

In the Central Administrative Tribunal
Calcutta Bench

OA No. 939 of 1996

Present : Hon'ble Mr. D. Purkayastha, Judicial Member

Tripti Mukherjee & Anr.

Vs,

Central Railway

For the Applicant : Mr. B.C. Sinha, Lt. Advocate

For the Respondents: Mr. P.K. Arora, Lt. Advocate

Heard on : 6-8-98

Date of Judgement : 6-8-98

ORDER

This case is taken up for hearing. At the time of hearing, Lt. Advocate Mr. Arora for the respondents has drawn my attention to the judgement dated 30.5.97 in OA 1436 of 1996 filed by this applicant claiming family pension on account of death of her husband Mr. Durgadas Mukherjee who died in the Selapur Hospital of Mumbai. He also has drawn my attention to another judgement dated 23.1.96 (Annexure R-1 to the reply) and it is found that Hon'ble Tribunal has ordered that the application should be returned to the applicant for filing the same in the appropriate Court since Tribunal has no jurisdiction to adjudicate the case. He also submits that as per application, the respondents are also residing out of the jurisdiction of this Tribunal.

2. Lt. Advocate Mr. Sinha for the applicant submits that the case was admitted by the Division Bench of this Tribunal by order dated 13.11.96 as it was a fit case for adjudication and it was ordered that it should be heard by Single Bench. Referring to the order dated 13.11.96 he submits that since the case was admitted by the Division Bench for hearing, then, there cannot be any objection on the side of the respondents regarding territorial jurisdiction for hearing of this case by this Tribunal as submitted by the Lt. Advocate Mr. Arora.

Contd.....

30/9/98
(a) No. of the "Appn"
(b) Name of the applicant
(c) Dt. of presentation of application for copy
(d) No. of Reg. S
(e) Copying of application for
(f) D. P. P.
(g) Dt. of delivery of the copy for the applicant

Under Rule 6 of the Administrative Tribunal (Procedure) Rules 1987 - every application should be filed only before the Bench within whose jurisdiction the applicant is posted for the time being or the cause of action arises partly. It is true that the objection regarding territorial jurisdiction should be raised by the party in view of the principle only under Section 21 of the Civil Procedure Code. But in the instant case I find that the application was admitted on 13.11.96 in the absence of other party. In other words, the application was heard ex-parte on the date of admission i.e. 13.11.96. Applicant filed a written reply in this regard raising objection of the territorial jurisdiction for approaching this Tribunal. It is stated in para (iv) at page 6 that the subject matter of the application is not within the jurisdiction of this Hon'ble Tribunal since the case is pertaining to Central Railway, Kurduwadi Workshop which is within the jurisdiction of CAT, Mumbai i.e. it's territorial jurisdiction. Earlier case of the petitioner in O.A. has also been disposed of on the point of jurisdiction vide Annexure R. In the instant application applicant sought for appointment on compassionate ground on account of death of her husband late Durgadas Mukherjee who died in harness while he was in service in the year of 1968. The place of death of late Mukherjee falls outside local jurisdiction of this Tribunal. Mr. Sinha was allowed time to bring law in support of his contention that once application is admitted that should be adjudicated ignoring the territorial jurisdiction. But he failed to show any law in this regard. The respondents raised plea in the written reply that There cannot be any requisite presumption that the territorial jurisdiction as raised by the respondents has been waived. In view of the aforesaid circumstances, I find that this Tribunal has no jurisdiction to enter into the application since no cause of action arose within the jurisdiction of this Tribunal. In view of the aforesaid circumstances, I direct the Registry to return the application to the applicant to file the same in appropriate Forum or Court, if they think fit and proper. Accordingly, the application is disposed of.

दस्तावित प्रस्तुत प्रमाणित
Certified to be true copy
SMT/ 11/11/97

Court Clerk
नियुक्त न्यायालय अधिकारी
Administrative Tribunal
प्रमाणित जात्यकीय
G. 11/11/97

(D. Purkayastha)
Member(J)