

30.3.99

In this application under Section 19 of the Administrative Tribunals Act, 1985, preferred by Santosh Kumar Jena, an ex-Army man against the railway administration on 28.1.1999, At the stage admission, before issue of notice to four respondents-railway authorities, on our entertaining doubt as to the maintainability of this application on the ground of jurisdiction and limitation, we heard Shri D. Mohapatra, learned counsel for the applicant and Shri D.N. Mishra, learned Standing Counsel for the respondents-railways.

Facts relevant as mentioned in the application are as follows :-

Applicant is a native of this State. After retirement from the Army, he was duly selected for Tr. Assistant Station Master by Bhopal Railway Recruitment Board in a recruitment test conducted by that Board. On 13.1.1994, Respondent No.2, viz., General Manager, S.E.Railway, Calcutta under Annexure-1 intimated him as to the selection and that he shall be offered the post on his undergoing necessary training at Sini for a period of 66 working days subject to his passing the prescribed medical examination and with some other conditions as mentioned in Annexure-1. In response to Annexure-1, applicant appeared before Res.2 at Calcutta and Res.3, viz., Chief Personnel Officer, S.E.Railway, Calcutta issued Annexure-2 dated 28.2.1994 instructing him to report before Cini Training Centre on 1.3.1994 and for this purpose a 2nd class railway pass from Howrah to Sini was issued to him for the journey. The training came to an end ^{was} on 31.5.1994 and his performance in the training/without any blemish. During training he opted for regular posting under Khurda Road Railway Division as first preference and Kharagpur Railway Division as second preference under Annexure-3 dated 13.5.1994. However, he has not received any posting/appointment order. On 14.12.1994, wife of the applicant sent a memorial to the Prime Minister of India conveying the grievance of the applicant in this regard. The Prime Minister's office forwarded this memorial to the Secretary, Ministry of Railways in letter 21.12.1994. Still there was no response. Again on 7.5.1996 the applicant submitted representation (Annexure-5) addressed to Respondent No.3 requesting for

posting order and indicated that he would accept the appointment in any of the Divisions directed by the authorities. As this was not responded, another representation dated 21.6.1997 (Annexure-6) was addressed to the General Manager, S.E.Railway, Garden Reach, Calcutta (Res.2). The last representation addressed to the General Manager is dated 8.11.1998 (Annexure-7).

In this application the applicant seeks direction to respondents to issue posting order with all consequential service benefits and consider his representations pending before them and communicate necessary orders.

Rule-6 of the Central Administrative Tribunal (Procedure) Rules, 1987, dealing with place of filing applications, ^{and} framed in exercise of powers conferred under Sections 35 and 36 of the A.T.Act, 1985 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 :

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".

In exercise of powers conferred under Section 18 of the A.T.Act, through G.S.R.631(E) dated 15.10.1991, local limit of Cuttack Bench has been confined to territory of the State of Orissa only.

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

Question for consideration is whether Rule-6 of the Rules and G.S.R. Notification dated 15.10.1991 oust our jurisdiction to entertain this application. Applicant, though a native of this State is not holding any post for the time being inside Orissa. He is also not a retired/dismissed/discharged employeed of the railway administration. We are aware that as per his pleading he has retired from the Army. But his status as a retired Army man, in our view, will not confer the benefit of Sub-rule(ii) of Rule-6 in the matter of filing application before this Bench. Rule-6(1)(i) and Rule-6(2) will have to be read together in order to understand the object and implication of Sub-rule(ii). The expression, ^{retired} in Rule-6(1)(i) used with reference to the applicant is "posted" which implies posted under the department against whom he is aggrieved. In Sub-rule(ii) as the wordings reveal is an exception to Sub-rule(i). This exception is in respect of person(applicant), who has ceased to be in service (service ^{to} the post under Sub-rule(i)) by reasons of retirement/dismissal/discharge. The object being not to trouble such retired/dismissed/discharged employee of the Department to go to the place of Central Administrative Tribunal within whose territorial jurisdiction the headquarters of the department-respondents are situated in order to file application claiming arrear entitlement, under law which are yet to be paid by the department. Hence this application would not lie before this Bench unless the cause of action wholly or in part arises within the State of Orissa.

The facts narrated above would reveal that the applicant is aggrieved as to the inaction in passing

orders in regard to his appointment and not responding to his representations. The respondents four in number are different railway authorities having headquarters outside the State of Orissa. Cause action, as alleged being their inaction, definitely does not arise inside the State of Orissa, even in part.

This Bench had to deal with interpretation of Rule-6 and the relevant G.S.R. Notification dated 15.10.1991 in O.A. Nos.547/96 and 3/99 disposed of on 27.1.1999 and 14.1.1999 respectively and we held that in the absence of requirements to attract the territorial jurisdiction of this Bench under Rule-6 of the Rules, this Bench cannot have jurisdiction to entertain an application under Section 19 of the A.T. Act, 1985.

Since we hold that this Bench lacks jurisdiction to entertain this application, we are not inclined to express any opinion on the point of limitation.

In view of the discussion above, the application being barred by jurisdiction is dismissed ^{as} not being admitted.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

30-3-99
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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