THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET

APPLICATION NO.: _____

Applicant (S) | Respondent (S)

Advocate for Applicant (S) | Advocate for Respondent (S)

NOTES OF THE REGISTRY	ORDERS OF THE TRIBUNAL

07.09.2009

OA No. 315/2009

Mr. P.N. Jatti, 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)

AHQ

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 7th day of September, 2009

CORAM:

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

ORIGINAL APPLICATION No.314/2009

Mahesh Chand Meena
s/o Shri Harsanai Meena,
aged about 32 years,
r/o Tikri-Japharan, Via Mahua-Salempur
Rajasthan.

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

1. Union of India through the Secretary to the Government of India, Department of Personnel and Training, Ministry of Personnel and Public Grievances and Pension, Block No.12, Kendriya Karyalaya Parisar, Lodhi Road, New Delhi.

2. Secretary, Staff Selection Commission, Northern Regional Office, Block No.12, Kendriya Karyalay Parisar, Lodhi Road, New Delhi.

... Respondent

(By Advocate: .....)

ORIGINAL APPLICATION No.315/2009

Laxminarain Meena
s/o Shri Kahniya Lal Meena,
aged about 29 years,
r/o Village Pamadi,
Post-Un-Badagaon,
Via-Bandicui.

.. Applicant

(By Advocate: Shri P.N.Jatti)

Versus

1. Union of India through the Secretary to the Government of India, Department of Personnel and Training, Ministry of Personnel and Public Grievances and Pension, Block No.12, Kendriya Karyalaya Parisar, Lodhi Road, New Delhi.

2. Secretary, Staff Selection Commission, Northern Regional Office, Block No.12, Kendriya Karyalay Parisar, Lodhi Road, New Delhi.

... Respondent

(By Advocate:.....)

O R D E R (ORAL)

By way of this common order, we propose to dispose of both these OAs as the question which requires our consideration is whether the OA filed by the applicant can be entertained by this Tribunal on account of territorial jurisdiction ?

2. OA No.314/2009 has been filed by the applicant, Shri Mahesh Chand Meena, whereby he has impleaded Secretary to the Government of India, Department of Personnel and Training, New Delhi and Secretary, Staff Selection Commission, Northern Regional Office, New Delhi as party-respondents. The grievance of the applicant is that he has appeared in the examination pursuant to special recruitment drive for SC/ST for Steno Grade-D Examination, 2005 but he has not received any information regarding his appointment. Although he has received a copy of letter dated 16.6.2008 (Ann.A/6) regarding his appointment but till date no appointment has been given to the applicant. As can be seen from

Ann.A/6, this letter has been issued by the Assistant Director, Staff Selection Commission, New Delhi to the Regional Director, Staff Selection Commission, Kolkata whereby the Regional Director has been requested to take further necessary action with CCIT, Kolkata for early appointment of the applicant.

OA No.315/2009 has been filed by the applicant Shri Laxmi Narain Meena. In this case also grievance of the applicant is regarding same examination and the party-respondents who have been impleaded are also same. In this case, the applicant has stated that despite of the fact that he has submitted all the documents to the Staff Selection Commission but he has not been given appointment against the post of Stenographer Grade-D. It is also stated that a letter dated 19.3.2008 (Ann.A/4) has been received whereby the applicant has been informed that his name has been released from reserve list for nomination in the office of CCIT, Kolkata and he was requested to submit matriculation certificate latest by 2.4.2008 failing which his candidature will be cancelled without any further reference.

Based on these facts, the applicants have prayed that writ/order or direction may be issued to the respondents to appoint the applicants on the post of Stenographer Grade-D.

3. We have heard the learned counsel for the applicant. We are of the view that this Tribunal has got no territorial jurisdiction to entertain these matters. The matter on this point is no longer res-integra and the same has been decided by this Tribunal in OA No. 386/2008, Ramesh Chand vs. Union of India decided on 20.10.2008

which decision was rendered based on this Tribunal's earlier decision in the case of Jitendra Kumar Mittal vs. Union of India, 2006 (1) (CAT) AISLJ 393. At this stage, it will be useful to quota para 5, 5.1, 5.2 and 5.3 of the judgment rendered by this Tribunal in the case of Ramesh Chand (supra), 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.
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> 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 quota para 8 of the judgment in the case of Jitendra Kumar (supra), which thus reads:-
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> "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:-
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> "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 of 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 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 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. 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."

The ratio as laid down by this Tribunal in the case of Ramesh Chand (supra), is squarely applicable in the facts and circumstances of these cases. Accordingly, we are of the view that this Tribunal has got no territorial jurisdiction to issue mandamus in nature as prayed for. Simply because the applicants reside within the territorial jurisdiction of this Tribunal and have received the aforesaid communications within the territorial jurisdiction of this

Tribunal, which according to us, will not confer any cause of action in favour of the applicants in view of the provisions contained under Section 19 of the Administrative Tribunal Act, 1985 read with Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987.

4. Accordingly, the Registry is directed to return the paper book to the applicants for presentation before the appropriate forum by retaining one copy for record.

5. Both the OAs stand disposed of accordingly at admission stage.

(B.L.KHATRI)
Admv. Member

(M.L.CHAUHAN)
Judl. Member

R/

copy given side
No. 822823
10/9/09

Received on
11/9.