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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH
JODHPUR**

O.A.NO. 203 / 2006

6th Sept., 2006

**CORAM : HON'BLE MR. KULDIP SINGH, VICE CHAIRMAN &
HON'BLE MR. J. P. SHUKLA, MEMBER (A)**

Luna Ram S/o Shri Sharvan Das, aged 42 years, R/o Village Bilanga,
Post Sarvodiya, Via Lalgah, District Churu, Presently working as
Pharmacist Grade III, Bombay Central Division.

Applicant

BY : Mr.R.K.Soni, Advocate.

Versus

1. Union of India through the General Manager, Western Railway, Church Gate, Mumbai.
2. The General Manager (Establishment), Western Railway, Church Gate, Mumbai.
3. The Divisional Railway Manager, Western Railway, Mumbai Central, Mumbai.
4. The A.P.O. (M) Western Railway, for CMS (E) BCT, Mumbai Central, Mumbai.



By : None.

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Respondents

ORDER

KULDIP SINGH, VC

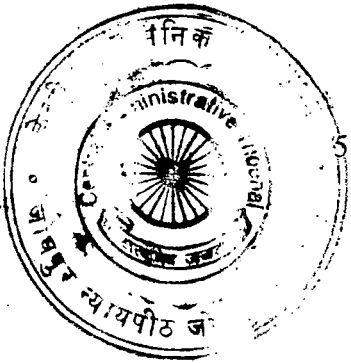
The applicant has filed this O.A. under section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs :

"(1) It may be declared that the applicant had been appointed on the post of Pharmacist Grade-III w.e.f. 6.7.99.

(2) The respondents may kindly be directed to give all consequential benefits including payment of salary, seniority, leave avail pay, leave on half pay from 6.7.99 to the applicant by treating to have been appointed w.e.f. 6.7.99."

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2. However when the O.A. was filed, the Registry of this Tribunal had taken an objection that the applicant is working in Mumbai and all the respondents who have been arrayed in the O.A. also have their offices in Mumbai so this Tribunal has no territorial jurisdiction. The applicant insisted that this Tribunal has territorial jurisdiction and as such the O.A. has been listed before the Bench for deciding the point of jurisdiction.
3. We have heard the learned counsel for the applicant at length and gone through the record.
4. The facts as alleged by the applicant in brief are that he is permanent resident of Jodhpur (Rajasthan). In response to an advertisement, the applicant had applied for recruitment to the post of Pharmacist Grade III. He appeared in the written examination and then he was called for interview and was successful in the interview and was placed in the merit list at Sr. No.40.
5. However, the applicant submits that when he did not receive any appointment letter, he wrote a letter to the Railway Recruitment Board, Ajmer, who informed vide letter dated 30.12.1995 that his name has been forwarded for appointment and he should contact the General Manager, Western Railway, Mumbai, to issue appointment letter to him and in the letter applicant clearly mentioned that his appointment order be sent to him on his permanent address and not on the address given in the application form. However, vide letter dated 1.3.2001, he was informed that applicant was sent letter dated 6.7.1999 followed by reminder dated 2.9.1999 and when he did not join on the post of Pharmacist, the offer of appointment was cancelled.
6. After cancellation of order, the applicant approached this Tribunal by filing an O.A. Which was registered as O.A.No.89 of 2001 and was decided in favour of the applicant with direction to the



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respondents to appoint the applicant in any vacancy which may be existing and available and if no vacancy is available, against the first vacancy which may occur in the near future. While making the appointment, the appointing authority shall not be swayed away by the fact that during the interim period of seven years, the applicant has become over aged.

7. Consequent upon the above order, the applicant was appointed on 6.1.2003. Thereafter the applicant was also promoted to the post of Pharmacist Grade II.

8. Now the applicant claims that he has not been given service benefits including the salary, seniority, leave with pay and leave on half pay leave etc. as he was entitled to be appointed after 6.7.1999 and he cannot be deprived of service benefits only for the reason that his appointment was delayed for no fault of him but for the lapse of the authorities of the respondents. He cannot be made to remain junior to those employees who have been appointed after 6.7.1999. The request made by the applicant dated 8.9.2005 to claim the benefits has been rejected by order at Annexure A-1, dated 27.9.2005. Now he is before this Tribunal claiming the benefits reproduced above.

9. The question that arises for consideration by us is as to whether when the applicant has joined his service at Mumbai, can he file an O.A. at Jodhpur or not ?. The learned counsel for the applicant submitted that since he had initially applied from Jodhpur and it is in pursuance to the order passed by this Tribunal at Jodhpur that the respondents were directed to give him appointment and in pursuance of such directions, he was appointed at Mumbai, so part of the cause of action has arisen at Jodhpur itself and in support of his contention, learned counsel for the applicant has referred to a decision given by the Rajasthan High Court reported as 2001 (4)



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Western Law Cases, Raj, Page 41 in the case titled Mohan Singh Vs. Union of India & Others. In that case while defining the word "cause of action" the court had observed that cause of action does not comprise every piece of evidence which is necessary to prove each fact but every fact which is necessary to be proved and the defence raised by the respondents was held to be irrelevant for determination of the question of jurisdiction. Thus, the interpretation given by the Court to the words "cause of action" goes to show that every fact which is necessary to be proved for the plaintiff to prove ^{this case} ~~cause of action~~ but it does not comprise every piece of evidence which is necessary to prove each fact, but every fact which is necessary to be proved. In determining the question of territorial jurisdiction, where the cause of action arose, whatever defence may be set up by the defendant is not relevant. What is relevant is the grounds set forth in the plaint as a cause of action. In this case the fact that applicant had been employed at Mumbai in pursuance of the order given by this Tribunal is not in dispute. But the order passed by this Tribunal is a piece of evidence and not a fact which is required to be proved. The judgment is admissible in evidence and that does not become a fact to be necessarily proved for the petitioner to prove to get the relief claimed by him. Whether he agitates his claim at Jodhpur or Mumbai, but the other facts that he is working in Mumbai, salary is paid at Mumbai and even for the period for which he remained out of service though as alleged by him for no fault of him, for that also, if any benefit is to be given, that is to be given at Mumbai and not at Jodhpur. So, in this case merely because the previous judgment was given by Tribunal at Jodhpur, that does not show that for present relief also, cause of action has partly arisen at Jodhpur. Moreover, the claim in the earlier O.A. was with regard to his "recruitment" and the claim

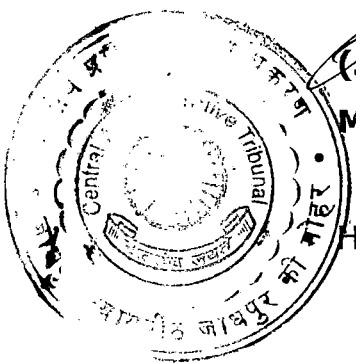



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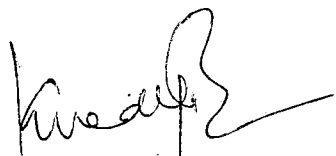
raised in this O.A. is with regard to service benefits and as such there cannot be any comparison, between these two claims for the purpose of determination of territorial jurisdiction of this Tribunal, particularly when the applicant is in service at Mumbai and that would be proper place for filing the O.A. to claim the reliefs contained in this O.A.

10. In view of the above, it is held that this Court has no territorial jurisdiction to entertain this O.A. It is thus dismissed being barred by jurisdiction but with liberty to the applicant to file a fresh one, if so advised, before the competent court of law having the territorial jurisdiction.




(J.P. SHUKLA)
MEMBER (ADM.)

HC*


(KULDIP SINGH)
VICE CHAIRMAN

Part II and III destroyed
in my presence on 11/14/14
under the supervision of
section officer (1) as per
order dated 3/1/14

[Signature]
Section officer (Record)

Rec'd Ad R2 & R1
per 27/10 3

Sent via 75 to 79
as on 29/9/15 Both pages

4 Resp. 75 to 78 dt 29.9
1 Applicant 79 dt 29.9

Rec'd Ad of Lina Rm. & R-3 & R-4 over same