There is no reason whatever for extending its scope to appeals or revisions. In my view there is a reason why the legislature did not intend to extend its scope to appeals or revisions. At the stage of trial, the Court may call upon the parties to establish the right claimed under the new Act, mould its proceedings and examine the evidence of the parties in accordance with the provisions of the Act whenever the Court considers it proper or necessary to do so in the interest of Justice. At the stage of appeal such a course would necessitate a remand and further delay in the disposal of the case. This argument of convenience cannot be ignored. I may say here that the legislature has used the word "appeal" in the second proviso in its generic sense and includes revisions because it would be absurd to hold that the second proviso applies to appeals and not to revisions. I am of the view that the provisions of the first proviso do not apply to an appeal or revision. That being so section 14(6) of the new Act has no application to the present case and the contention of the learned Counsel for the tenant fails.

For these reasons I see no force in this revision and dismiss it with costs.

Parties agree that the petitioner be given two months' time from today to vacate the premises i.e., the petitioner must vacate the premises on or before 12th July, 1959. I order accordingly.

B.R.T.

CIVIL WRIT

Before G. L. Chopra, J.

M. P. BAKSHI,—*Petitioner.*

versus

LIFE INSURANCE CORPORATION OF *INDIA*,—

Respondent

Civil Writ No. 841 of 1958

1959

May, 12th

Constitution of India (1950)—Article 226—High Court—Whether has jurisdiction to set aside an order of an authority located in another State when the order takes effect in the territory of the High Court.

Held, that where the authority claiming to exercise jurisdiction over a matter at first instance is located in one State and the appellate authority is located in another State, the High Court in the first State has no jurisdiction to set aside the order of the authority of first instance which has been confirmed on appeal by the appellate authority as the order of the authority of the first instance merged in the order of the appellate authority which is not amenable to the jurisdiction of the High Court.

Petition under Articles 226 and 311 of the Constitution of India, praying that a writ in the nature of certiorari *or mandamus be issued directing the respondent to reinstate the petitioner in his post which he was holding prior to his dismissal..*

J. N. TALWAR, H. L. SIBBAL and N. N. GOSWAMI, for Petitioner .

R. SACHAR, for Respondent.

ORDER

G. L. Chopra, J.

CHOPRA, J.—Shri M.P. Bakshi, the petitioner, took service as Divisional Superintendent, National Insurance Company Limited, Calcutta, on 1st February, 1954. The Life Inscrance Corporation of India came into existence on 1st September, 1956, and then the services of the petitioner were transferred to the Corporation. He continued working on the post held by him. On 5th July, 1957, the petitioner was suspended by order of the Divsional Manager, Jullundur, because of certain complaints of forgery having been committed in respect of certain documents in the course of his service. As a result of the enquiry held by the Divisional Manager, the petitioner was dismissed by order of the said Manager, dated 30th September, 1957. The petitioner preferred an appeal to the Executive Committee, Life Insurance Corporation, Bombay, through proper channel, as required by the Regulations. The

appeal was dismissed by the said authority somewhere before 27th June, 1958, when intimation of the same was conveyed to the petitioner. In the present petition under Article 226 of the Constitution, it is prayed that the order of the Divisional Manager and that of the Executive Committee dismissing the petitioner be quashed.

A preliminary objection is taken on behalf of the respondent that since the Executive Committee, by which the final order was made, is situate at Bombay and is not amenable to the jurisdiction of this Court, the writ, as prayed for, cannot be issued. On behalf of the petitioner it is conceded that the order of the Divisional Manager merged into that of the Executive Committee and, therefore, unless the latter order was set aside no effective relief to the petitioner would be available. The learned counsel, however, contends that the order of dismissal finally passed by the Executive Committee, Bombay, was to operate and take effect within the jurisdiction of this Court and, therefore, the Court was competent to issue a writ against the Executive Committee and quash the order passed by that authority. Whatever might have been the view prior to the pronouncement of their Lordships of the Supreme Court in *Election Commission, India* v. *Saka Venkata Rao,* (1), the matter now seems to be well-settled. In that case, Patanjali Sastri, C.J. (at page 213) turned down the very argument and pertinently observed: —

> "We are unable to agree with the learned Judge below that if a tribunal or authority permanently located and normally carrying on its activities elsewhere exercised jurisdiction within those

(1) A.I.R. 1953 S.C. 210

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territorial limits so as to affect the rights of parties therein, such tribunal or authority must be regarded as 'functioning' within the territorial limits of the High Court and being therefore amenable to its jurisdiction under Article 226."

It is correct that the question directly involved in the present case was left open by their Lordships of the Supreme Court in that case. The question is, where the authority claiming to exercise jurisdiction over a matter at first instance is located in one State and the appellate authority is located in another State, whether the High Court in the first State would have jurisdiction to set aside the order of the authority of first instance and also that of the appellate authority by which the first one was merely confirmed.

The matter was at some length considered by a Division Bench of the Pepsu High Court (of which I, too, was member) in *Joginder Singh-Waryam Singh* v. *Director, Rural Rehabilitation; Pepsu, Patiala; and others,* (1). It was held that the writs, orders or directions under Article 226 of the Constitution cannot travel beyond the territorial limits of the High Court's jurisdiction and the person or authority to whom they are to be issued must reside or be located within the territories in relation to which the Court exercises jurisdiction, and if either of these considerations is not satisfied the High Court will obviously be left without jurisdiction to issue such writs etc. Consequently, where the office of the revisional authority which passed the final order was located in Delhi, beyond the jurisdiction of the Pepsu High Court, the Court had no jurisdiction to issue

(1) A.I.R. 1955 Pepsu 91

a writ quashing the order of that authority, even though the authority exercised jurisdiction within the territorial limits of the High Court and the order passed by it affected rights of the persons residing therein. The decisions now being relied upon by Mr. Talwar were all considered and dissented from in the above case.

The Pepsu decision and some other cases holding a similar view were distinguished, but all the same received the approval of the Supreme Court, in *T. K. Masuliar* v. *Venkatachalam* (1). On a reference to these decisions Bhagwati, J. (at page 225) observes: —

> "These decisions, however, are clearly not in point for, in each of them, the order passed by the authority within the territories and accordingly within the jurisdiction of the High Court concerned had merged in the order of the superior authority which was located outside the territiories and was, therefore, beyond the jurisdiction of that High Court. In that situation, a writ against the inferior authority within the territories could be of no avail to the petitioner concerned and could give him no relief for the order of the superior authority outside the territories would remain outstanding and operative against him.
>
> As, therefore, no writ could be issued against that outside authority and as the orders against the authority within the territories would, in view of the orders of the superior authority, have been infructuous, the High Court concerned had, of necessity, to dismiss the petition."

(1) A.I.R. 1956 S.C. 246

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The Rajasthan decision in *Barkatali* v. *Custodian-General of Evacuee Property of India.* (1), holding the contrary view and relied upon by Mr. Talwar, was not regarded as good law by Wanchoo, C.J. (as he then was) in a later case of the same High Court in *Dungardas and another* v. *Custodian, Rajasthan and another,* (2). In view of the Supreme Court decision referred to above, the learned Chief Justice upheld the preliminary objection that the Rajashthan High Court had no jurisdiction to pass any order against the Custodian-General, New Delhi, and as the order of the Deputy Custodian, Ganganagar, had been upheld and confirmed by the Custodian-General in revision, the applicant could not ask that Court to issue a writ to the Deputy Custodian, Ganganagar, as that would not be of any help to the applicant.

The preliminary objection must, therefore, prevail and the petition ought to be dismissed. I order accordingly, but in view of the facts of the case I leave the parties to bear their own costs.

B.R.T.

SUPREME COURT

Before Bhuvaneshwar Prasad Sinha, P. B. Gajendragadkar and K. N. Wanchoo, JJ.

THE MANAGER, HOTEL IMPERIAL, NEW DELHI,—
Appellant

versus

THE CHIEF COMMISSIONER, DELHI, AND OTHERS,—
Respondents

Civil Appeal No. 291 of 1956

1959

May, 13th

Industrial Disputes Act (XIV of 1947)—Section 10—Order of reference containing the words "workmen as

(1) A.I.R. 1954 Raj. 214
(2) A.I.R. 1956 Raj. 163