

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 JAIPUR BENCH, JAIPUR**

**Original Application No. 291/00442/2016 with
 Misc. Application No. 291/00239/2016 & 291/00261/2016**

**Order reserved on: 20/07/2016
 Date of Order: 22/07/2016**

CORAM

**Hon'ble Mrs. Jasmine Ahmed, Judicial Member
 Hon'ble Ms. Meenakshi Hooja, Administrative Member**

PUNAM CHAND SON OF MANGATU RAM CHANWARIA BY CASTE VALMIKI (SC) AGED ABOUT 40 YEARS RESIDENT OF OUTSIDE JASSUSAR GATE, HARIJAN BASTI, BIKANER PRESENTLY WORKING AS SAFAIWALA.

.....Applicant

Mr. N.S. Yadav counsel for the applicant.

VERSUS

1. Principal Director, Defence Estate, SWC, Jaipur.
2. Defence Estate Officer, Defence Estate Office, 229, Sadul Ganj, Bikaner.

.....Respondents

Mr. N.C. Goyal counsel for the respondents.

ORDER

(By : Hon'ble Mrs. Jasmine Ahmed, Judicial Member)

This OA has been filed by the applicant under section 19 of the Central Administrative Tribunals Act seeking the following relief:

- (i) The impugned action of the Non-applicant, not allowing the applicant to continue serving under the respondents and terminating the applicant without

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any speaking order, requires to be condemned and

Non-applicants may please be directed not to

terminate the applicant from the post of Safaiwala

in the Office of respondent and allow him to

perform his duties without any interruption, and /or

(ii) Non-applicant may further be directed not to employ any other person in any way as Safaiwala in place of applicant, and/or

(iii) Non-applicant respondent may please be directed further to consider the case of poor Scheduled Caste candidate for regularisation with all benefits to the similarly situated person.

(iv) Any other relief fit in the case may please be allowed.

(v) Cost of litigation may be allowed.

2. The factual matrix of the case as contended by learned counsel of the applicant is that the applicant is working for more than eight years as Safaiwala with the respondents. He also contended that applicant was selected after following a due process of selection procedure and his name was called from the employment exchange and interview was also took place and initially he was appointed as part time Safaiwala in the year 2009 to work for four hours per day, but ultimately he was engaged as an regular employee by order dated 11/03/2014 (Annexure-A/2) as a casual labour. Learned

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counsel for the applicant contends that suddenly respondents have orally terminated the applicant but no order has been passed in writing. Learned counsel for the applicant further states that it is illegal and arbitrary and filed this OA before this Bench of the Tribunal.

3. The matter was listed on 15/06/2016 during the summer vacation and on that day matter was heard and interim relief was granted on that day directing the respondents to allow the applicant to perform his duty till the next date of hearing. The interim relief granted to the applicant is quoted here below:

“4. Considered the aforesaid submissions. In the interest of justice, as an interim direction respondents are directed to allow the applicant to perform his duties till the next date of hearing. However, this interim direction would be subject to services of the applicant being satisfactory and there is no other adverse report against the applicant.

4. Notice was also issued to the respondents on that day. Respondents have filed an MA No. 291/00239/2016 for vacation of interim directions given by this Tribunal on 15/06/2016. The learned counsel for the respondents states that the matter is beyond jurisdiction of this Hon'ble Tribunal as the applicant was working as causal Safaiwala in the DEO office Bikaner and has filed OA before this Bench, hence this Bench is not having territorial jurisdiction to entertain any matter pertaining to Bikaner and hence the OA be dismissed on territorial jurisdiction issue and interim relief granted by the Hon'ble Tribunal be vacated. He also took plea that matter

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does not come under Central Administrative Tribunals Act instead of it is a case of Industrial Dispute Act hence applicant should have gone to Labour Court and prayed that this OA be dismissed and interim relief earlier granted be vacated.

5. The learned counsel for the applicant objects the contentions of the counsel for respondents and states that applicant has not done anything wrong filing this matter before this Bench of the Tribunal as the part cause of action has arisen at Jaipur and in this regard he drew our attention to Annexure-R/1 at page No. 44 which is a letter dated 11/11/2009 issued by Shri Kaushal Gautam, Defence Estate Officer, Bikaner Circle, Bikaner in regard to engagement of casual part time Safaiwala. The contents of the letter read as under:

“Under the Authority of Director, DE, SWC, Jaipur Letter No. 15/BKN/SWC/DE/115 dated 27th October, 2009 sanction is hereby accorded to engagement as Casual Part Time Safaiwala (04 hrs a day) in this office for a period of 89 days w.e.f. 11.11.2009 to 07.02.2010 at monthly wages of Rs. 1,600/- The services can be terminated at any time without any notice.

Authority : Dte, DE, SWC, Jaipur Letter No. 15/ADM/SWC/DE/115 dated 27th October, 2009.”

6. Learned counsel for the applicant states that as sanction has been given by Director, DE, SWC, Jaipur hence the part cause of action arisen at Jaipur therefore applicant is at liberty/entitled to file this case before this Bench instead of Jodhpur Bench. Learned counsel for the applicant also states that when case was filed jurisdiction of Jodhpur Bench was

Jasmeen Dewan

temporarily transferred to Jaipur Bench by letter dated 10/05/2016 for the period 06/06/2016 to 01/07/2016. The contents of the letter are quoted below:

".....since no Hon'ble Member is available to hold the Vacation Bench at Jodhpur Bench 06/06/2016 to 01/07/2016 during summer vacation. Hon'ble the Chairman is pleased to attach Jodhpur Bench with the Jaipur Bench during the above period. In case of any urgency, parties may be directed to approach the Jaipur Bench w.e.f. 06/06/2016 to 01/07/2016 for hearing of urgent matter(s)."

7. Hence, learned counsel for the applicant states that he has filed the case on 15/06/2016, the matter shall be heard by this Bench only and submits that this Bench is having jurisdiction to hear this matter.

8. Heard the rival contentions of the learned counsels for both the parties and perused the documents on record. The Rule 6 of the Central Administrative Tribunals (Procedure) Rules 1987 states about place of filing of application which is quoted below for ready reference:

"[6. Place of filing applications –

(1) An application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction –

(i) the applicant is posed for the time being, or

(ii) the cause of action, wholly or in part, has arisen:

Provided that with the leave of the Chairman the application may be filed with the Registrar of the Principal Bench and subject to the orders under section 25, such application shall be heard and

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disposed of by the bench which has jurisdiction over the matter.

(2) Notwithstanding anything contained in sub-rule (1) persons who have ceased to be in service by reason of retirement, dismissal or termination of service may at his option file an application with the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application.]"

9. Here in this case, counsel for the applicant places reliance on sub clause-II of clause-1 wherein it is stated that arising of cause of action wholly or in part.

10. Counsel for the applicant has referred to Annexure-R/1 at page No. 44. Here in this case, we have perused the documents. Perusing the document, it clearly reveals that the letter is an office order issued by the Defence Estate Officer, Bikaner Circle, Bikaner in regard to engagement of casual part time Safaiwala. In the letter residential address of the applicant is also seen as of Bikaner and subject of office order is about only in regard to a sanction which has been accorded for engagement of Casual part time Safaiwala for working of four hours per day. The bare reading of the letter reveals that as any sanction has to be accorded from the headquarter only, a sanction has been accorded by the office of the Dte, DE, SWC, Jaipur. This letter cannot be treated as cause of action partly arisen at Jaipur because a sanction has been accorded by Jaipur Office of the respondents.

11. Sub-clause II of Clause-1 states about arising of cause of action for filing of a case. The cause of action here is the oral

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termination of service of applicant and that cause of action has arisen at Bikaner not at Jaipur and the applicant is before this Tribunal being aggrieved by the termination of his services. What is cause of action? "By 'cause of action' means every fact which if traversed, it would be necessary for the plaintiff to prove in order to support his right to a judgment of the court. In other words, a bundle of facts which is necessary for the plaintiff to prove in order to succeed in the suit." If we go by this definition alone, the cause of action is the termination of the applicant and he has been terminated from service from Bikaner not from Jaipur. Hence the cause of action is the termination and that has taken place at Bikaner not at Jaipur. Hence the argument of the counsel for the applicant that cause of action partly arisen at Jaipur is a completely misplaced argument. Argument of counsel for the applicant that jurisdiction cannot be a big issue for deciding the matter on merit completely is uncalled for as then there would have been no necessity of creating seventeen Benches of Central Administrative Tribunal all over India. We have seen that not only in service matters but also in civil matters and even in criminal matters jurisdiction has an important role. In catena of judgements, the Hon'ble Apex Court and several Hon'ble High Courts have stated that if any matter is decided without any jurisdiction i.e. void ab-initio. The argument of the counsel for the applicant that at that point of time of filing of the case, Jodhpur Bench's jurisdiction was attached with the Jaipur

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Bench, hence, matter shall be heard by this Bench is also misplaced. The attachment of Jodhpur Bench with Jaipur Bench during the period w.e.f. 06/06/2016 to 01/07/2016, occurred due to certain emergent situations. The letter dated 10/05/2016, which has been quoted in Para 6 above, clearly says that since no Hon'ble Member is available to hold the Vacation Bench at Jodhpur Bench 06/06/2016 to 01/07/2016 during summer vacation, Hon'ble the Chairman is pleased to attach Jodhpur Bench with the Jaipur Bench only for the above period. This does not mean that the jurisdiction of the Jodhpur Bench has been merged with Jaipur Bench. It is also to be mentioned here that whenever the regular Bench becomes available the case which was entertained due to certain exigency are sent back to the Bench where jurisdiction of the case originally lies. Hence for the purposes of taking cognizance of an urgent matter wherein interim relief is sought by the applicant, the matter is heard by a Bench which has been granted extra jurisdiction for the time being, that does not give the jurisdiction permanently, this attachment of jurisdiction is a temporary arrangement to deal with certain exigency of situation. Hence, though this matter was entertained by this Bench on 15/06/2016 and interim relief was also granted in favour of applicant, now there is a regular Bench available at Jodhpur. The applicant is an employee of Bikaner Circle who was appointed at Bikaner and was also

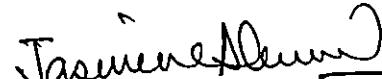
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working at Bikaner, his jurisdiction without any doubt lies with Jodhpur Bench of this Tribunal.

12. Hence, OA is dismissed as not having jurisdiction to entertain. Accordingly, MAs are also dismissed. No order as to costs.

13. However, in the interest of justice, the applicant is given liberty to file a fresh application before the Jodhpur Bench.


(Ms. Meenakshi Hooja)
Administrative Member


(Mrs. Jasmine Ahmed)
Judicial Member

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