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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 741 OF 1993
Cuttack this the 11th day of October, 1999

T.K.Behera

Applicant(s)

-Versus-

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? *Yes*
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? *no*

Somnath Som
(SOMNATHSOM)
VICE-CHAIRMAN *11-10-99*

11-10-99
(G.NARASIMHAM)
MEMBER(JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO. 741 OF 1993
Cuttack this the 11th day of October, 1999

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

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Sri Tapan Kumar Behera,
aged about 30 years,
S/o. Arjun Behera (O.F.S.(Retd)
At: P.R.Peta, 4th Lane, PO: Jeypore
Dist: Koraput, Pin 764 003

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Applicant

By the Advocates : M/s.Ganeswar Rath
P.K.Mohapatra
J.C.Sahoo
S.N.Sharma

-Versus-

1. Union of India represented by
Chairman, Railway Board,
Rail Bhawan, New Delhi
2. General Manager, Central Railway,
Victoria Terminus, Bombay
3. Chief Personnel Officer(Engineering)
Central Railway,
Headquarters Office, Personnel Branch
Victoria Terminus, Bombay

Respondents

By the Advocates : M/s. B.Pal
O.N.Ghosh O.N.Ghosh

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ORDER

MR.G.NARASIMHAM, MEMBER(JUDICIAL): Applicant, Tapan Kumar Behera was selected as Draftsman Gr.III by the Railway Recruitment Board, Central Railway, Bombay and accordingly he joined as ^{an} Apprentic~~s~~. He received a Telegram from his father residing in Orissa about the serious condition of his mother and accordingly came back to his father's place and found both his parents, because of old age were ailing. In order to look after them, he sent a letter of resignation to the Central Railway, but the Chief Personnel Officer(Engineering) of that Railway (Res.3) in letter dated 8.1.1993 under Annexure-3 addressed to the applicant intimated that his resignation would not be accepted if he did not pay Rs.24, 528/. towards the entire stipend to him upto 15.12.1992 plus 12½% thereon towards the cost of the training. The applicant then represented to Res.3 to exonerate him from refunding the said amount, but his representation was rejected on 15.3.1993 under Annexure-4. This letter of rejection was followed by Annexure-5 dated 21.7.1993 and Annexure-6 dated 18.10.1993 reiterating the contents of Annexure-3 by Res.2.

On the basis of ~~this~~ averments, the applicant filed this application on 6.11.1993 for quashing Annexures-3 to 6 and for directing respondents to accept resignation of the applicant without any condition as imposed by them. In this application he described himself to be the resident of Jeypore of this State. The three respondents impleaded byhim in this application are : Union of India represented by Chairman, Railway Board,

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New Delhi, General Manager, Central Railway, Bombay and Chief Personnel Officer(Engineering), Central Railway, Bombay.

2. Respondents have filed counter stating that the applicant was appointed as an Apprentice Daftsman Gr.III under Respondent No.3 in letter dated 24.1.1992 under Annexure-1. As per the terms and conditions laid down in that appointment order, the applicant shall have to work under the respondents at least for five years after completion of training and in case the applicant chooses to leave the service before completion of the said period of five years, he has to refund the cost of the training incurred by the Railways for him. Before completion of one year of his training, the applicant submitted letter of resignation on 15.12.1993. hence as per the terms and conditions contained in the appointment order, he was directed to refund the amounts spent for his training then as a condition precedent for acceptance of resignation.

3. We have heard Shri Ganeswar Rath, learned counsel for the applicant and Shri B.Pal, learned senior counsel appearing for the respondents. Also perused the records.

Since this application can be disposed of on the point of jurisdiction, we do not like to enter into discussion on merits.

4. This application was filed on 5.11.1993 before this Bench which has territorial jurisdiction only over the State of Orissa vide G.I. Department of Personnel and Training notification dated 26.7.1985 including notification dated 18.8.1994 in exercise of power conferred under Sub-Section 1 of Section 18 of the

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Administrative Tribunals Act, 1985. This notification would also reveal that Principal Bench (New Delhi) has the territorial jurisdiction over the National Capital Territory of Delhi. Similarly, (Mumbai) has jurisdiction over the States of Maharashtra, Goa and Union Territories of Dadra and Nagar Haveli and Daman and Diu. Rule-6 of C.A.T. (Procedure) Rules, 1987 is the place of filing application under Section 19 of the Administrative Tribunals Act which reads as under :

"PLACE OF FILING APPLICATION-(1) An application shall ordinarily be filed by an applicant with the Registrar of the Bench within those 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 such 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".

Since letter of resignation of the applicant has not been accepted and since he is not a retired/dismissed servant of the Railways, the aforesaid Sub-Rule-ii will not come to his help in filing an application of this nature before this Bench. Hence he is to file application before the Registrar of Bombay (Mumbai) Bench because he is posted at Bombay and the cause of action, i.e., refusal by the respondents to

acceptance of resignation arose in that area. If he cannot file application before the Bombay Bench, then he can only with the leave of the Hon'ble Chairman file an application before the Registrar of the Principal Bench to be ultimately heard and disposed by the Bench having jurisdiction over the matter or as per the orders of the Hon'ble Chairman under Section 25 of the A.T.Act.

Admittedly the applicant has not filed any application before the Bombay Bench or the Registrar, Principal Bench. The cause of action nowhere arose inside the territory of Orissa, because the orders impugned have been passed by the authority, who is having headquarters at Bombay.

Interpretation of Rule-6 finds support from our earlier decision in O.A. No.3/99 disposed of on 14.1.1999, O.A.547/96, disposed of on 27.1.1999, O.A.33/99 disposed of on 24.3.1999 and O.A. 15/97 disposed of on 14.4.1999.

We are, therefore, of the view that this application before this Bench is not maintainable as per aforesaid Rule-6 of the C.A.T.(Procedure) Rules, 1987.

Since this Bench has no territorial jurisdiction and/or no jurisdiction to decide this application on merits, we are not inclined to enter into discussion on merits. The application is therefore dismissed as not being maintainable, but without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 11.10.99

11.10.99
(G.NARASIMHAM)
MEMBER(JUDICIAL)

B.K.SAHOO