

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDER SHEET


ORDERS OF THE TRIBUNAL

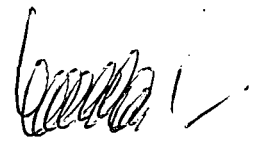
16.11.2007

OA 250/2007

Mr. Bharat Saini, counsel for applicant.

At the request of learned counsel for the applicant, let the matter be listed on 5.12.2007.


(J.P. SHUKLA)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

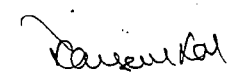
vk


5-12-07

Mr. Bharat Saini Counsel for the applicant

Heard the learned
Counsel for the applicant.

For the reasons dictated
separately, the OA is dismissed as
this Tribunal has no jurisdiction to
entertain the matter.


(Administrative)
Administrative member


(M.L. Chauhan)
Judicial member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 5th day of December, 2007

ORIGINAL APPLICATION No. 250/07

CORAM:

HON'BLE MR.M.L.CHAUHAN, JUDICIAL MEMBER
HON'BLE MR.TARSEM LAL, ADMINISTRATIVE MEMBER

Bheem Singh Meena
s/o Shri Mangal Ram Meena,
aged about 31 years,
r/o Village Kundli,
Post Gandal,
Tehsil Bamanwas,
Distt. Sawai Madhopur.

.. Applicants

(By Advocate: Mr. Bharat Saini)

Versus

1. The Union of India through General Manager (P),
North Central Railway, Allahabad.
2. The Chairman, Railway Recruitment Board,
Allahabad (U.P.)
3. The Divisional Rail Manager, North Central
Railway, Allahabad (U.P.).

.. Respondents

(By Advocate:)

2

ORDER (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

- i. by an appropriate order or direction the respondents may kindly be directed to consider the case of the applicant for appoint on the post of Ticket Collector and issue appointment letter in pursuance of letter dated 3.3.2006 (Annex-A/4) issued by respondent No.3;
- ii. Any other relief which this Tribunal deems fit may also be granted to the humble applicant looking to the facts and circumstances of the present case.
- iii. The Original Application may kindly be allowed throughout with costs.

2. Brief facts, relevant for decision in this OA, are that the respondents issued an advertisement for the post of Commercial Clerk and Ticket Collector bearing advertisement No.CAT S-5 of EN 2/2004. The applicant being eligible for the post of Commercial Clerk and Ticket Collector applied for the said post. He appeared in the preliminary examination which was held on 5.6.2005 at Lucknow and was declared pass. Consequently, the applicant was called for main examination which was held on 20.11.2005 at Allahabad. After passing of the main examination, respondent No.2 sent a letter dated 2.1.2006 to the applicant mentioning therein that on the basis of selection conducted by Railway Recruitment Board, Allahabad, name of the applicant has been placed on the panel of provisionally selected candidates. It was further mentioned that name of the applicant has been

forwarded to respondent No.1 for issuing the offer of appointment after completion of necessary formalities. Thereafter on 3.3.2006 respondent No.3 issued a letter to the applicant regarding selection on the post of Ticket Collector scale Rs. 3050-4590 and the applicant was informed that the final letter will be issued to the applicant after he is found fit in B-2 medical category and completion of training course. It is further averred that along with this letter dated 3.3.2006 attestation forms were also enclosed by respondent No.3. In the attestation form No.1 (Ann.A1) apart from other columns there was a column No.12 and its sub-columns regarding pendency of any criminal case against the applicant. The applicant filled up the form without concealing any thing and in the form he clearly mentioned that there is a criminal case No. 193/2002 pending in ACJM Court, Gangapur City. The applicant annexed copy of this attestation form as Ann.A5 alongwith this OA. It is further stated that in pursuance of letter dated 3.3.2006 the applicant appeared on 25.3.2006 in the office of respondent No.3 alongwith original documents and attestation form. After medical examination, a certificate was issued by the medical department to the effect that the applicant is fit in B-2 category without glasses.

The grievance of the applicant is that the respondents have not issued any appointment letter in favour of the applicant even after completing all the

formalities and when the applicant met personally in the office of respondents, he came to know that appointment in his favour was not issued because a police case is pending against the applicant. It is on the basis of these facts, the applicant has filed this OA thereby praying for the aforesaid reliefs.

3. We have heard the learned counsel for the applicant at admission stage on the question whether this Tribunal has got territorial jurisdiction to entertain this OA or not.

4. We are not convinced that this Tribunal has got territorial jurisdiction to entertain this OA in view of the provisions contained in Section 19(1) of the Administrative Tribunals Act, 1985 read with Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987. Section 19(1) of the Administrative Tribunals Act reads as under:-

"19. Applications to Tribunals. (1) Subject to the other provisions of this Act a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievance.

Explanation- For the purpose of this sub-section 'order' means an order made-

- (a) by the Government or a local or other authority within the territory of India or under the control of the Government of India or by any corporation (or society) owned or controlled by the Government; or
- (b) by an officer, committee or other body or agency of the Government or a local or other authority or corporation (or society) referred to in Clause (a).

44

2..."

Similarly, Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987 is in the following terms:-

"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) xx xx xx

(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 disposed of by the Bench which has jurisdiction over the matter.

2..."

According to Section 19(1) of the Administrative Tribunal Act, the aggrieved person can maintain an application before the Tribunal within whose jurisdiction the order is passed and is aggrieved of it. This section specifically does not provide that this Tribunal has jurisdiction regarding the order passed outside the State to entertain an application in terms of Section 19(1) of the Administrative Tribunals Act as is mandated under Article 226(2) of the Constitution of India. In order to confer jurisdiction of this Tribunal to entertain the OA, the order pertaining to any matter against which a person is aggrieved should be passed within the territorial jurisdiction of this Tribunal. It is only then this Tribunal can entertain such application for redressal

69

of the grievance. Similarly, as per Rule 6 of the CAT (Procedure) Rules, an application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction the cause of action wholly or in part has arisen. Admittedly, the applicant is aggrieved by the action of the respondents in not issuing the appointment letter pursuant to letter dated 3.3.2006 (Ann.A4) which has been passed by respondent No.3 i.e. Divisional Rail Manager, North Central Railway, Allahabad (U.P.). This Tribunal has got no jurisdiction to entertain the grievance arising out of the order passed by the Divisional Rail Manager, Allahabad. Further, the cause of action wholly has arisen outside the jurisdiction of this Tribunal, inasmuch as, the applicant appeared for the post of Commercial Clerk and Ticket Collector pursuant to advertisement issued by the railway authorities at Allahabad. The preliminary examination was held at Lucknow and main examination was held at Allahabad and the applicant was declared successful on the basis of selection conducted by Railway Recruitment Board, Allahabad and intimation to this effect was sent to the applicant vide letter dated 2.1.2006 (Ann.A3) thereby stating that his name has been forwarded to the General Manager, North Central Railway, Allahabad. The said panel was also approved by the General Manager, North Central Railway, Allahabad and pursuant to approval of the panel, the applicant was given

by

offer of appointment vide letter dated 3.3.2006 subject to certain condition and on being medically fit. This letter has been signed by respondent No.3 i.e. Divisional Rail Manager, North Central Railway, Allahabad. Thus, according to us, the cause of action wholly has arisen outside the territorial jurisdiction of this Tribunal. Simply, because the applicant is residing at Sawai Madhopur, therefore, part of cause of action has arisen within the jurisdiction of this Tribunal cannot be accepted as this fact has no bearing with the lis or the dispute involved in this case. Further, the fact regarding sending of application for appointment to the appropriate authority and receiving the communication from the railway authorities of Allahabad at Sawai Madhopur will also not constitute a cause of action as the cause of action means the bundle of facts which a person must prove, if traversed to entitle him to a judgment in his favour by the Court. Thus, receipt of 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. The view we have taken is fully covered by the decision of this Tribunal In the case of Jitendra Kumar Mittal vs. Union of India and ors.,

by

2006 (1) SLJ (CAT) 393 whereby this Tribunal after noticing various decisions of the Apex Court and the decisions rendered by the Rajasthan High Court has specifically held that mere receipt of letter is not a part of cause of action. This Tribunal further held that there is a difference in powers of High Court under Article 226 (2) and of Central Administrative Tribunal under Section 19 of the Administrative Tribunal Act, whereas the Hon'ble High Court has got wide jurisdiction to entertain the matter but such power is not there with the Tribunal in terms of provisions contained under Section 19 of the Administrative Tribunals Act read with Rule 6 of the CAT (Procedure) Rules.

5. For the foregoing reasons, we are of the considered opinion that this application is not maintainable. Accordingly, it is held that the application is not maintainable and 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.


(TARSEM LAL)

Admv. Member


(M.L. CHAUHAN)

Judl. Member

R/