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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.2294/2004

M A No. 1924/2004

New Delhi, this the 28th day of September, 2004

Hon'ble Mr. Justice V.S. Aggarwal, Chairman
Hon'ble Mr. S.A. Singh, Member (A)

1. Parcel Porters Association
Through its Secretary Kamla Singh
S/o Late Shri Bhola Singh
Having its office at:
17, V.P.House, Rafi Marg
New Delhi – 110 001.

2. Vijay Kumar Singh
s/o Shri Bhagwan Singh
working as Parcel Porter at
Railway Station Muzaffarpur
Distt. Muzaffarpur (East-Central)
Bihar. ... Applicants

(By Advocate: Sh. Manzoor Ali Khan for Shri D.K.Garg)

Versus

1. Union of India through
Secretary
Ministry of Railway
Government of India
Rail Bhawan
New Delhi – 110 001.

2. Chairman
Railway Board
Rail Bhawan
New Delhi – 110 001.

3. General Manager (Commercial)
North-East Railway
Hazipur, Distt. Hazipur
Bihar.

4. General Manager
Northern Railway
Baroda House, New Delhi. ... Respondents

O R D E R (Oral)

By Mr. Justice V.S. Aggarwal:

Applicant No.1, a Parcel Porters Association, is having its registered office at New Delhi. Applicant No.2, Sh. V.K. Singh, is working as Parcel Porter at Railway Station, Muzaffarpur, Bihar. By virtue of the present application,

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they seek direction to treat the applicants/Parcel Porters mentioned in Annexure-P/6 as regular employees of East Central Railway and to grant them all the benefits which are available to regularly appointed Parcel Porters.

2. During the course of the submissions, it was not disputed that Headquarter of East Central Railway is at Hazipur in Bihar. Furthermore, the applicant in Paragraph 5(A) plead that the application has been filed because the members of the applicants Association who are mentioned in Annexure-P/6 are entitled to be treated as registered employees of East Central Railway as they are discharging the duties of perennial nature for the last 15 and 18 years. All the members of the Association mentioned at Annexure-P/6 are working at Muzaffarpur within the jurisdiction of the East Central Railway. The Headquarters of the same is at Hazipur.

3. Keeping in view these facts, we had put to the learned counsel as to whether Principal Bench of this Tribunal has the territorial jurisdiction to entertain the application or not.

4. Learned counsel for the applicants had sought time on 24.9.2004. Today, he appeared and argued that because the Headquarter of Parcel Porters Association is in New Delhi, therefore, the Principal Bench can hear this application and in any case the applicants have arrayed the Union of India as a party. In addition to that, he relied upon the decision of the Division Bench of the Delhi High Court in the case of **NATIONAL FEDERATION OF RAILWAY PORTERS, VENDORS & BEARERS & ORS. v. UNION OF INDIA AND ORS.**, Civil Writ Petition No.6203/98, decided on 19.9.2001.

5. We have heard the applicants' learned counsel.

6. Under the Administrative Tribunals Act, 1985, the Tribunal can have different Benches. In accordance with the said provisions, in exercise of the powers conferred under Section 18 of the Act, the ^{State} ~~Tribunal~~ has issued an order making provision as to the distribution of the business of the Tribunal amongst the Benches. So far as the Principal Bench is concerned, all cases arising within

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the Union Territory, where cause of action had arisen in the said territory, will have the territorial jurisdiction to entertain the application.

7. In addition to that, Central Administrative Tribunal (Procedure) Rules, 1987 have been framed. Rule 6 tells us as to where the application is to be filed. The same reads as under:

“[6. **Place of filing applications:-** (1) 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.

2. Notwithstanding anything contained in sub-rule (1) persons who have ceased to be in service by reason of retirement, dismissal or termination of service may at his option file an application with the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application.]”

8. Perusal of the same clearly shows that the application can be filed where the applicant is posted for the time being or where the cause of action has arisen wholly or in part.

9. Full Bench of this Tribunal, in the case of **ALOK KUMAR SINGH & ANOTHER v. UNION OF INDIA & ANOTHER**, O.A.No.458/1990, decided on 8.1.1991 clearly held that two options have been given to the applicant. The findings of the Full Bench read:

”10. Rule 6(1)(i) gives two options to the applicant. He may file the O.A. with the Registrar of the Bench within whose jurisdiction (a) the applicant is posted for the time being or (b) the cause of action has arisen, whether wholly or in part. There is a disjunctive 'or' after clause (i) of Rule 6(1)(i). This means that the applicant had two choices to file the O.A., one before the Tribunal which has jurisdiction on the basis of the place where he was posted then and, secondly at a place where the cause of action had arisen whether wholly or in part. The question which is relevant for the purposes of this Full Bench is clause (ii) viz., where has the cause of action

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arisen in the present case? A further question would be: Whether any part of the cause of action had arisen within the jurisdiction of this Bench of the Tribunal? In other words, whether a part of cause of action had arisen within the jurisdiction of the Allahabad Bench? There is no allegation anywhere that any of the three orders issued by the respondents from Delhi was received by the applicant in Delhi.”

10. So far as this controversy is concerned, we have no dispute that either the application can be filed where the applicant is posted for the time being or where the cause of action had arisen wholly or in part.

11. As the Parcel Porters registered office is at Delhi, it cannot be taken that the applicants are posted at Delhi in terms of Rule 6 (1) of the Central Administrative Tribunal (Procedure) Rules, 1987.

12. So far as the decision of the Delhi High Court in the case of *National Federation of Railway Porters, Vendors & Bearers & Ors. (supra)* is concerned, it clearly shows that it is distinguishable. Therein, two private persons were Commission Vendors at Varanasi Railway Station. The Delhi High Court held that they were liable to be absorbed in Northern Railway or in other words in the Headquarters at Delhi. Therefore, it was held that the Principal Bench had the jurisdiction.

13. The learned counsel for the applicants reiterated that Applicant No.1 was having its Headquarters in Delhi. He relied upon the following passages of the Delhi High Court Judgment:

“It is unnecessary to examine the definitions of cause of action or to dilate on the manner in which it could be said to arise in a given case. Suffice it to say that petitioners' case broadly related to non-implementation of some orders/circulars issued by R1-3 related to their absorption as regular Railway employees for which they had also obtained Minister's orders which had allegedly gone unimplemented. That being so, their whole cause or part cause revolved round the action taken at New Delhi. Apart from that petitioner No.1 was headquartered at New Delhi and had filed the OA on behalf of its members.

It appears that Principal Bench had proceeded on assumption that Petitioners were to be granted relief by R4-5 who were not within its jurisdiction and had lost sight of



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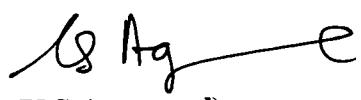
the whole perspective leading to the filing of OA including that petitioners were liable to be absorbed in any operational area of Northern Railway which did not fall within the jurisdiction of R-4&5.”

14. Perusal of the same clearly shows that it was held by the High Court that cause of action had arisen at New Delhi. It is not the ratio deci dendi of the decision that wherever the Association is registered, that Bench has the jurisdiction. This is for the reason that under Rule 4 of the CAT (Procedure) Rules, 1987 Sub-Rules 5(a) and (b) clearly permit an Association representing the persons desirous of joining to file a single application. This has been enacted to avoid multiplicity of proceedings but the jurisdictional aspect necessarily is confined to where the cause of action would arise. We have pointed above that all the persons for whom the reliefs are claimed are at Muzafarpur. The long list of Annexure-P/6 indicates that the private individuals, for whose benefits the application is filed, are at Muzafarpur.

15. The relief is being claimed to regularize them in East Central Railway which has its Headquarters at Hazipur, Bihar. The relief can be granted by the General Manager of the said Railway who is posted in Bihar, and therefore, the Principal Bench cannot be held to be having territorial jurisdiction.

16. For these reasons, on this short ground, the application is dismissed. We make it clear that nothing said herein is an expression of opinion on the merits of the matter. However, the applicants would be at liberty to file the application before the appropriate Bench of this Tribunal in accordance with law.


(S.A.Singh)
Member (A)


(V.S. Aggarwal)
Chairman

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