

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

Original Application No: 507/2009

This, the 31st day of August, 2012

HON'BLE MR. JUSTICE ALOK KUMAR SINGH, MEMBER (J)

1. Lalit Mohan Singh s/o Ram Niwas Singh r/o village and post Keshavpur, District-Gonda.
2. Dashrat Yadav, aged about 53 years , s/o of Baiju Yadav, r/o village and post Bhti Rawat, District- Gorakhpur.
3. Rajendra aged about 53 years son of Mahavir r/o Vilalge Tekwa Pati Tola Dhusia P.O. Rawat Bhti District- Gorakhpur.
4. Pardesi aged about 53 years son of Sri Nepal r/o Village Kuawal Khurd, P.O. Harpur , Gorakhpur.
5. Ram Sanehi aged about 54 years son of Purnamasi r/o Village Kudai Kala P.O. Rawat Bhti, Gorakhpur.

Applicant.

By Advocate: Sri Mayankar Singh

Versus

1. Union of India through its Secretary, Department of Railways, New Delhi.
2. The General Manager, NE Railway, Gorakhpur.
3. The Deputy Chief Engineer (Construction) (East), NE Railway, Gorakhpur.
4. The Mukhya Karmik Adhikari, NE Railway,Gorakhpur.
5. The Divisional Railway Manager, NE Railway, Lucknow.

Respondents.

By Advocate: Sri S.M.S.Saxena

ORDER (dictated in open court)

By Hon'ble Mr. Justice Alok Kumar Singh, Member (J)

M.P. No. 2104/2011: This is an application for condonation of delay in filing reply to the preliminary objection. Allowed. Delay is condoned. Reply is taken on record.

M.P. No. 1868/09 and reply: Heard. This is a preliminary objection on the ground of territorial jurisdiction. It is supported by an uncontroverted affidavit sworn by Dy. Chief Engineer Construction/East, North Eastern Railway,Gorakhpur. Therefore, there is no reason to disbelieve it. Moreover, it has been sworn by a Senior Officer of the rank of Dy.Chief Engineer. In para 4 of the affidavit, it has been specifically averred that

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portion of territorial jurisdiction of old North Eastern Railway was carved out and new zonal Railway viz East Central Railway was formed, with its Head Quarter at Hazipur in Bihar province. Consequently, the railway employees working under the Divisional Railway Managers of Sonepur were deemed to be employees of East Central Railway with head quarter at Hazipur. As such, the General Manager and other Head Quarter officers of North Eastern Railway do not have jurisdiction over employees of Sonepur and Samastipur Division w.e.f. 1.1.2002 in view of Section 3 and 4 of Indian Railway Act and also for the purpose of notice under Section 80 of the Civil Procedure Code. It is also orally submitted at this stage that in spite of the above fact the Divisional Railway Manager, North Eastern Railway, Lucknow has been unnecessarily arrayed as respondent No. 5 which amounts to his misjoinder in this O.A. The rest of the respondents No.2 to 4 are the General Manager, NER, Gorakhpur, The Dy. Chief Engineer (Construction)(East), NE Railway, Gorakhpur, and the Mukhya Karmik Adhikari, NE Railway, Gorakhpur which are the outside the territorial jurisdiction of this Tribunal. Specific reference has also been made to Annexure A-1 in para 9 of this affidavit filed in O.A. This has been issued by Inspector of Works, Sonepur in 1977 which is out side jurisdiction of this Tribunal. The rest of the annexures of this nature which were not filed initially but has been filed now in reply to the preliminary objection, have been in fact issued from Gorakhpur, territorial jurisdiction of which is Allahabad , CAT. Another undisputed fact as averred in para 10 of the affidavit is that earlier in respect of almost same matters, 35 persons including these five applicants had filed O.A.No.287/2000 at Allahabad CAT which disposed of the O.A. giving liberty to the applicants to make representations

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(Anneuxre 4). In compliance of Allahabad CAT order, respondents have decided representations by means of speaking order passed by Dy.Chief Engineer(Construction)East, Gorakhpur on 3.8.2011. The learned counsel for applicant submits that the above order was challenged at Allahabad CAT by filing another O.A. No. 174/2003 which has been also decided on 1.9.2004 (Annexure-7). From the above it comes out that earlier both round of litigation was held at Allahabad CAT.

In view of the above, this Tribunal lacks territorial jurisdiction.

Therefore, the preliminary objection is allowed and O.A. stands disposed of without admission. It is worthwhile to mention that in the aforesaid preliminary objection, a point of inordinate delay has also been raised which has not been looked into for the lack of territorial jurisdiction. On account of this reason, a permission simpliciter to file fresh O.A. before appropriate forum as requested, cannot be granted. However, the applicant may take re-course in accordance with law. No order as to costs.

Alok Kumar Singh
31.8.2012
(JUSTICE ALOK KUMAR SINGH)
MEMBER (J)

HLS/-