

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET**

APPLICATION NO.: _____

Applicant (S)

Respondent (S)

Advocate for Applicant (S)

Advocate for Respondent (S)

OFFICES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

22.07.2009

OA No. 299/2009

Mr. Pyare Lal, Counsel for applicant.

Heard learned counsel for the applicant.

For the reasons dictated separately, the OA is disposed of.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 22nd day of July, 2009

OA No.299/2009

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDL.)
HON'BLE MR. B.L.KHATRI, MEMBER (ADMV.)

Sushil Kumar
s/o Shri Kishan Singh,
aged about 28 years,
r/o 3/32 Housing Board,
Jhunjhunu District,
Jhunjhunu (Raj.)

.. Applicant

(By Advocate: Shri Pyare Lal)

Versus

1. The Union of India through Secretary, Ministry of Personnel, Government of India, Room No.112, North Block, New Delhi.
2. The Regional Director, Staff Selection Commission (Northern Region), Block No.12, C.G.O. Complex, Lodhi Road, New Delhi.

.. Respondents

(By Advocate:)



ORDER (ORAL)

The applicant has filed this OA thereby praying that direction may be issued to the respondents to appoint him on the post of Inspector (CE) from the date less meritorious candidates have been appointed in OBC category with all consequential benefits, like pay, promotion and seniority.

2. Brief facts of the case, so far as relevant for decision of this OA, are that the applicant appeared in the Combined Graduate Level Examination, 2006 which examination was conducted for the post of Assistant/Inspector (IT/CE), Preventive Officer, Examiner, S.I. in CBI etc. Notice for the aforesaid examination was published in the Employment News on 14.4.2007 and all steps regarding this examination were to be taken by the authorities at Delhi. The application for this post was addressed to the Staff Selection Commission located at New Delhi. The result of the aforesaid examination was also declared outside the jurisdiction of this Tribunal and the applicant was also directed to appear in the interview pursuant to the Memorandum dated 6.5.2008 (Ann.A/2) issued by the Staff Selection Commission, New Delhi. Further, the applicant has also sought certain information under the RTI Act, which information was also given to the applicant by respondent No.1 whereby he was informed that he has secured 32 marks in Paper-II of Scheme 'B' of the abovesaid exam which were less than the cut off marks fixed by the Commission for evaluation of Paper-I

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i.e. 82 marks for UR, 80 marks for OBS, 60 marks for SC and 50 marks for ST/PH/HH, 45 marks for Exs category candidates. Hence, your Paper-I was not evaluated. In fact, the applicant is aggrieved by this part of the order and has filed this OA for the reliefs as mentioned above on the ground that he has obtained 407 marks whereas the cut off marks for OBC category were 382.

3. We have heard the learned counsel for the applicant at admission stage.

4. We are of the view that this Tribunal has no jurisdiction to entertain this OA on account of lack of territorial jurisdiction. The matter on this point is no longer res-integra. Simply because the applicant resides within the territorial jurisdiction of this Tribunal and has received certain communication within the territorial jurisdiction of this Tribunal at Jaipur will not confer cause of action in favour of the applicant to agitate the matter within the territorial jurisdiction of this Tribunal in view of the provisions contained under Section 19 of the Administrative Tribunals Act, 1985 read with Rule 6 of the Central Administrative (Procedure) Rules, 1987. According to us, the matter is squarely covered by the decision of this Bench in OA No.386/2008, Ramesh Chand vs. Union of India and ors. decided on 20th October, 2008, relevant portion of which thus reads:-

“5. We are of the view that it is a case where this Tribunal has got no territorial jurisdiction to entertain the matter for the reasons stated hereinbelow:-

5.1 As can be seen from the facts as stated above, the grievance of the applicant is regarding cancellation of his



candidature. Admittedly, this order has been passed outside the jurisdiction of this Tribunal i.e. by the RRB, Allahabad. It is also admitted case that the applicant appeared pursuant to the advertisement issued outside the territorial jurisdiction of this Tribunal and the entire process of selection was also held outside the territorial jurisdiction of this Tribunal and the impugned order was also passed outside the territorial jurisdiction of this Tribunal. Simply because the applicant resides within the territorial jurisdiction of this Tribunal and he has also received impugned communication within the territorial jurisdiction of this Tribunal will not confer cause of action in favour of the applicant to agitate the matter within the territorial jurisdiction of this Tribunal especially in view of the provisions contained in Section 19 of the Administrative Tribunals Act, 1985 read with Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987.

5.2 According to us, the matter is squarely covered by the decision of this Tribunal in the case of Jitendra Kumar Mittal (supra) whereby this Tribunal has occasioned to consider power of the Hon'ble High Court under Article 226 (2) vis-à-vis provisions contained in Section 20 of the Civil Procedure Code 1908 and the powers conferred to this Tribunal under Section 19 of the Administrative Tribunals Act read with Rule 6 of the Central Administrative Tribunal (Procedure) Rules and it was held that power of High Court under Article 226 (2) are far wider for exercise of jurisdiction than that of the Central Administrative Tribunal under the aforesaid Section/Rule. It was further held that this Tribunal can entertain cases falling under its jurisdiction alone and mere service of notice create no cause of action and also even residence of a person does not give jurisdiction to this Tribunal. At this stage, it will be useful to quote para 8 of the judgment in the case of Jitendra Kumar (supra), which thus reads:-

"8. Now let me notice the relevant provisions of the Administrative Tribunals Act, 1985 and Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987. Section 19(1) of the Administrative Tribunals Act reads as follows:-

"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).

(2)....."

Similarly, Rule 6 of the CAT (Procedure) Rules 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).....

(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 Principle 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(i) of the Administrative Tribunals 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(i) of the Administrative Tribunals Act as is mandated under Article 226 (2) of the Constitution of India. The place where the impugned order was passed should be within the jurisdiction of this Tribunal and normally the place of the order is the place where the respondent who passed the order, is situated or resides. Therefore, in my opinion, the order is being passed in Delhi, this Tribunal would not have any jurisdiction in view of the mandate of Section 19(i) of the Administrative Tribunals Act. On the contrary, as already stated above, the scope of Article 226 is wide enough and the Hon'ble High Court can exercise jurisdiction in relation to the territory within which the cause of action wholly or in part has arisen. For exercise of such powers mere residence of the person does not confer jurisdiction unless the cause of action or part of cause of action arose within the jurisdiction of the Tribunal, which is not the case before this Tribunal in view of clear mandate of Section 19 of the Administrative Tribunal Act. It is no doubt true that Rule 6 of the CAT (Procedure) Rules provides that

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the Tribunal would have jurisdiction even if part of cause of action has arisen. In other words there shall be action on the part of the authorities within the jurisdiction in pursuance of the order passed by the other authority situated outside the jurisdiction. In order to bring the case within the ambit of the aforesaid situation, only such cases are covered where for example, a person has been transferred from station-A to Station-B and he was not allowed to join duty at Station-B. In that eventuality, the person aggrieved can file an application at both stations i.e. at Station-A and Station-B as the cause of action has arisen where the transfer order is passed and also where he has joined after transfer. Likewise, if any person who is working in different places and if the dispute relates to the grant of higher pay scale a part of cause of action to receive the higher pay scale is available to him in all the places and as such he could maintain an application before the Bench where he was working as part of cause of action arises at the place where he is working. However, in the case of the applicant simply because he is residing in 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 the 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 or dispute involved in the case. Further, cause of action means that bundle of facts which person must prove, if traversed to entitle him to a judgment 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 pleas that some events, however, trivial and unconnected with the cause of action had occurred within the jurisdiction of this Tribunal."

It may be stated that the observations made above by this Tribunal were based upon the decision of the Hon'ble Apex Court in the case of Union of India and Ors. Vs. Adani Exports Ltd. and Another, AIR 2002 SC 126 and decision rendered by the Full Bench of the Kerala High Court in the case of Naik Nakul Deb Singh etc. vs. Deputy Commandant (CISF Unit), Kottayam and Ors., 1999 (6) SLR 381 as can be seen from para 9 of the judgment rendered in the aforesaid case. In para 10 of the judgment, the Tribunal has noticed the decision in the case of State of Rajasthan and ors. vs. M/s Swaika Properties and anr., AIR 1985 SC 1289 whereby while interpreting the provisions of Article 226(2) of the Constitution of India the Apex Court held that mere service of notice does not give rise to part of cause of action unless the notice is an integral part of the impugned order. This Tribunal has also relied upon the decision of the Karnataka High Court in Narayan Swamy G.V. vs. Union of India and Others, 1998 (5) Kar. L.J.279

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whereby it was held that mere residence of the person does not confer jurisdiction unless the cause of action or part of cause of action arose within the jurisdiction of the High Court. Further reliance was also placed upon the decision of the Apex Court in the case of Oil and Natural Gas Commission Vs. Utpal Kumar Basu and ors., JT 1994 (5) SC 1, whereby the Apex Court in para 12 has deprecated the tendency of the Courts entertaining the matter which does not fall within the territorial jurisdiction of that Court and held that prestige of a Court depends on how the members of that institution conduct themselves. If an impression gains ground that even in case which fall outside the territorial jurisdiction of the Court, certain members of the Court would be willing to exercise jurisdiction on the plea that some event, however, trivial and unconnected with the cause of action had occurred within the jurisdiction of the said Court, litigants would seek to abuse the process by carrying the cause before such members giving rise to avoidable suspicion. That would lower the dignity of the institution and put the entire system to ridicule. Ultimately in para 11 of the judgment this Tribunal in the case of Jitendra Kumar (supra) has made the following observations which thus reads:-

"11. In view of the law laid down by the Hon'ble Supreme Court as well as by the Hon'ble High Court, 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 the 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. Further, cause of action means that bundle of facts which person must prove, if traversed to entitle him to a judgment 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.

According to us, the present case is squarely covered by the reasoning given in the case of Jitendra Kumar (supra).

5.3 At this stage, we may notice that the judgment rendered by the Hon'ble Apex Court in the cases of M/s Swaika Properties and Anr.; Adani Export Ltd., Full Bench decision of the Kerala High Court in the case of Nakul Deb Singh and ONGC vs. Utpal Kumar Basu (cited supra), have further been approved and relied by the Hon'ble Apex Court in the case of Musuraf Hossain Khan vs. Bhagheeratha Engg.

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Ltd. and Ors. JT 2006 (3) SC 80. The decision of the Full Bench of the Karala High Court in Nakul Deb Singh's case has been reproduced in para 23 of the judgment which deals with the point of communication of the order will not confer cause of action. What a writ petitioner needs to plead as a part of his cause of action is the fact that his appeal was dismissed wholly or in part and not the fact that the order was communicated to him. That was a case where order of dismissal was served upon the applicant when he was in service outside the State and on account of such dismissal order he being to suffer consequence of that dismissal when he was in his native place by being rendered jobless. It was in that context, it was argued that since the consequence of the order would fall at a place to which the applicant belongs, as such, the said Court has got jurisdiction to entertain the matter. It was however held that receipt of an order passed by the appellate authority in disciplinary proceedings would not constitute a cause of action.

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5. For the foregoing reasons, we are of the view that the applicant has not made out any case for our interference. Accordingly, we are of the view that this Tribunal has got no territorial jurisdiction to entertain this matter 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. Therefore, the Registry is directed to return the paper book to the learned counsel for the applicant for presentation before the appropriate forum by retaining one copy for record.

6. The OA stands disposed of accordingly at admission stage.


(B.L. KHATRI)

Admv. Member


(M.L. CHAUHAN)

Judl. Member

R/