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Reserved

Central Administrative Tribunal, Allahabad.

Registration O.A.No.725 of 1987

Tanvirul Islam

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Applicant

Vs.

Railway Recruitment Board
and another

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Respondents.

Hon. G.S.Sharma, JM
Hon. K.J.Raman, AM

(By Hon. G.S.Sharma, JM)

In this petition u/s.19 of the Administrative Tribunals Act XIII of 1985 the applicant has prayed that the respondents be directed to fix a date for his interview and thereafter to declare his result in accordance with merit and on his being qualified, to give him the appointment as P.W.I./Bridge Inspector.

2. The relevant facts of this case for the disposal of the present petition are that in pursuance of the employment notice issued by the respondent no.1 for the post of P.W.I. and Bridge Inspector, the applicant had appeared in the written examination held at Patna on 30. 11.1986. The applicant belongs to Fatehpur in U.P. and on 3.2.1987 he received an intimation there from the respondent no.1 requiring him to appear for interview at Patna on 30.1.1987. As the date of interview had already elapsed, the applicant made a representation to respondent no.1 on 4.2.1987 for fixing some other date for his interview. When he did not have any response to his representation, he sent a registered notice to the respondent no.1 on 23.3.1987 repeating his request but despite the service of the notice, the respondent no.1 neither fixed any date nor gave any reply to him. The present petition was accordingly filed by the applicant on the ground that it was the duty of the respondent no.1 to intimate the date of interview fixed by it by registered post

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to the individual candidates and as the intimation given by the respondent no.1 had reached the applicant after the date fixed for interview it amounted to ~~the~~¹ denial of the opportunity to appear in the interview test. It is also alleged that the applicant had done very well in the written examination and on being given a chance to appear in the interview he would have certainly found his name in the selected candidates and the conduct of the respondent no.1 amounts to discrimination against him and the Postal Department being the agent of the respondent no.1 it was the duty of the respondents to inform the applicant well in time about the date fixed for interview.

3. The petition has been contested on behalf of the respondents and in the reply filed on their behalf by the Member Secretary of the Railway Recruitment Board Patna-respondent no.1 it has been stated that this Bench of the Tribunal has no jurisdiction to try the case and it is liable to be dismissed on this ground alone. The intimation regarding the interview was sent to the applicant by the office of the respondent no.1 in the self addressed and self stamped envelope submitted by the applicant himself and there was no provision to despatch the call letters by registered post. Call letters were despatched to the candidates well in time and the fact that it could be received by the applicant only on 3.2.1987 does not appear to be correct. To hold a supplementary interview is not practicable for the respondent no.1 who also does not enter into any correspondence with individual candidates in respect of examination and result. Out of the 55 candidates called for interview 49 had appeared on 29.1.1987 and 30.1.1987 and the call letter of the applicant was also sent under certificate of posting like other

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candidates and should have reached him before the date fixed for interview. The Postal Department is not agent of the respondent no.1 and the applicant himself having failed to appear in the interview cannot blame the respondent no.1 and his petition is not maintainable in the absence of his exhausting the departmental remedy.

4. In the rejoinder filed by the applicant, it was stated by him that as the intimation for written examination and interview was received by the applicant at Fatehpur within the jurisdiction of this Bench, it has jurisdiction to try this case. He reiterated that the call letter was received by him only on 3.2.1987 as appears from the postal receipt and not earlier and he cannot be deprived of his right to appear in the interview without any fault on his part.

5. The arguments were heard in this case on the question of jurisdiction as well as on merits. After careful consideration of the whole matter we, however, feel that so far as this Bench is concerned, the case can be disposed of ~~only~~ ^{alone} on the basis of our finding on the question of jurisdiction and as such, it does not seem necessary to enter into the merits of the case and we will like to confine our attention ^{only} to the question of jurisdiction involved in this petition.

6. Reliance has been placed on behalf of the applicant on a Single Bench decision of the High Court of Judicature at Allahabad in State of M.P. Vs. Bhaskar Dutt Misra (1986 (12) A.L.R.-349). The plaintiff in that case was an employee of Madhya Pradesh Government. He was dismissed from service and the letter of his dismissal was sent by post and received by the plaintiff at Allahabad. It was held in that case that as a part of the cause of action arose to the plaintiff at Allahabad where the dismissal order was communicated and received by him, the Allahabad Court had jurisdiction to entertain the suit challenging the order of dismissal. The contention of the applicant is that in the instant case as well, the intimation

or call letter requiring the applicant to appear in the interview at Patna was received at Fatehpur, this Bench has jurisdiction to entertain the case.

On the other hand, we /

7. Reliance has been placed on behalf of the respondents on two Division Bench decisions of the same High Court before us. In Krishna Kumar Bhargava Vs. Metropolitan Magistrate Bombay (1986 A.L.J.-1093), the petitioner had filed a writ petition under Art.226 of the Constitution in the Allahabad High Court for quashing a complaint filed against him in the court of the Metropolitan Magistrate Bombay on receiving a notice/summons of the criminal complaint at Allahabad and it was urged on his behalf that as the notice was served at Allahabad, the Allahabad High Court had the jurisdiction to entertain the writ petition to quash the complaint. The Division Bench, however, did not find itself in agreement with the contention of the petitioner and it was held that service of notice is not an integral part of the cause of action inasmuch as for succeeding in the case, service of the notice is not material. What is necessary to be established for obtaining the relief claimed in the writ petition was that the complaint filed against the petitioner was the abuse of the process of the Court, there being no case for calling upon the petitioner to answer the complaint. It was held that no cause of action for quashing had arisen at Allahabad and as such, it was rejected on the ground that it was not maintainable at Allahabad.

8. In Rakesh Dhar Tripathi Vs. Union of India (A.I.R. 1988 Allahabad-47), a Writ Petition under Article 226 of the Constitution was filed at Allahabad against the Union of India, Nehru Yuval Kendra Sangathan, New Delhi and its Director Akhil Bakshi in the nature of quo warranto directing Akhil

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Bakshi - respondent no.3 to show the authority under which he was occupying the post of Director General of the Nehru Yuva Sangathan, New Delhi and certain other connected reliefs. A plea of want of jurisdiction was raised on behalf of the respondents and after holding that all the respondents were living or had their head offices at New Delhi, they were not residing within the jurisdiction of the Allahabad High Court, the Hon'ble Court proceeded to consider further whether any part of the cause of action had arisen at Allahabad. The contention of the petitioner that the relief claimed by him will affect the entire country (including Allahabad) was rejected by the High Court and it was observed that it does not confer jurisdiction as the cause of action or the grounds on which the petition was filed did not arise within the territorial jurisdiction of the Allahabad High Court. Not only the respondents impleaded in that case were outside its territory but also the grounds on which the petition filed did not occur or take place in U.P. The Allahabad High Court had considered a decision of the Calcutta High Court in Abdul Kafi Khan Vs. Union of India (1979 Calcutta-354) in A.I.R. 1979, in the said case, in which a show cause notice against removal from service was issued by the railway administration in Bihar. The writ petition was, however, filed by the concerned railway employee in the Calcutta High Court challenging the said notice. The Calcutta High Court had held that it had no jurisdiction to entertain the petition merely because the head office of the concerned railway was at Calcutta when neither the cause of action nor any part thereof had arisen within its territorial jurisdiction.

9. The following observations of the Privy Council ~~in the meaning of~~ on the expression "cause of action" were approved by the

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Hon'ble Supreme Court in State of Madras Vs. C.P. Agencies
(A.I.R. 1960 S.C-1309):-

" 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. It does not comprise every piece of evidence which is necessary to prove each fact, but every fact which is necessary to be proved.

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Everything which, if not proved, gives the defendant an immediate right to judgement, must be part of the cause of action."

10. In the present case, what is necessary for the applicant to prove is that he did not receive the call letter for interview within time. The place where he had actually received the call letter is not material for obtaining an order or direction from this Bench in his favour. The receipt of the admit card for written examination or the call letter for interview at Fatehpur, therefore, cannot form part of the cause of action and, in our opinion, the contention made by the applicant in this connection, is not correct and we are unable to accept it.

11. We ~~may~~^{will} further like to quote one more decision of the Hon'ble Supreme Court. In State of Rajasthan Vs. Swaika Properties (A.I.R. 1985 S.C-1279), the State of Rajasthan had issued a notice u/s.52(1) of the Rajasthan Urban Improvement Act, 1959 to the respondents in respect of the land situate in Rajasthan. The respondents challenged the validity of the said notification under Art.226 of the Constitution of India by filing a writ petition in the Calcutta High Court on the ground that as the head office of the respondents was situated at Calcutta, the cause of action accrued in Calcutta. The Calcutta High Court accepted the contention of the petitioner before it that

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service of the notice u/s.52(2) was since an integral part of the cause of action it was sufficient to invest the High Court to entertain the writ petition. The Hon'ble Supreme Court reversed the view of the Calcutta High Court and it was held that mere service of notice u/s.52(2) of the Act on the respondents at their registered office at Calcutta could not give rise to a cause of action within the territory of the Calcutta High Court. It was further held that the entire cause of action culminating in the acquisition was within the State of Rajasthan and the cause of action neither wholly nor in part arose within the territorial jurisdiction of the Calcutta High Court and the said High Court had no jurisdiction to entertain the writ petition.

12. In our opinion, the provisions contained in Art.226 of the Constitution regarding the territorial jurisdiction of High Courts and those contained in rule 6 of the Central Administrative Tribunal (Procedure)Rules, 1987 are ^{almost} analogous and the principles of law laid down by the Hon'ble Supreme Court as well as in the aforesaid two Division Bench cases of the Allahabad Court Court are thus fully applicable to the facts of the present case and we are clearly of the view that the receipt of the admit card and call letter by the applicant at Fatehpur in the State of U.P. did not confer jurisdiction on this Bench of the Tribunal in respect of the act or omission made by the respondent no.1 at Patna. It will, therefore, not be expedient on our part to examine the merits of the case of the applicant before us.

13. The Registry is directed to return the original petition of the applicant to him for presentation before the

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proper Bench of the Tribunal. The costs of this petition shall abide ~~the~~ ^{the} ultimate result of the petition, if any, is filed before the competent Bench. The parties will otherwise bear their own costs.

W. R. G. (W. R. G. Green)

~~MEMBER (A)~~

Salvatore

MEMBER (J)

Dated: 21.2.1989
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