

(S)

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

THIS THE 26th DAY OF SEPTEMBER, 2005

Original Application No. 786 of 2005

CORAM:

HON.MR.K.B.S.RAJAN, MEMBER (J)
HON.MR.A.K. SINGH , MEMBER (A)

Ajit Kumar Mishra, UDC, a/a 50 years
Son of Late Shri Ramesh Datt Mishra
G-1/99, ADA Colony Kalindipuram,
Phase-II, Allahabad. . Applicant

(By Adv: Shri K.P. Singh)

Versus

1. Union of India through its Secretary
Ministry of defence, Sena Bhavan,
New Delhi.
2. Quarter Master General
Army Headquarters, Sena Bhavan
New Delhi.
3. Dy. Director General of Military Farm
Army Headquarter, West Block III
R.K.Puram, new Delhi.
4. Director of Military Farm
HQ.Central Command Lucknow.
5. The Officer Incharge
Military Farms Records
Delhi Cantt.
6. The Officer Incharge Militry Farm,
Jhansi.
7. The Officer Incharge, Military
Farm, Allahabad.
8. The Officer Incharge, Military
Farm, Lucknow. .. Respondents

By Advocate: Sri Saumitra Singh

6

O R D E R

By K.B.S. RAJAN, MEMBER-J

The applicant is aggrieved by non payment of salary ever since he was, by an earlier order of the Lucknow Bench of the Tribunal, ~~was~~ directed to be reinstated in service. Hence, this OA has been filed with certain direction to the respondents to make the arrears of pay and allowance and also with a further direction to them that the pay of the applicant shall be disbursed month to month.

2. On the earlier occasion, an interim order was passed on 8th August, 2005 directing the respondents to pay the salary of the applicant including the arrears within a stipulated time. As the respondents have failed to pay the same, the applicant had moved M.A. No. 2923 of 2005 in respect of which notice has been issued calling for the response from the respondents.

3. The respondents have preferred certain preliminary objections and they are three fold as under:-

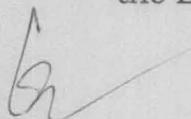
- (a) This Tribunal has no territorial jurisdiction.
- (b) The relief as at para 8 and the interim relief at para 9 are one and the same and as such, interim relief cannot be considered.
- (c) The OA itself is hit by res-judicata inasmuch as the applicant had earlier filed OA No. 106/03 decided on 2nd June, 2003.



4. Arguments were heard on maintainability of the OA at this Bench. It is admitted that the applicant prior to filing of the OA No. 106 of 2003 was functioning at Lucknow and the OA was filed against an order of penalty of compulsory retirement. The said OA was allowed and the order of penalty was quashed and set aside. Against the same the respondents have filed a civil writ petition before the Hon'ble High Court at Lucknow in CWP No. 1205-03. The said petition, of course, is pending. The counsel for the applicant contended that as early as in 2003 when his leave was sanctioned, he had in his application mentioned that his leave address would be Allahabad and he has been granted leave for the purpose of having the medical treatment of his wife. Thus, the applicant's residence is at Allahabad and since he was not permitted to join duties after the order of compulsory retirement was quashed by the Tribunal (on the ground that the Civil Writ Petition is pending), he had no option but to be back to Allahabad and thus, this Bench of the Tribunal has territorial jurisdiction.

5. Rule 6 of the C.A.T.(Procedure) Rules, 1987 deals with the subject, place of filing the application. The same is reproduced below:

Place of filing application.- (1) An application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction-



4

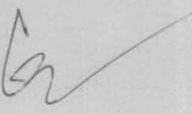
(8)

- (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.

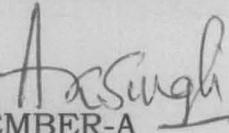
- (2) Notwithstanding anything contained in sub-rule (1) persons who have ceased to be in service by reasons of retirement, dismissal or termination of service may at his option file an application with the registrar of the bench within whose jurisdiction such person is ordinarily residing at the time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

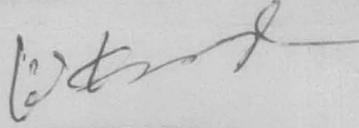
6. The above would show that when the applicant is serving in a particular organization, then the place of filing of the OA is in that Bench, within whose territorial jurisdiction the office of the applicant is situated or where the cause of action has fully or partly arisen. In the instant case, as the applicant is still serving, even as per the words of the respondents, vide order dated 17th June, 2003 addressed to the United Bank of India, the territorial jurisdiction shall be only at Lucknow. Attempt was made to substantiate that when the charge sheet was issued to the applicant he was at Jhansi and it is Allahabad Bench that has Jhansi within its jurisdiction. This contention



has to be summarily rejected since the charge sheet is not the subject matter of this O.A. The entire cause of action has arisen only at the Lucknow Office where the applicant was earlier also serving and as such, the respondents are entirely right in contending that this Bench has no territorial jurisdiction.

7. In view of the above, we have no option save to dismiss the OA on the ground of lack of territorial jurisdiction. Consequently, the interim order passed vide order dated 8th August, 2005 gets automatically vacated. The applicant has, however, retained his right to pursue the matter in the forum having territorial jurisdiction. We make it clear that we have not expressed any opinion on the merit of the O.A.


MEMBER-A


MEMBER-J