

O.A.NO.455/98

Applicant, a native of the State of Orissa and serving as Goods Driver(Diesel), S.E.Railway, Nagpur, in this application under Section 19 of the Administrative Tribunals Act, 1985, prays for fixing his seniority with effect from 12.1.1990 on which date seniority of his batch mates has been taken into account; period from 24.1.1989 to 8.1.1991 be regularised as per the Establishment Rules; and for promotion to the Selection Grade post with effect from August, 1997. The application has been preferred against three respondents. Respondent No.1 is the Union of India represented through Secretary, Ministry of Railways, New Delhi. Respondent No.2 is Divisional Railway Manager, S.E.Railway, Nagpur and the other respondent is Chief Personnel Officer, S.E.Railway, Garden Reach, Calcutta.

Mrs R.Sikadar, learned Addl. Standing Counsel appearing for Res. 2 and 3 moved a petition for dismissal of this application for want of territorial jurisdiction of this Bench.

We have heard Shri B.Mohanty, learned counsel for the applicant and Mrs.R.Sikdar, learned Addl. Standing Counsel on the point of jurisdiction and taken due note of the rival submissions and also perused the records. Pursuant to the notification G.S.R. 631(E) dated 15.10.1991 issued under Section 18 of the Administrative Tribunals Act, 1985, territorial jurisdiction of this Cuttack Bench is confined to the limits of the State of Orissa only. Admittedly, Delhi, New Delhi, Calcutta and Nagpur do not come under the territorial jurisdiction of this Bench.

Rule-6 of the C.A.T.(Procedure) Rules, 1987 deals with place of filing application. It runs as follows :

6.Place of filing application - (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 :

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Provided that with the leave of the Chairman the application may be filed with the Registrar of the Principal Bench and subject to the order under Sec. 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.

The applicant is at present posted at Nagpur and not in Orissa. The contention of Shri Mohanty, learned counsel for the applicant, however, is that this application is ^{as} equal to O.A.456/92 filed by this applicant before this Bench and disposed of on 16.2.1994. The judgment of that O.A.(Annexure-1) reveals that the applicant had preferred that O.A. as a dismissed employee challenging the order of dismissal while staying inside Orissa. As a dismissed employee, he was within his rights to approach this Tribunal under Rule-6(2) of the Rules. In the present application he cannot take advantage of Rule-6(1) because his present place of posting is at Nagpur. As to the cause of action, the prayers in this application would reveal that the same have not arisen inside the state of Orissa. The cause of action, as the averments in the application, would reveal, arose at Nagpur. The reliefs prayed in this application are in noway related to the relief granted by this Bench in O.A.456/92.

Recently we dealt this point on jurisdiction in O.A.3/99 disposed of on 14.1.1999 and O.A.547/96 disposed of on 27.1.1999. Taking note of the aforesaid Rule-6, we held that as the applicants in those two applications were neither residents of Orissa nor the cause of actions had arisen in Orissa, this Bench had no territorial jurisdiction to decide those applications. Our view also finds support from the decision of a decision of the Principal Bench in O.P.Sacham vs.Union of India reported in 1999(1) A.T.J. 150 expressing the same view.

In the result we agree with the learned

Addl. Standing Counsel that this Bench has no territorial jurisdiction to deal with this application. Accordingly the application is dismissed in the absence of territorial jurisdiction. No costs.

Somnath Jyoti
VICE-CHAIRMAN

17.2.99

L. M. J.
MEMBER (JUDICIAL)

Free copy
of the order
dt. 17-2-99
may be ~~by~~
given to the
counsel for
both sides.

S. J.
17/2

Received
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S. C.