interpretation. We, therefore, hold that the power of judicial review over legislative action vested in the High Courts under Article 226 and in this Court under Article 32 of the Constitution is an integral and essential feature of the Constitution, constituting part of its basic structure. Ordinarily, therefore, the power of High Courts and the Supreme Court to test the constitutional validity of legislations can never be ousted or excluded.

79. We also hold that the power vested in the High Courts to exercise judicial superintendence over the decisions of all courts and tribunals within their respective jurisdictions is also part of the basic structure of the Constitution. This is because a situation where the High Courts are divested of all other judicial functions apart from that of constitutional interpretation, is equally to be avoided."

105. It could thus be clearly seen that this Court, even when a provision in the Constitution enabled Parliament to make a law thereby excluding the powers of judicial review except under Article 136 of the Constitution, held that the power of judicial review vested in the High Courts under Article 226 and in this Court under Article 32 of the Constitution, is an integral and essential feature of the Constitution, constituting part of its basic structure and, therefore, the power of High Courts and this Court to test the constitutional validity of

legislations can never be ousted or excluded. This Court further goes on to observe that the power vested in the High Courts to exercise judicial superintendence over the decisions of all courts and tribunals within their respective jurisdictions is also part of the basic structure of the Constitution.

108. The perusal of para 92 of the judgment of the Constitution Bench in *L. Chandra Kumar case* [*L. Chandra Kumar* v. *Union of India,* (1997) 3 SCC 261 : 1997 SCC (L&S) 577 : (1997) 228 ITR 725 : (1997) 105 STC 618] would further reveal that the function of the tribunals is only supplementary and all such decisions of the tribunals would be subject to scrutiny before the Division Bench of respective High Courts. The Constitution Bench holds that all such tribunals will continue to act as the only courts of first instance in respect of areas of law for which they have been constituted. It has been held that it will not be open for a litigant to directly approach the High Courts even in cases where the question of vires of statutory legislations (except as mentioned where the legislations which create the particular legislation *quaere* tribunal) is challenged by availing the jurisdiction of the tribunal concerned.

109. It could thus clearly be seen that it is a settled position of law that the High Courts exercise the power of judicial review over all the tribunals which are situated within its jurisdiction."

61. In the present case, the O.A was filed by the applicant at Vijayawada in Andhra Pradesh. It was numbered as the subject or the case from Andhra Pradesh. The Circuit Bench of the Central Administrative Tribunal is located at Vijayawada. The O.A was though decided by the Central Administrative Tribunal at Hyderabad, it was, as the case from Andhra Pradesh. In the background of these facts, we are of the view that it cannot be held that the Central Administrative Tribunal deciding the O.A, as the O.A from Andhra Pradesh, is outside the territorial jurisdiction of this High Court for the purposes of Article 226 or

227 of the Constitution. To hold to the contrary is beyond reasonable limits. It cannot be held reasonably that because the Central Administrative Tribunal is situated at Hyderabad, though it entertains the cases for the State of Andhra Pradesh as well, it will be outside the territorial jurisdiction of the High Court of Andhra Pradesh.

62. The averments in the affidavit filed in support of the writ petition are clear that the respondent/applicant was working at Guntakal Division in the State of Andhra Pradesh. He was charged for the offences punishable under Section 61 (2) of BNSS Act 2023 and criminal conspiracy under Sections 7, 8, 9, 10 and 12 of Prevention of Corruption Act. He was apprehended along with other employees while CBI laying a trap and the said crime was under the active investigation by CBI. The respondent was detained beyond 48 hours by CBI. He was placed under suspension while working at Guntakal Division in Andhra Pradesh. The Order of Suspension was extended periodically and finally it was revoked vide proceedings dated 26.08.2025. The respondent was transferred from South Central Railway with immediate effect to North Eastern Railway vide office order dated 29.08.2025. He was relieved on 01.09.2025 against the existing vacancy at North Eastern Railway. He filed O.A. The O.A. was filed at Vijayawada registered as a case from Andhra Pradesh which is evident from its number O.A.No.933 of 2025 (Andhra Pradesh). When interim order was not granted, he approached

the High Court for the State of Telangana at Hyderabad in W.P.No.29679 of 2025 which was disposed of vide Order dated 26.09.2025 with direction to the Central Administrative Tribunal to dispose of the stay application within a specified time and directed that the respondent shall continue at Guntakal till the stay application was adjudicated. The respondent then reported to duty on 17.10.2025. He also made a representation to the Authority on 17.10.20205 with a request to post him to a non-sensitive post at Guntakal of South Central Railway Headquarters. His request vide representation was deferred.

63. Thus, the settled position in law with respect to the jurisdiction of the High Court under Article 226/227 of the Constitution of India, over the orders passed by the Tribunal is that the High Court has such jurisdiction of judicial review, to be exercised by the Division Bench. The Central Administrative Tribunal at Hyderabad has the jurisdiction for both the States (State of Telangana and the State of Andhra Pradesh). So, it cannot be said that for all the O.A(s) decided by the Central Administrative Tribunal at Hyderabad, the territorial jurisdiction for a petition under Article 226/227 of the Constitution of India shall be only at High Court for the State of Telangana. An O.A. relating to Andhra Pradesh though decided by Central Administrative Tribunal at Hyderabad, the judgment in such an O.A., can be challenged in Andhra Pradesh. The CAT at Hyderabad for such case shall be within the territorial jurisdiction

of High Court of Andhra Pradesh. The same shall be the position if the part of cause of action arises within the territorial jurisdiction of the A.P High Court. The OA decided by the Central Administrative Tribunal at Hyderabad in case of part of cause of action falling in Andhra Pradesh and the part in State of Telangana, both the High Courts shall have the territorial jurisdiction and in such a case the applicant shall have to exercise the choice of Forum.

64. Learned counsel for the respondents (applicant) submitted that prior to the final order dated 28.01.2026 passed by the Central Administrative Tribunal, Hyderabad in O.A.No.020/0933/202 the Guntkal Division stood operationally reorganized and merged into the newly formed South Coastal Railway (SCoR) Zone, with its Zonal Headquarters at Visakhapatnam. He submitted that the applicant/respondent reported to the South Central Railway Headquarters at Telangana on 17.10.2025. The respondent/applicant was illegally implicated in the F.I.R No.Rc2182024/A0013 of 2024 of CBI AC-III, New Delhi dated 04.07.2024. He was granted bail by this Court on 02.08.2024 in I.A.No.1 of 2024 in Crl.R.C.No.620 of 2024. The applicant was suspended with effect from 05.07.2024 vide the order No.FA/CON/DAR/KPB/2024 dated 08.07.2024. The suspension was ultimately revoked on 27.08.2025. The applicant was directed to report at the Headquarters of SCR at Secunderabad from Guntkal and consequently he reported at

Secunderabad. He stationed there since October, 2025. He further submitted that the applicant was not allotted a residential quarter at Secunderabad and was permitted to avail accommodation and constrained by the requirement of specialized medical treatment at Hyderabad his address for stay of his family by convenience was shown at Guntkal. The applicant was not serving at Guntkal Railway Department since he reported to the South Central Railways at Secunderabad. He submitted that the applicant approached the High Court for the State of Telangana by filing W.P.No.29679 of 2025 and the same was disposed of by order dated 26.09.2025. It attained finality so the jurisdiction cannot be with High Court of Andhra Pradesh but shall be with the High Court for the State of Telangana. The aforesaid submission deserves rejection. Even if objection to the jurisdiction of High Court for the State of Telangana was not raised in W.P.No.29679 of 2025, that does not mean that the High Court for the State of Telangana shall have jurisdiction for all the times, even if part of cause of action has arisen in the territorial jurisdiction of Andhra Pradesh High Court. It is also well settled that on the point of jurisdiction there cannot be an estoppels.

65. The submissions of the learned counsel for the respondents that judicial scrutiny over a Central Administrative Tribunal's order must be maintained before the Division Bench of the High Court within whose territorial jurisdiction it is situated i.e High Court for the State of

Telangana, is not sustainable. The reason is that the applicant, while his posting at Guntkal (AP), was placed under suspension. The suspension was revoked on 27.08.2025. He was transferred on 29.08.2025. So, he was transferred, infact, while he was posted at Guntkal in Andhra Pradesh. So, the part of cause of action is certainly within the State of Andhra Pradesh falling within the territorial jurisdiction of the Andhra Pradesh High Court. Further, the applicant challenged the order of transfer by filing the O.A.No.933 of 2025 at CAT/HYD Bench at Vijayawada on 23.09.2025 (Ex.P.2 to the rejoinder appended). The Central Administrative Tribunal conducted many hearings at the Circuit Bench at Vijayawada i.e on 23.09.2025, 17.10.2025, 30.10.2025 and 21.11.2025. Then the O.A was transferred to CAT-Hyderabad on 21.11.2025 and it was directed to be listed on 1.12.2025 at CAT, Hyderabad Bench and it was disposed of on 28.01.2026. These averments are supported by Exs.P.1 and P.2 to the rejoinder affidavit. The applicant's own case in his counter is that since October, 2025, he has been at Headquarters of SCR at Secunderabad. The order of transfer is dated 29.08.2025. The said order was passed transferring the applicant from Guntkal from where he had been relieved on 01.09.2025.

66. The law is well settled that even if a part of cause of action occurred within the territorial jurisdiction of a High Court, it shall have jurisdiction. The part of the cause of action may be very small fraction of

the whole cause of action. Then the said High Court shall have the jurisdiction. Transfer from a place in Andhra Pradesh and filing O.A in State of A.P challenging the order of transfer constituted, in any case, part of cause of action for filing writ petition within the territorial jurisdiction of the High Court of Andhra Pradesh. This Court will have the jurisdiction to entertain the writ petition. The submission of the learned counsel for the respondent that the territorial jurisdiction of the High Court for the purpose of Article 226 of the Constitution of India is not to be determined based on the cause of action is misconceived and contrary to the settled legal position as discussed in the earlier part of this judgment.

67. Learned counsel for the respondent/applicant placed reliance in the case of **Baksish Ahmad** (supra) to contend that the Delhi High Court was held to have territorial jurisdiction because of the situs of the office of the Union of India and since situs of the authority in the present case is not in the State of Andhra Pradesh, in the absence of such situs, the High Court of Andhra Pradesh will have no jurisdiction. Para 27 of **Baksish Ahmad** (supra) read as under:

> "27. Be that as it may, to reconcile the conflict, if any, we hold that in case any member of the CAPF, and that includes the BSF, is aggrieved by any administrative order of termination of his service issued by the competent authority, notwithstanding that the cause of action arose outside, i.e., the said order was issued from a place beyond the territorial limits of the Delhi High Court or that the events which triggered such

an order occurred outside its limits, etc., still the Delhi High Court would have territorial jurisdiction in light of situs of office of the Union of India and the Director General, BSF/the officer in whom is vested supervision and command of the other CAPF, as per clause (1) of Article 226.

68. In **Baksish Ahmad** (supra)**,** it was held that notwithstanding that the cause of action arose outside the territorial limits of the Delhi High Court or that the events which triggered such an order occurred outside its limits, etc., still the Delhi High Court would have territorial jurisdiction in light of situs of office of the Union of India and the Director General, BSF/the officer in whom is vested supervision and command of the other CAPF, as per clause (1) of Article 226.

69. We are of the view that the aforesaid submission of the learned counsel for the respondent is not the correct understanding of the judgment in **Baksish Ahmad** (supra). In the said case, the Hon'ble Apex Court held that because of the situs, at New Delhi, the Delhi High Court shall also have the jurisdiction. The Hon'ble Apex Court did not hold that the only jurisdiction was with the Delhi High Court. It has also not been held that the cause of action which occurred outside the Delhi High Court territorial jurisdiction, and if falling within the territorial jurisdiction of the other High Court as well, based on the cause of action such other High Court will have no jurisdiction.

70. In **Union of India vs. Alapan Bandyopadhyay**[15] upon which also learned counsel for the respondent placed reliance, the cause of action did not occur within the territorial jurisdiction of the Calcutta High Court with respect to order of transfer of O.A made by the Principal Bench at New Delhi of the Tribunal in exercise of power under Section 25 of the Central Administrative Tribunal Act, which order of the Principal Bench at New Delhi was interfered with by the High Court of Calcutta. It is so evident from para 32 which read as under:

> "32. When once the High Court found the order [Personnel, Public Grievances and Pensions v. Alapan Bandyopadhyay, 2021 SCC OnLine CAT 3242] impugned as one passed by the Principal Bench we have no hesitation to hold that the High Court should have confined its consideration firstly, to decide its own territorial jurisdiction for exercising the power of judicial review over the order dated 22-10-2021 passed by the Principal Bench in Personnel, Public Grievances and Pensions v. Alapan Bandyopadhyay [Personnel, Public Grievances and Pensions v. Alapan Bandyopadhyay, 2021 SCC OnLine CAT 3242] in the correct perspective, without reference to the bundle of facts constituting the cause of action for filing OA No. 1619 of 2021 before the Kolkata Bench of the Tribunal founded on the cause of action referred to in Rule 6(2) of the Procedure Rules that decides the place of filing of an OA. To wit, those bundle of facts which would be necessary for the applicant to prove, if traversed, in order to support the right to a judgment from that Bench of the Tribunal. In such

[15] (2022) 3 SCC 133

> circumstances, the question of infringement or otherwise of the right of the respondent herein to litigate before the Kolkata Bench of the Tribunal could not have been gone into, on merits, without deciding the seminal question whether the High Court of Calcutta itself had jurisdiction to undertake judicial review of the order passed by the Chairman in exercise of power under Section 25 at the Principal seat of the Tribunal at New Delhi we do not have any hesitation in holding that the High Court at Calcutta could not have entertained the writ petition."

71. In the present case, certainly the cause of action is within the territorial jurisdiction of the Andhra Pradesh High Court.

72. We are of the considered view that the High Court of Andhra Pradesh shall have the territorial jurisdiction.

73. We accordingly hold on point No.A that Andhra Pradesh High Court has the jurisdiction.

Point-B Legality of the impugned order:

74. Learned counsel for the petitioner submitted that the applicant could be transferred on administrative exigencies. It is not that the applicant unless reaches the selection Grade cannot be transferred. The applicant had no statutory right to continue at the place of his choice. The guidelines for transfer are non-statutory and the respondent/applicant has no legal right to be posted at particular place under the guidelines which are enforceable under law.

75. Learned counsel for the petitioner submitted that the ground of illness etc were never reported to the petitioner. It was for the first time so mentioned in the O.A, after receipt of the order of transfer. The decision for transfer of the applicant was taken by the competent authority. It has the approval of the President of India since his service were duly necessitated at the transferred railway zone into the existing vacancy. The transfer was not punitive but in administrative exigency. The applicant did not submit any kind of request and the order of transfer was challenged in O.A after almost one month. He placed reliance in **S.C. Sexena vs. Union of India and others**[16] to contend that even in case of violation of the non-statutory guidelines, an order of transfer is not to be set aside. The Central Administrative Tribunal has set aside the order of transfer based only on the alleged inconveniences that might be faced, because of the transfer. There are no statutory grounds available to the applicant to challenge the order of transfer. It has not been set aside on any legally permissible grounds. There must be the judicially recognized grounds for interference with the order of transfer. He further submitted that; in the case of the Co-accused, there was vacancy whereas there is no vacancy existing on non-sensitive post. That cited judgment has no relevancy in the case of the applicant. The grounds on which the order of transfer has been set aside are legally impermissible.

[16] 2006(9)SCC 583

76. Learned counsel for the respondent submitted on merits that the impugned transfer order contravenes the office Order No.E(O)-III/2014/PL/05 dated 31.08.2015 of the Railway Board, Ministry of Railways, Government of India as under it a Group-A Officer (respondent) will not be transferred out of his allotted Zone/Unit till Section Grade. The respondent did not get selection grade. He submitted that the Railway Board had issued certain guidelines dated 12.02.2018 stating that Critical/Terminal illness of dependents requiring staying at a station for the sake of continuity of treatment can be considered on case to case basis. He submitted that the illness conditions of the dependents of the applicant as also of the applicant taking medical leave by applying at Hyderabad, the order of transfer, violated the Railway Board proceedings dated 14.05.2018. He submitted that there was violation of the Railway Board's letter in E(O)III-2014/PL/03 dated 10.06.2014. There was violation of the transfer policy. While transferring, the employer must look into the personal inconveniences of the employee. The transfer was at a distant place at Gorakhpur in North Eastern Railway (NER). The applicant could not be denied the basic service conditions, nor the applicant's family. The applicant had to attend the pending case. He further submitted that in the case of a co-accused namely U. Akki Reddy, who was also transferred to a different zone, had filed the O.A.No.021/940/25 before the Central Administrative Tribunal,

Hyderabad Bench, which had been allowed by order dated 06.03.2026, setting aside the order of his transfer. So, the applicant is also entitled for equality. The order of Tribunal deserves not to be interfered.

77. The submission of the learned counsel for the applicant that prior to the final order dated 25.01.2026 in O.A, the Guntakal was operationally reorganized and merged in newly formed South Central Railway, SCOR, Zone with its Zonal Headquarters at Visakhapatnam has been disputed and denied by the learned counsel for the writ petitioner submitting that, on the date of the judgment dated 28.1.2026 by the Central Administrative Tribunal, no final notification was released or published by the Central Government for such reorganization. So, the applicant's transfer was from South Central Railway, Guntkal and not from South Coastal Railway Zone.

78. We have considered the above submissions in Point-B and are of the view that the transfer order has been set aside on the reasons assigned in the order of the Central Administrative Tribunal and that is, the alleged inconvenience to the applicant and his family. The observation made is that the material placed before the Tribunal by the applicant showed the hardships of the applicant so it warranted consideration and interference. A reading of the impugned order shows that, what prevailed is only inconvenience, due to the order of transfer. Legally, on such ground an order of transfer should not be interfered with.

In every transfer there is bound to be some inconvenience. It is well settled that the judicial review of an order of transfer is permissible, only on grounds of violation of the statute or mala fide. It is settled that even if there is violation of non statutory transfer policy it would not vitiate the order of transfer. There is no right for enforcement of the guidelines on transfer unless those guidelines are statutory in nature. Based on the inconveniences or hardship, it is for the applicant to file application for consideration of his case by the competent departmental authorities. The applicant did not file any response before the authority.

79. In **Union of India and others vs. S.L. Abbas**,[17] the Hon'ble Supreme Court held in paras 6 and 7 as under:

> "6. An order of transfer is an incident of Government service. Fundamental Rule 11 says that "the whole time of a Government servant is at the disposal of the Government which pays him and he may be employed in any manner required by proper authority". Fundamental Rule 15 says that "the President may transfer a Government servant from one post to another". That the respondent is liable to transfer anywhere in India is not in dispute. It is not the case of the respondent that the order of his transfer is vitiated by mala fides on the part of the authority making the order, — though the Tribunal does say so merely because certain guidelines issued by the Central Government are not followed, with which finding we shall deal later. The respondent attributed "mischief"

[17] **(**1997) 4 SCC 357

to his immediate superior who had nothing to do with his transfer. All he says is that he should not be transferred because his wife is working at Shillong, his children are studying there and also because his health had suffered a setback some time ago. He relies upon certain executive instructions issued by the Government in that behalf. Those instructions are in the nature of guidelines. They do not have statutory force.

7. Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the court cannot interfere with it. While ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject. Similarly if a person makes any representation with respect to his transfer, the appropriate authority must consider the same having regard to the exigencies of administration. The guidelines say that as far as possible, husband and wife must be posted at the same place. The said guideline however does not confer upon the Government employee a legally enforceable right."

80. In **Sri Pubi Lombi vs. State of Arunachala Pradesh (Civil Appeal No.4129 of 2024 dated 13.03.2024),** it was held in paras 9 and 10 which read as under:

"9. In the case of Union of India and others Vs. S.L. Abbas; (1993) 4 SCC 357, it is clearly observed by this Court that the scope of judicial review is only available when there is a clear

violation of statutory provision or the transfer is persuaded by malafide, non-observation of executive instructions does not confer a legally enforceable right to an employee holding a transferable post. The relevant paragraph reads as under:

> "7. Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the court cannot interfere with it. While ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject……."
>
> 9.1 Further, following the footsteps of S.L. Abbas (supra) this Court in the case of Union of India and another Vs. N.P. Thomas; 1993 Supp (1) SCC 704 held that the interference by the Court in an order of transfer on the instance of an employee holding a transferrable post without any violation of statutory provision is not permissible.
>
> 9.2 This Court further curtailed the scope of judicial review in the case of N.K. Singh Vs. Union of India and others;
> (1994) 6 SCC 98 holding that the person challenging the transfer ought to prove on facts that such transfer is prejudicial to public interest. It was further reiterated that interference is only justified in a case of malafide or infraction of any professed norm or principle. Moreover, in the cases where the career prospects of a person challenging transfer remain unaffected and no detriment is caused, interference to the transfer must be eschewed. It is further held that the evidence requires to prove such transfer is prejudicial and in absence thereof interference is not warranted. The law reiterated by this Court is reproduced, in following words: -
>
> "9. Transfer of a public servant from a significant post can be prejudicial to public interest only if the transfer was avoidable and the successor is not suitable for the post. Suitability is a matter for objective assessment by the hierarchical superiors

in administration. To introduce and rely on the element of prejudice to public interest as a vitiating factor of the transfer of a public servant, it must be first pleaded and proved that the replacement was by a person not suitable for the important post and the transfer was avoidable. Unless this is pleaded and proved at the threshold, no further inquiry into this aspect is necessary and its absence is sufficient to exclude this factor from consideration as a vitiating element in the impugned transfer. Accordingly, this aspect requires consideration at the outset.

XXX XXX XXX

"23. …….Unless the decision is vitiated by mala fides or infraction of any professed norm or principle governing the transfer, which alone can be scrutinised judicially, there are no judicially manageable standards for scrutinising all transfers and the courts lack the necessary expertise for personnel management of all government departments. This must be left, in public interest, to the departmental heads subject to the limited judicial scrutiny indicated."

"24. …Challenge in courts of a transfer when the career prospects remain unaffected and there is no detriment to the government servant must be eschewed and interference by courts should be rare, only when a judicially manageable and permissible ground is made out. This litigation was ill-advised."

9.3 The issue involved in the present case is somewhat similar in the case of Mohd. Masood Ahmad Vs. State of U.P. and others; (2007) 8 SCC 150 wherein this Court in paragraph 8 has observed as thus: -

"8. ….. In our opinion, even if the allegation of the appellant is correct that he was transferred on the recommendation of an MLA, that by itself would not vitiate the transfer order. After all, it is the duty of the representatives of the people in the legislature to express the grievances of the people and if there is any complaint against an official the State

Government is certainly within its jurisdiction to transfer such an employee……"

9.4 It is not tangential to mention that this Court in the case of State of Punjab Vs. Joginder Singh Dhatt; AIR 1993 SC 2486 observed as thus: -

"3……..It is entirely for the employer to decide when, where and at what point of time a public servant is transferred from his present posting……"

9.5 It is also imperative to refer the judgement of this Court in the case of Ratnagiri Gas and Power Private Limited Vs. RDS Projects Limited and Ors.; (2013) 1 SCC 524 where it reiterated one of the pertinent principles of administrative law is that when allegations of malafide are made, the persons against whom the same are levelled need to be impleaded as parties to the proceedings to enable them to answer. The relevant excerpt is reproduced as thus:

"27. There is yet another aspect which cannot be ignored. As and when allegations of mala fides are made, the persons against whom the same are levelled need to be impleaded as parties to the proceedings to enable them to answer the charge. In the absence of the person concerned as a party in his/her individual capacity it will neither be fair nor proper to record a finding that malice in fact had vitiated the action taken by the authority concerned……."

10. In view of the foregoing enunciation of law by judicial decisions of this Court, it is clear that in absence of (i) pleadings regarding malafide, (ii) non-joining the person against whom allegation are made, (iii) violation of any statutory provision (iv) the allegation of the transfer being detrimental to the employee who is holding a transferrable post, judicial interference is not warranted. In the sequel of the said settled norms, the scope of judicial review is not permissible by the Courts in exercising of the jurisdiction under Article 226 of the Constitution of India."

81. Law is well settled, as been held in **S.C. Sexena** (supra) that a Government servant cannot disobey a transfer order by not reporting at the place of posting. Paras 6 and 8 read as follows:

> "6. We have perused the record with the help of the learned counsel and heard the learned counsel very patiently. We find that no case for our interference whatsoever has been made out. In the first place, a government servant cannot disobey a transfer order by not reporting at the place of posting and then go to a court to ventilate his grievances. It is his duty to first report for work where he is transferred and make a representation as to what may be his personal problems. This tendency of not reporting at the place of posting and indulging in litigation needs to be curbed. Apart therefrom, if the appellant really had some genuine difficulty in reporting for work at Tezpur, he could have reported for duty at Amritsar where he was so posted. We too decline to believe the story of his remaining sick. Assuming there was some sickness, we are not satisfied that it prevented him from joining duty either at Tezpur or at Amritsar. The medical certificate issued by Dr. Ram Manohar Lohia Hospital proves this point. In the circumstances, we too are of the opinion that the appellant was guilty of the misconduct of unauthorisedly remaining absent from duty.
>
> 8. A final, if we may say so, desperate argument was made that the appellant had sufficient leave to his credit and, therefore, the respondents should have taken a liberal view in the matter and permitted him to resume duty when he attempted to resume in the year 1992 by sanctioning the leave that was available to his credit. In our view, the argument cannot be countenanced. Acceding to such an argument by courts, particularly this Court, has led to and will continue to

lead to gross indiscipline in public service. We are unable to accept such an argument."

VII. Conclusions:

82. Thus, considered our conclusions on the points A and B are as under:

A. The High Court of Andhra Pradesh has territorial jurisdiction under Article 226 of the Constitution of India over the subject matter as **i)** the order of the transfer was passed transferring the respondent applicant from Guntakal (in A.P) and **ii)** the O.A challenging the order of transfer was filed at the Vijayawada vide Circuit Bench of Central Administrative Tribunal, Hyderabad (AP), it was heard on many dates at Circuit Bench Vijayawada and though finally decided at Central Administrative Tribunal at Hyderabad, it was decided as an O.A from A.P, as the Central Administrative Tribunal at Hyderabad is for both the States. **iii)** The cause of action to maintain the writ petition is in Andhra Pradesh.

B. The Central Administrative Tribunal acted illegally in interfering with the order of transfer on legally unsustainable grounds and not on any judicially recognized grounds of **i)** violation of statutory provisions, **ii)** Mala fide etc. The impugned order of the Tribunal deserves to be set aside.

VIII. Result:

83. In the result, the writ petition is allowed. The order dated 28.01.2026 passed by the Central Administrative Tribunal, Hyderabad Bench, Hyderabad in O.A.No.020/0933/2025 is quashed/set aside.

No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed in consequence.

RAVI NATH TILHARI, J

PURUSHOTTAM KUMAR CHINTALAPUDI, J

Date:29.09.2026
Note:
L.R copy to be marked.
B/o.
Dsr/Gk

Whether the order is:

Reasoned 'Yes'

Reportable 'Yes'

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
&
THE HONOURABLE SRI JUSTICE PURUSHOTTAM KUMAR CHINTALAPUDI

WRIT PETITION NO: 16397 of 2026

Date:29.09.2026

Dsr/Gk