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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A. No.509 of 2010
Cuttack, this the 8th day of May, 2013

CORAM

HON'BLE MR. A.K. PATNAIK, MEMBER (JUDL.)
HON'BLE MR. R. C. MISRA, MEMBER (ADMN.)

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B.Ramakrishna,
Aged about 48 years,
Son of B.Satyanarayan,
Qr.No.173/2,
R.E.New Colony,
East Coast Railway,
Po.Vizinagaram(AP)Applicant
(Advocate(s):-M/s.A.Das,R.K.Samantasinghar,A.K.Mallick)

-Versus-

1. General Manager,
East Coast Railway,
At-Chandrasekharpur,
Po.Bhubaneswar,
Dist.Khurda.
2. The Divisional Railway Manager,
East Coast Railway,
Waltair, Po.Vishakhapatnam (A.P).
3. The Sr. Divisional Commercial Manager,
East Coast Railway,
Waltair, Po.Vishakhapatnam (AP)
4. The Asst. Personnel Officer, I/WAT,
East Coast Railway, Po. Vishakhapatnam,
Andhra Pradesh.Respondents
(Advocate(s)-Mr.S K. Ojha).

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O R D E R

(oral)

A.K. PATNAIK, MEMBER (J):

We have heard Mr.R.K.Samantasinghar, Learned Counsel appearing for the Applicant and Mr.S.K.Ojha, Learned panel Counsel of the Railway appearing for the Respondents and perused the records.

2. We find that the posting of the Applicant is at Vizayanagaram as Token Porter. Notification for selection for promotion to the post of Ticket Collector/enquiry-Clerk Cum Announcer against 33 1/3% Departmental Quota in Commercial Department was issued by the DRM (P) Waltair Division and the selection was also conducted at Waltair whereas alleging discrepancy in the matter of setting up of the question papers, the applicant has filed the instant OA in this Bench of the Tribunal with prayer to quash the impugned written examination held on 28.8.2010.

3. Respondents have filed their counter opposing the prayer of the Applicants and praying inter alia that this OA being devoid of any merit is liable to be dismissed.



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4. Mr.S.K.Ojha, Learned panel Counsel for the Railway appearing for the Respondents, at the outset, by placing copy of the order of the Circuit Bench at Ranchi of the Tribunal dated 11.2.2013 in OA No. 91 of 2012 (R) has raised the preliminary objection on maintainability of this OA in this Bench of the Tribunal on the ground that since the applicant is working at Vizayanagaram and the notification was issued by the Waltair Division, this Bench has no jurisdiction to adjudicate the grievance of the applicant.

5. We have gone into the decision of the Circuit Bench Ranchi of the Tribunal relied on by Mr. Ojha. Relevant portion of the order reads as under:

“4. Rule 6 of the CAT (Procedure) Rules, 1987 relating to jurisdiction/place of filing application reads 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 orders under Section 25, such application shall be heard and disposed of by the Bench which has jurisdiction over the matter.

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(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.”

5. Since the applicant is not yet in service and his case is also not of termination, retirement or dismissal of service, Rule 6(1) (i) and 6(2) do not apply. As to the question of cause of action, the applicant has claimed that since the Admit Card etc. were received by him at his residence within the State of Jharkhand, so the cause of action arose within the jurisdiction of this Bench.

6. In this connection, the decision in the case of **State of Rajasthan vs. M/s. Swaika Properties**, AIR 1985 SC 1289, is important to note. In that case, the Improvement Trust Jaipur (Rajasthan) wanted to acquire some land belonging to Swaika Properties of West Bengal at Rajasthan. The Special Officer, Town Planning, issued a notice to the owner at Calcutta. The owner went to Jaipur from time to time on the notice sent by the Special Officer to contest his case in defence against the acquisition. Ultimately, the notification regarding acquisition was issued in Rajasthan. The High Court at Calcutta entertained a writ filed by the owner of the land challenging the validity of the notification acquiring the land. The Hon'ble Supreme Court in appeal set aside the order of High Court and held:-

“The expression ‘cause of action’ is tersely defined in Mulla’s Code of Civil Procedure;

“The ‘cause of action’ means every fact which, if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the Court”.

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In other words, it is a bundle of facts which taken with the law applicable to them gives the plaintiff a right to relief against the defendant. The mere service of notice under S.52(2) of the act on the respondents at their registered office at 18-B, Brabourne Road, Clacutta i.e. within the territorial limits of the State of West Bengal could not give rise to a cause of action within that territory unless the service of such notice was an integral part of the cause of action. The entire cause of action culminating the acquisition of the land under S.52(1) of the Act arose within the State of Rajasthan i.e. within the territorial jurisdiction of the Rajasthan High Court at the Jaipur Bench.”

7. In the case of **K.Balaji vs. Integral Coach Factory, Chennai**, ATJ 2004 (2) 136, the petitioner, a resident of Bangalore had applied for the post at Chennai. He was not found fit and his candidature was rejected. The communication of rejection was received at Bangalore. He filed an OA in Bangalore Bench of CAT. The OA was rejected in the absence of territorial jurisdiction. The Petitioner moved the Hon’ble High Court of Karnataka. The Division Bench of the Hon’ble Court referring to the above decision of the Hon’ble Supreme Court and some other decisions held that no cause of action arose to the applicant of the case at Banagalore and his OA was rightly rejected by the Tribunal. In a recent case, **Yogendra Das Bihangam vs. Union of India**, CWJC No. 17085 of 2009, the Hon’ble Patna High Court has held that mere receipt of communication with regard to non-selection does not constitute cause of action. The Division Bench of Patna Bench of the Tribunal also, after discussing the judgments referred to above took a similar view in OA No. 640 of 2009 and OA

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06/2012 and rejected the same on the ground of jurisdiction.

8. In view of the foregoing discussion and decision of the Hon'ble Supreme Court cited above, this OA is dismissed for lack of jurisdiction. No costs."

6. After giving in-depth consideration to the facts and issues involved in this OA vis-à-vis the case before the Patna Bench of the Tribunal, we find no justification to differ from the view already taken by the Patna Bench of the Tribunal. Hence by applying the doctrine of binding precedent, we are of the considered view that this OA is not maintainable before this Bench of the Tribunal. Thus, this OA stands dismissed due to lack of jurisdiction. However the applicants are at liberty to approach, if so advised, before the appropriate Bench having jurisdiction to adjudicate the matter. There shall be no order as to costs.


(R.C.MISRA)
Member (Admn.)


(A.K.PATNAIK)
Member (JUDL.)