

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.545/99

Monday, this the 28th day of June, 1999.

CORAM:

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

N.Bahuleyan,
Senior Personal Assistant,
Heavy Alloy Penetrator Project,
Ministry of Defence,
Tiruchirappally.

- Applicant

By Advocate Mr TC Govindaswamy

VS

1. Union of India represented by
the Secretary to the Government of India,
Ministry of Defence,
New Delhi.

2. The General Manager,
Heavy Alloy Penetrator Project,
Ministry of Defence,
HAPP Township.P.O.
Tiruchirappally.

3. The Director General(Ordnance Factory)
and Chairman,
Ordnance Factory Board,
Ministry of Defence,
No.10 A, S.K.Bose Road,
Calcutta-1.

4. B.Bhojan,
Senior Personal Assistant,
Heavy Alloy Penetrator Project,
Tiruchirappally. - Respondents

By Advocate Ms Chitra, ACGSC(for R.1 to 3)

The application having been heard on 28.6.99, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

The applicant while posted as Senior Personal Assistant,
Heavy Alloy Penetrator Project, Ministry of Defence,
Tiruchirappally, was by letter dated 25.9.98 informed that he has

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been ordered to be transferred to Ordnance Factory, Murad Nagar(U.P.) and requesting him to intimate the date on which he would like to be relieved. The applicant explaining the illness of his son requested for a retention in Tiruchirappally stating that it would be highly difficult for him to give effect to the orders of transfer. While so he was served with the impugned order A-5 by which in modification of the earlier proposal, the applicant was transferred to the Ordnance Factory at Ambujhari, near Nagpur. The order dated 7.12.98 relieving the applicant from Tiruchirappally was also issued. These two orders were served on the applicant at Tiruchirappally. Alleging that his further representation for retention in Tiruchirappally was not forwarded, the applicant filed O.A.268/99 which was disposed of as agreed to by the learned counsel on either side, directing the second respondent to forward the representation to the competent authority and the competent authority to give an appropriate reply. Pursuant to the above direction, the order dated 11.4.99 A-20 was issued by the competent authority informing the applicant that his request for retention could not be acceded to.

2. The applicant has therefore filed this application to have the impugned orders A-5, A-13, and A-20 set aside and for a declaration that the applicant is entitled to be continued in service at Heavy Alloy Penetrator Project at Tiruchirappally from 12.11.98 and for consequential benefits.

3. We have heard the learned counsel on either side. Learned counsel for the respondents has raised a preliminary objection of jurisdiction to maintain this application. Learned counsel for the respondents states that as the applicant was posted at Tiruchirappally and stands posted at Murdanagar and as no part of the cause of action has arisen within the territorial limits of

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this Bench of the Tribunal, this Bench of the Tribunal has no jurisdiction to entertain this application. Learned counsel for the applicant maintains that as the impugned order A-20 was made pursuant to the directions contained in the order of the Tribunal in O.A.268/99 and as A-20 was served on the applicant within the territorial limits of this Bench, this Tribunal has jurisdiction. In support of this contention that this Bench of the Tribunal has got jurisdiction to entertain this application on the ground that part of the cause of action has arisen within the territorial limits of this Bench, the learned counsel for the applicant invited our attention to a ruling of the Hon'ble Supreme Court in A.B.C.Laminart Pvt. Ltd. and another Vs A.P.Agencies, Salem, AIR 1989 SC 1239, as also the Full Bench ruling of the Tribunal at page 7 of Full Bench Judgements, Vol.III 1991-1994(Union of India and another Vs Satya Pal Singh).

4. We have perused the application and have gone through the rulings relied on by the learned counsel for the applicant. The facts in both the cases cited by the learned counsel do not have any comparison to the facts of this case. The case before the Full Bench was a case of an unemployed candidate for appearance in a competitive examination. He applied from the state of U.P. Rejection of his candidature was issued from New Delhi but served on him in U.P. Therefore the Tribunal held that the Bench at Allahabad had jurisdiction. In the ruling of the Apex Court in AIR 1989 SC 1239, it was held that a place where part of the cause of action has arisen will also determine the territorial jurisdiction. Here is a case where no part of the cause of action has arisen within the territorial limits of this Bench of the Tribunal. The impugned order A-5 was served on the applicant at Tiruchirappally. He was relieved from

Tiruchirappally by A-13 order while the applicant was in Tiruchirappally. The only order which is said to have been received by the applicant while he was residing in Kerala is A-20 order by which his representation was rejected. A-20 was addressed to the applicant at Tiruchirappally. The argument of the applicant is that though A-20 was sent to his Tiruchirappally address, it was in fact served on him at Kerala as he had by then come to Kerala and the letter was redirected. We are not persuaded to agree to this submission. If that argument is accepted, an applicant can choose the Bench for filing his application against an order issued from anywhere and to any address by going to that place and getting the orders redirected to that place. The above situation would render the rules regarding place of filing the application nugatory. Learned counsel for the applicant argued that as A-20 order was passed pursuant to the order of the Tribunal in O.A.268/99, a part of the cause of action has arisen in Kerala. We do not agree to this argument also. O.A.268/99 was passed as counsel on either side agreed. Consent or agreement of parties also would not confer jurisdiction on the Bench of the Tribunal.

5. In the result, we refuse to entertain this application for want of territorial jurisdiction. The application is rejected. The applicant is free to move the competent Bench of the Tribunal, if he is so advised in accordance with law.

Dated, the 28th of June, 1999.


(G. RAMAKRISHNAN)
ADMINISTRATIVE MEMBER


(A.V. HARIDASAN)
VICE CHAIRMAN

trs/29699

List of Annexures referred to in the Order:

1. A-5: True copy of the letter No.11006/Admn.HAPP dated 5.11.98 issued on behalf of second respondent.
2. A-13: True copy of the letter No.1592 dated 7.12.98 issued on behalf of the second respondent.
3. A-20: True copy of the letter No.O.A.268/98/Vig/HAPP/99 dated 11.4.99 issued by the second respondent along with its enclosures.