

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JAIPUR BENCH, JAIPUR

Jaipur, 21st September, 2006

ORIGINAL APPLICATION NO. 536/2005

CORAM:

HON'BLE MR. M.L. CHAUHAN, MEMBER (JUDICIAL)

HON'BLE MR. J.P. SHUKLA, MEMBER(ADMINISTRATIVE)

Manish Sharma son fo Shri Prahlad Kumar sharma aged 26 years, resident of House No. 582, behind Taqui Manzil, Amer Road, Subhash Chowk, Jaipur.

By Advocate:Mr.Dharmeshwari Proxy to Mr.Prem Krishna Sharma

....Applicant

Versus

1. The Union of India through the Secretary, Ministry of Railway, Rail Bhawan, New Delhi.
2. The Union Public Service Commission, New Delhi through Secretary.
3. The Railway Board through the Deputy Director Estt. (GR), Railway Board, Rail Bhawan, New Delhi.
4. The Maiviya National Institute Technology, Jawahar Lal Nehru Marg, Jaipur, Rajasthan through Principal.

By Advocate :

.... Respondents

ORDER (ORAL)

The facts of the case are that the applicant has passed his Bachelor of Engineering (B.E.) (Civil) from the Malviya Regional Engineering College, Jaipur in the year 2002. He appeared in the competitive engineering Examination in the year 2004 conducted by the Union Public Service Commission, New Delhi. As per the averments made in the petition, he has passed the said examination and was ranked 19. According to the applicant, 40 posts were advertised and there was no impediment in giving appointment to the applicant on any civil engineering post in any department. However vide order dated 23.06.2005 (Annexure A/1), the applicant was declared unfit for all other services on account of Defective Colour Perception on both Ishihara & EGL. It was also stated in the said letter that in case he desire to appeal against the findings of the Medical Board, his appeal in writing should reach within 15 days of the issue of this letter failing which it will be presumed that he is not interested in filing an appeal. Vide impugned order dated 14.07.2005 (Annexure A/2), which has been issued with reference to earlier communication dated 23.06.2005, the applicant was informed that since he has not filed any appeal before the Appellate Medical Examination within the time allowed, he will be considered for allocation to service/post as per the findings of the First Medical Board. These orders (Annexures A/1 & A/2) have been issued by the Government of India, Ministry of Railways. It is these orders which has been challenged in this OA. The applicant has prayed that these orders (Annexures A/1 & A/2) be quashed and set aside

by

and respondent Nos. 1 to 3 be directed to give him appointment on a Civil Engineering post; alternatively the respondents be directed to give him appointment on a preferential basis under the disability quota, the post of IRSS Grade A for which he has been declared unfit in the order Annexure A/1.

2. I have heard the learned counsel for the applicant. The learned counsel for the applicant could not satisfy this Tribunal on the point of territorial jurisdiction of this Tribunal. The only argument advanced by the learned counsel for the applicant is that the applicant is residing in Jaipur and he has passed the B.E. (Civil) Engineering Examination from the Malviya Regional Engineering College in the year 2002 now whose name has been changed to Malviya National Institute of Technology, Jaipur, as such, this Tribunal has got jurisdiction. According to us, the submission made by the learned counsel for the applicant is wholly mis-conceived. It is the settled position that mere service of notice creates no cause of action and the Tribunal can entertain cases falling under its own territorial jurisdiction alone in terms of Rule 6 of CAT (Procedure) Rules, 1987 read with Section 19 of CAT Act, 1985. The matter on this point is no longer res-integra and is fully covered by the judgement rendered by this Bench of the Tribunal in the case of Jitendra Kumar Mittal vs. Union of India & Others 2006(1) CAT 393 where this Tribunal after noticing ~~in~~ the relevant provisions of the Administrative Tribunal's Act and CAT (Procedure) Rules, 1987 and decision rendered by the Apex Court has held that,

the fact that applicant is residing at Jaipur and he has sent an application for appointment to the appropriate authority at Delhi and he has also received the rejection letter passed by Delhi authorities at Jaipur, therefore, part of cause of action arises at Jaipur cannot be accepted as this fact has no bearing with the lis involved in the case. It was further held that cause of action means that bundle of facts which person must prove, if traversed to entitle him to a judgement in his favour by the Court. Thus receipt of the communication at best only gives the party right of action based on the cause of action arising out of the action complained of but certainly it will not constitute cause of action on the plea that some events, however, trivial and unconnected with the cause of action had occurred within the jurisdiction of this Tribunal.

3. The ratio as laid down by the Tribunal in the case of Jitendra Kumar Mittal (supra) is squarely applicable in the present case. The cause of action in this case is wholly outside the jurisdiction of this Tribunal. The applicant has sought relief from respondents whose offices are located at New Delhi i.e. outside the jurisdiction of this Tribunal. Thus we are of the considered opinion that this application is not maintainable and the Registry is hereby directed to return the same to the applicant for presentation to the appropriate forum by keeping a copy of the same. No costs.


S.P. SHUKLA

MEMBER (A)


(M.L. CHAUHAN)

MEMBER (J)