

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PATNA BENCH, PATNA

O.A. No. 423 of 2006

Date of order : 24.05.2007

C O R A M

Hon'ble Shri Shankar Prasad, Member ( A )

Hon'ble Ms. Sadhna Srivastava, Member [ J ]

Om Prakash Kumar, S/o Shri Baleshwar Prasad, r/o Mohalla- Old Jakkanpur, JKS/F, 76 East Devi Asthan, P.S. Jakkanpur, Patna.

....Applicant

By Advocate : Shri B.K. Sinha

Vs.

1. The Union of India through the General Manager, N.E. Railway, Gorakhpur.
2. The Chairman, Railway Recruitment Board, Gorakhpur [ UP ]
3. The Chief Personnel Officer, N.E. Railway, Gorakhpur.
4. The Chief Electrical Engineer, N.E. Railway, Gorakhpur.

....Respondents

By Advocate : None.

ORDER [ Oral ]

Shankar Prasad, M [ A ] :- By present OA the applicant seeks direction to respondent No. 2 , Chairman, RRB, Gorakhpur to send the selection/recommendation for the post of Skilled Technician Gr. III and further direction to respondent No. 1 , 3 and 4 to appoint him on the said post, with all consequential benefits of seniority and arrears of pay. *Sh*

2. The fact lies in a narrow compass. The RRB, Gorakhpur had issued selection notification No. RRB/GKP/1/04-05 for various categories mentioned in the said notification. The applicant was issued admit card having Roll No. 3280816 dated 19.12.2004 for Group – 28 -30 that is Technician Grade III Electrical/Skilled Fitter III and AC Fitter Gr. III. The case of the applicant is that he had been found successful in the preliminary test and Mains and had also attended the verification of documents. He has also produced other documents sought for. In spite of furnishing all those documents, he has not been given any appointment letter.

3. We have heard learned counsel for the applicant. As per address given in the OA, the applicant belongs to Patna town. The selection notification has been issued by RRB, Gorakhpur which is not situated in the territorial jurisdiction of this Tribunal.

4. In the case of K. Balaji vs. Integral Coach Factory, Chennai , 2004 [ 2 ] ATJ page 136 , the applicant was resident of Bangalore and had applied for a post in Chennai. The Tribunal dismissed the OA for want of jurisdiction. The applicant preferred writ petition to Hon'ble Karnataka High Court. Justice R.V. Raveendran, as he was then <sup>was</sup>, wrote the judgment for the Bench. The Hon'ble High

Court held as under :-

"Para 6:- Cause of action is the bundle of facts which taken with the law applicable to them, given the plaintiff a right to relief against the defendant/respondent. The following principles are well-settled in regard to place of cause of action.

[ a ] The place where the defendant/respondent resides or carries on business is relevant for purpose of determining the cause of action. The place of residence or place of business of a plaintiff/petitioner is not relevant for determining the question as to where the cause of action arise, unless a part of the cause of action has arisen at that place-vide Narayan Swami G.V. vs. Union of India and Others, 1998 [ 5 ] Kar L.J.279.

[ b ] A notification inviting applications for appointment is only an invitation to offer. The application for appointment by the candidate is the offer,. But , when an application for appointment is posted from the place of resident of the petitioner, it cannot be said that a part of cause of action arises in that place .The offer is considered to be made when it is communicated, that is the place where it is received. If it is made by post , the cause of action arises at the place where the offer is received and not at the place of despatch of the offer. Though an offer is a part of the cause of action, the mere fact that the offer is posted at a particular place would not be a part of cause of action, as there would be no proposal till it comes to the knowledge of the person to whom the proposal is made vide Messrs Ahmad Bux Alla Jovaya vs. Fazal Karim, AIR, 1940 Mad. 49 and Dhanraj Mills Limited Liability Company v. Narsing Prasad Boobna AIR, 1949 Pat. 270.

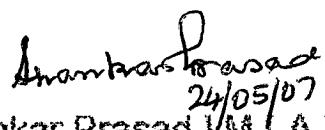
[ c ] Merely receiving a communication rejecting an application for employment at the place of residence of a candidate will not give rise to a cause of action at that place – vide State of Rajasthan and Others vs. M/s Swaika Properties and Another, AIR, 1985 SC 1289 : [ 1985 ] 3 SCC 217

In this case, the offer by the petition was made by post from Bangalore and received at Chennai. The rejection was made at Chennai and only the communication thereof was received by petitioner at Bangalore. Therefore, no part of the cause of action arose within the jurisdiction of the Bangalore Bench of the Central Administrative Tribunal. Therefore, we do not find any error in the order of the Tribunal".

5. The principle enunciated therein specially applies to the facts of the present case. At this juncture, the learned counsel for the applicant seeks permission to withdraw the OA to file it before the appropriate Bench. He is permitted to do so. Let the copies of the OA be returned to the applicant for presentation before the appropriate forum, after retaining one copy for record purposes. The OA stands disposed of, accordingly.

  
[ Sadhna Srivastava ] M / J

/cbs/

  
Shankar Prasad  
24/05/07  
[ Shankar Prasad ] M / A