

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A.No.438/2000

Date of order: 23.10.2002

Manohar Ahuja, S/o Sh.P.M.Ahuja, Executive Engineer (E),  
Min. of Communication, Deptt.of Telecommunication, TED-1,  
BSNL, Bangalore.

...Applicant.

Vs.

1. Union of India through the Secretary, Deptt of Telecommunications, Sanchar Bhawan, New Delhi.
2. Dy.Director General (Electrical) Mini.of Communication, Deptt of Telecom, 10th Floor, Chandralok Building, 36 Janpath, New Delhi-1.
3. Chief Accounts Officer, BSNL, O/o Executive Engineer (Elec. Wing) Rajasthan, Jaipur.
4. Chief Accounts Officer (CA), O/o Chief General Manager, Telecom Karnataka Circle, Bangalore.

...Respondents.

Mr.S.K.Singh - Counsel for applicant.

CORAM:

Hon'ble Mr.M.L.Chauhan, Judicial Member.

PER HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER.

The applicant is presently working as Executive Engineer (E), TED-1, BSNL, Bangalore. Earlier, he has filed O.A No.134/2000 and 172/2000, before this Tribunal, when he was posted in the same capacity at Jaipur. The applicant has also placed on record a copy of order dated 5.4.02 (Annex.A9). A reading of the order makes it clear that the applicant has challenged the administrative instruction dated 14.5.98 and 4.9.98 whereby the Executive Engineer(Electrical) of the Civil Wing of P&T were required to pass departmental examination within two years of promotion to the grade falling which they

would not draw future increments. The said application was disposed of vide order dated 5.4.02 whereby the respondents were directed to consider the representation of the applicant and pass a speaking and reasoned order within 3 months from the date of receipt of the representation. Consequently, the applicant made representation which has been decided by the Dy. Director General (Electrical) Ministry of Communication, Deptt. of Telecom, New Delhi, vide order dated 7.8.02. The applicant by way of the present application has challenged this order and also order dated 19.9.02 (Annex.A2) which is a fresh recovery order passed by the Accounts Officer, Telecom Elect. Dn.No.I, Bangalore, addressed to the Chief Accounts Officer (CA) Bangalore. When the application was presented on 25.9.02, the Registry has made the following observation:

"The applicant is presently posted at Bangalore as Executive Engineer. The case does not come under territorial jurisdiction of this Bench U/s 18, of the A.T Act, 1985 & U/R 6 of the CAT (Procedure) Rules, 1987. The case may be listed before Hon'ble Bench on 3.10.02 for point of jurisdiction".

Consequently, the matter came up before this Bench on 3.10.02 and the same was adjourned to 16.10.02.

2. I heard the learned counsel for the applicant.
3. Since the question of jurisdiction has been raised and this question goes to the root of the matter, as such, the same has to be decided first before going to the merit of the case.
4. The applicant stated to be working as Executive Engineer(E) at Bangalore and he is aggrieved by the order dated 7.8.02, (Annex.A1) and order dated 19.9.02 which is a fresh recovery certificate issued by the Accounts Officer, Telecom Elect.Dn.No.I, Bangalore. The main submission of the counsel

for the applicant is that because of action has partly arisen within the jurisdiction of this Bench in view of letter dated 26.8.02 (Annex.A12) written by the Executive Engineer, Postal Elect. Division Jaipur to the Accounts Officer, Telecom Elect. Division I, Bangalore, this O.A has been filed before this Bench and is maintainable. A perusal of Annex.A12 makes it clear that this is an internal correspondence between the Executive Engineer and the Accounts Officer and copy of the same has not been addressed to the applicant. Even otherwise also from the reading of this letter, it is quite evident that the Executive Engineer, Jaipur, in his letter has stated that in compliance of CAT, Jaipur order dated 5.4.02, the officer submitted his representation to DDG (Elect) Deptt of Telecom, New Delhi on 17.4.02. In disposal of representation of officer a copy of office order dated 7.8.02 (Annex.A1) received from DDG(E) New Delhi, is sent herewith for taking further action at your end. Revised LPC showing recovery of Rs.62847/- against officer is also sent herewith. This letter is neither impugned by the applicant nor recovery is being affected on the basis of amount shown in the revised LPC. Thus the submission made by the learned counsel for the applicant that the present application is maintainable before this Bench deserves out right rejection. The applicant is admittedly posted at Bangalore and the relief claimed in this O.A are as follows:

- i) that the order dated 7.8.02 and order dated 19.9.02 be quashed and set aside.
- ii) That the administrative instructions dated 14.5.98 and 4.9.98 effecting with-holding of the increments and recovery of the amount of pay and allowances arising from granting of annual grade increments to the applicant retrospectively be quashed and set aside.

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iii) That the respondent be directed to pay the annual grade increments without taking to account of order dt.14.5.98 and 4.9.98 without retrospective effect and be declared as prospective. No recovery be made in pursuance to aforesaid administrative instructions retrospectively".

5. The question is to be decided as to whether this application could be entertained by this Bench of this Tribunal and is within the jurisdiction of this Bench vis-a-vis under Rule 6 of the CAT (Procedure) Rules, 1987 (hereinafter mentioned as 'the Rules'). The Rule is reproduced below:

"6. Place of filing application - (1) An application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction-

(i) the applicant is posted 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 Sec.25, such application shall be heard and disposed of by the Bench which has jurisdiction over the matter.

(2) Notwithstanding anything contained in sub-rule (1) person who have ceased to be in service by reason of retirement, dismissal or termination or 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."

6. The counsel for the applicant conceded that clause (i) of this rule is not applicable in the instant case and the case of the applicant is covered by clause (ii) of the same sub-rule. Thus, the only question remains whether the application is covered by clause (ii) of the same sub-rule. In other words

whether the cause of action has wholly or partly arisen at Jaipur.

7. The impugned order dated 7.8.02 has been passed by the Dy. Director General (Elect) New Delhi. Similarly, fresh recovery certificate on the basis of which the recovery is being affected has been passed by the Accounts Officer, Bangalore. Similarly, the administrative instruction dated 14.5.98 and 4.9.98 have been issued by the Ministry of Communication, Deptt of Telecom, New Delhi.

The applicant has also made further representation regarding the impugned order Anxx.A1 dated 7.8.02 to the Dy. Director General(E) New Delhi vide his letter dated 4.9.02 from Bangalore. As such, the contention of the counsel for the applicant that the cause of action has partly arisen at Jaipur by virtue of Anxx.A12 cannot be sustained as Anxx.A12 is an internal correspondence between the authorities concerned and he is not at all aggrieved by this letter. Even otherwise also the recovery from the applicant is being effected vide impugned order dated 19.9.02 (Anxx.A2) issued by the Accounts Officer, Bangalore pursuant to order dated 7.8.02 (Anxx.A1) issued by DDG(Elect.) New Delhi and not on the basis of Annexure A-12, thus the mentioning of recovery of Rs.62847/- in the revised LPC by the Executive Engineer, Jaipur vide letter dated 26.8.02 loses its significance. Thus, the contention of the counsel for the applicant that the cause of action has partly arisen at Jaipur does not stand scrutiny. In view of the above position, I am of the view that this Bench of the Tribunal has no jurisdiction to try this application. This application is, therefore, dismissed as not maintainable.



(M.L.Chauhan)

Member (J).