

Reasoned

CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
JABALPUR

Original Application No.200/00303/2020

Jabalpur, this Friday, the 29th day of May, 2020

HON'BLE SHRI NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Dr. Praveen Jha S/o S.K. Jha, aged about 33 years R/o Quarter No. C-4 New F Type Quarter, F.S.L. Colony, Civil Lines Sagar, Madhya Pradesh

-Applicant

(By Advocate –**Shri Siddharth Seth**)

V e r s u s

1. Union of India, Through its Secretary, Ministry of Home Affairs North Block Central Secretariat New Delhi 110001
2. Union Public Service Commission, Through its Secretary Dholpur House, Shahjahan Road New Delhi 110069
3. Directorate of Forensic Science Services, Through its Director cum Chief Forensic Scientist Block No.9 8th Floor CGO Complex Lodhi Road New Delhi 110003
4. Shri Manish Malhotra S/o Shri aged 30 years resident of office Physics Division Forensic Science Laboratory E-Block Sardar Patel Bhawan Bailey Road Patna 800023
5. Dr. Hari Singh Gaur University, Through its Registrar University Road Sagar, Madhya Pradesh - **Respondents**
 (By Advocate –**Shri S.P. Singh for respondent No.1 & 3 and**
Shri Mohan Sausarkar for respondent No.2 [UPSC])



ORDER

By Ramesh Singh Thakur, JM:-

This Original Application has been filed against the order dated 26.12.2019 (Annexure A/4) and 21.02.2020 (Annexure A/10) passed by respondent No.2 whereby the applicant is challenging the select list for the post of Scientist 'B' (Physics), Central Forensic Science Laboratory, Directorate of Forensic Science Services, Ministry of Home Affairs.

2. The applicant has submitted that the respondent No.2 has issued an advertisement No.15/2018 for filling up the post of Scientist 'B' (Physics) as per Annexure A/1. The main contention of the applicant is that pursuant to the advertisement, the applicant took into account his working experience in Physics Division in both Central and State Forensic Science Laboratories as well as research experience under Physics Department in the University. The applicant was possessing the relevant qualification and experience





of 8 years 1 month and 25 days as on closing date 30.08.2018 in the relevant field as desired in the advertisement No.15/2018 issued by the respondents. The applicant applied through online mode for the said post on 30.08.2018. The respondent No.2 published the total online applications received for the said post where applicant's name found place in Serial No.348 Roll No.348 Application No.16110075449. The applicant's name was scrutinized as per the criteria which had been adopted for shortlisting of the candidates. As per advertisement the interview call letter dated 28.11.2019 was received on his registered email address intimating the interview to be held on 23.12.2019 for the post of Scientific B (Physics) at U.P.S.C. New Delhi. The applicant attended the interview held on 23.12.2019 for the said post at New Delhi and performed well. The copy of the interview call letter dated 23.12.2019 (Annexure A/3).

3. It has been submitted by the applicant that respondent No.2- UPSC New Delhi declared result on 26.12.2019 and posted the list of selected candidates for the two posts of Scientist 'B' (Physics)

where the applicant was placed in the reserved panel list at Serial No.1 i.e. Wait List No.1.

4. The applicant is challenging the select list on the anomaly that the result of the Selection Committee is apparently not in accordance with law and respondent No.4 who apparently do not meet out the essential qualifications, has been selected. So, the selection made are arbitrary and illegal in the eyes of law. The selection list is as Annexure A/4.

5. The learned counsel for the respondents Nos.1 and 3, learned Central Government Standing Counsel has specifically taken the objection regarding the maintainability of the O.A before this Bench as the advertisement has been issued by UPSC at Delhi, interview was conducted at UPSC New Delhi and result has been declared by UPSC New Delhi and appointment is to be done by respondents at Delhi.



6. The learned counsel for respondent No.2 (UPSC) has also taken the similar objection regarding the jurisdiction of this Tribunal to entertain this Original Application.

7. Learned counsel for the both the parties have been heard on this preliminary issue regarding the maintainability on jurisdictional issue of this Bench.

8. The learned counsel for the applicant has taken us to the relevant provision of Section 14 of the Central Administrative Tribunal Act, 1985 and has submitted that this Bench has jurisdiction to entertain the O.A. as it is recruitment and matters concerning recruitment to any All India Service or to any civil service of the Union or a Civil post under the Union.

9. Learned counsel for the applicant has taken us to Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987 and has submitted that the applicant is posted for the time being within the jurisdiction of this Tribunal in State service and the cause of action,



wholly or in part has arisen, which is within the jurisdiction of this Bench.

10. Learned counsel for the applicant had relied upon the judgment passed by Hon'ble High Court of Delhi in the matters of

M/s. Sterling Agro Industries Ltd. vs. Union of India and others

decided on 01.08.2011 and has submitted that the case of the applicant is covered by the judgment passed by Hon'ble High Court of Delhi and has submitted that even if a minuscule part of cause of action arises within the jurisdiction of this Court, a writ petition would be maintainable before this Court. The cause of action has to be understood as per the ratio laid down in the case of ***Alchemist Limited and another vs. State Bank of Sikkim and others*** (2007)

11 SCC 335.

11. The learned counsel for the applicant relied upon the judgment passed by Hon'ble High Court of Madhya Pradesh in the matters of



K.P. Govil vs. Jawaharlal Nehru Krishi Vishwa Vidyalaya

***Jabalpur and another* 1987 SCC OnLine MP 41.**

12. The learned counsel for the applicant has further submitted that in view of Annexure A/1 Page 35 of the paper book, Headquarter of Respondent No.3 is at New Delhi with Laboratories at Kolkata, Chandigarh, Hyderabad, Bhopal, Guwahati and Pune. So in the present circumstances the cause of action has arisen partly for maintainability of the present O.A. The learned counsel for the applicant has also relied upon the judgment passed by Hon'ble Apex Court in the matters of ***Nawal Kishore Sharma vs. Union of India and others*** (2014) 9 SCC 329 to the fact that cause of action is bundle of facts which is necessary to prove in its case and in the circumstances as shown in advertisement, the cause of action has arisen wholly and in part and the O.A. is maintainable before this Bench.



 13. The learned counsel for the applicant has also relied upon the judgment passed by the Hon'ble Apex Court in the matter of ***Kusum Ingots and Alloys Ltd. vs. Union of India and Another*** (2004) 6 SCC 254 regarding the 'choice of forum', where the cause of action has arisen. It is submitted by the learned counsel for the applicant that though the relevant advertisement advertised by respondent No.2 at New Delhi and result was declared at Delhi but the applicant has a choice of forum which is within the jurisdiction of this Bench (Bhopal).

14. On the other side learned Central Government Standing counsel for respondents No.1 and 3 has submitted that the posts were advertised by respondent No.2 (UPSC) at New Delhi, the interview was conducted at UPSC New Delhi, the result was declared at UPSC New Delhi and the cause of action has arisen at Delhi and in view of the specific provision laid down under Section 6 (Place of filing application) of the Central Administrative Tribunal (Procedure) Rules, 1987, an application

shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction. (i) the applicant is posted for the time being, or (ii) the cause of action, wholly or in part, has arisen: Provided that with the leave of the Chairman the application may be filed with the Registrar of the Principal Bench and subject to the orders under section 25, such application shall be heard and disposed of by the Bench which has jurisdiction over the matter.

15. In the present circumstances this Bench has no jurisdiction to entertain this O.A. The similar arguments have been raised by the counsel for the respondent No.2.

16. Admittedly as per Annexure A/1, two posts were advertised for Scientist 'B' (Physics) by respondent No.2. It is also admitted fact that the applicant had applied online for the said post. It is also admitted fact that the interview call letter was issued by the respondent-department and applicant had appeared in the interview. The only question for determination is whether this



Bench has jurisdiction to entertain this O.A. As per Section 14 of the Central Administrative Tribunal Act 1985, the Tribunal shall exercise all the jurisdiction, powers and authority in relation to recruitment and matters concerning recruitment. The relevant Section is as under:-



“14. Jurisdiction, powers and authority of the Central Administrative Tribunal.—

(1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court in relation to—

(a) recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;

(b) all service matters concerning—

(i) a member of any All-India Service; or

(ii) a person [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union; or

(iii) a civilian [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any defence services or a post connected with defence, and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation [or society] owned or controlled by the Government; ”



From this provision itself the application shall ordinarily be filed by the applicant with the Registrar of Bench within whose jurisdiction the applicant is posted for the time being or for cause of action wholly or in part has arisen.

17. Learned counsel for the applicant while relying upon the judgment passed by Hon'ble Apex Court in the matters of *M/s. Sterling Agro Industries Ltd.* (supra) extended his argument in view of the circumstances as indicated in Annexure A/1 to the fact that the posting order of Scientist 'B' (Physics) is being issued for lab of respondent-department at Bhopal. As per Annexure A/1 (page 35 of the paper book) the headquarter of the Central Forensic Science Laboratory, Directorate of Forensic Science Services,



Ministry of Home Affairs Headquarter is at New Delhi with Laboratories at Kolkata, Chandigarh, Hyderabad, Bhopal, Guwahati and Pune. We are of the affirmed view that the Head Office of the respondent-department is at Delhi and the post has been advertised at UPSC, interview has been held at UPSC and result has been declared at UPSC and in view of the Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987 the cause of action has arisen at Delhi only. As the applicant is an employee of State Government in the State of M.P. and benefit of Section 6 of Central Administrative Tribunal (Procedure) Rules, 1987 is not available to applicant. Therefore this O.A. is not maintainable before this Bench.

18. The argument put forth by the counsel for the applicant regarding choice of forum as held in the matter of ***Nawal Kishore Sharma*** (supra) is not applicable in the present O.A. as cause of action arose at Delhi. The ratio of ***Nawal Kishore Sharma*** (supra) is only applicable where the cause of action wholly or in part has

arisen at two places, in the present O.A. the cause of action has only arisen at Delhi, where the post has been advertised, interview has been taken and result has been declared at Delhi. So the reliance put forth by the counsel for the applicant in the matter of ***Kusum Ingots and Alloys Ltd.*** (supra) is not applicable.

19. In view of the above discussion, we are of the affirmed view that this Original Application is not maintainable before this Bench. However, the applicant is at liberty to approach appropriate Bench of the Central Administrative Tribunal, if so advised.

20. Resultantly, this Original Application is dismissed for want of jurisdiction before this Bench.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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