CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORDER SHEET

ORDERS OF THE TRIBUNAL

30.11.2009

OA 524/2009

Mr.Saugath Roy, counsel for applicant.

Heard in part. Let the matter be listed for further arguments on 2.12.2009.

(B.L.KHATRI)
MEMBER (A)

(M.L.CHAUHAN)
MEMBER (J)

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02.12.2009

OA No. 524/2009
OA No. 525/2009
OA No. 535/2009
OA No. 540/2009

Dr. Saugath Roy, 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 02nd day of December, 2009

CORAM:

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

1. ORIGINAL APPLICATION NO. 524/2009

Prahalad Meena son of Shri Ramesh Meena age about 21 years, by caste Scheduled Tribe, Permanent resident of Village and post Pilida, Tehsil Gangapur, District Sawaimadhopur (Rajasthan)

.....APPLICANT

(By Advocate: Dr. Saugath Roy)

VERSUS

1. The Union of India through General Manager, South Western Railway, Hubli, Karnataka,.
2. Chairman, Railway Recruitment Board through its Chairman, 18, Miller Road, Bangalore.
3. Divisonal Personnel Officer, Mysore Division, South Western Railway, Mysore, Karnataka.

.....RESPONDENTS

(By Advocate : ----------)

2. ORIGINAL APPLICATION NO. 525/2009

Rajendra Kumar Meena son of Shri Kajod Mal Meena, aged about 23 years, by caste Scheduled Tribe, Permanent resident of Village Nandpura, Post Bambori, Tehsil and District Bundi (Rajasthan).

.....APPLICANT

(By Advocate: Dr. Saugath Roy)

VERSUS

1. The Union of India through General Manager, South Western Railway, Hubli, Karnataka,.
2. Chairman, Railway Recruitment Board through its Chairman, 18, Miller Road, Bangalore.

3. Senior Divisional Personnel Officer, Hubli Division, South Western Railway, Hubli, Karnataka.

.....RESPONDENTS

(By Advocate : ----------)

3. ORIGINAL APPLICATION NO. 535/2009

Sunil Kumar Meena son of Shri Prahalad Kumar Meena, aged about 25 years, resident of Plot NO. H-9, Saraswati Nagar, Jawahar Circle, Jaipur. (Rajasthan).

.....APPLICANT

(By Advocate: Dr. Saugath Roy)

VERSUS

1. The Union of India through General Manager, South Western Railway, Hubli, Karnataka,.
2. Chairman, Railway Recruitment Board through its Chairman, 18, Miller Road, Bangalore.
3. Divisonal Personnel Officer, South Western Railway, Hubli, Karnataka.

.....RESPONDENTS

(By Advocate : ----------)

4. ORIGINAL APPLICATION NO. 540/2009

Ram Lal Meena son of Shri Pyare Lal Meena, aged about 35 years, Permanent resident of Danpur Post Office Purbany, Tehsil Rajgarh, District Alwar (Rajasthan).

.....APPLICANT

(By Advocate: Dr. Saugath Roy)

VERSUS

1. The Union of India through General Manager (Personnel), Northern Railway, Headquarter Office, Baroda House, New Delhi.
2. Railway Recruitment Board, Jammu Sri Nagar through its Chairperson.
3. Divisional Railway Manager, Northern Railway, Firozpur.

.....RESPONDENTS

(By Advocate: ----------)

ORDER (ORAL)

By this common order, we propose of dispose of aforesaid OAs as the question which requires our consideration is whether this Tribunal has got territorial jurisdiction to decide the matter in view of the provisions contained in Administrative Tribunal's Act, 1985.

2. Briefly stated facts of the case are that the applicants in these OAs have prayed that the respondents may be directed to give them alternative post as they have been declared unfit for the relevant post for which they were selected by the Recruitment Board, Bangalore/ Jammu & Kashmir. In these cases except OA No. 540/2009, the applicants have impleaded Union of India through General Manager, South Western Railway, Hubli, Karnataka as respondent no. 1, Chairman, Railway Recruitment Board through its Chairman, Bangalore as respondent no. 2 and Senior/Divisional Personnel Officer, Mysore/ Hubli Division, South Western Railway, Mysore/Hubli, Karnataka as respondent no. 3. In OA No. 540/2009, the Headquarter office of the respondents are at New Delhi and Jammu & Kashmir. All these respondents are residing outside the territorial jurisdiction of this Tribunal. It has been pleaded by the applicants in these OAs that since the applicants are residing within the territorial jurisdiction of this Tribunal and have applied for the post in question and were communicated rejection of the candidature at their native place, as such this Tribunal has got jurisdiction to entertain the matter.

3. We have heard the learned counsel for the applicant and have gone through the material placed on record. As can be seen from the facts, as stated above, the applicants are aggrieved by the order passed by respondent no. 3 in the respective Original Applications and are also seeking direction from this Tribunal to give them appointment in the alternative posts. We are of the view that this Tribunal has got no jurisdiction to entertain the matter. It may be stated that jurisdiction cannot be conferred by any court order. The power to create or enlarge jurisdiction is legislative in character. It is a further settled position that cause of action is a fundamental element to confer jurisdiction. Viewing the matter on settled position, as stated above, let us examine the relevant provisions of the Administrative Tribunal's Act, 1985 whereby jurisdiction has been conferred upon the Central Administrative Tribunal to entertain and decide the cases. It may be stated that Administrative Tribunal's Act, 1985 has been enacted by the Parliament in pursuance of Article 323A of the Constitution in order to adjudicate the dispute and complaints with respect to recruitments and conditions of service of the employees/persons appointed to public service and posts. Pursuant to legislative enactment, Central Administrative Tribunal was established by issuing a notification to that effect by the Central Government. Section 5 of the Administrative Tribunal's Act stipulates that jurisdiction/authority of the Central Administrative Tribunal Act will be exercised by the Benches. Section 18 (1) of the Act deals with distribution of business amongst the Benches and pursuant to provisions contained under Section 18(1) of the AT Act, Government of India has issued a notification thereby 17 Benches of the Central Administrative Tribunal have been conferred

jurisdiction to deal with all matter falling within the purview of the Central Administrative Tribunal within territories specified against each of the Benches. It may be stated that Bangalore Bench has been conferred jurisdiction to deal all the matter falling within the jurisdiction of State of Karnataka whereas Jaipur Bench has been conferred jurisdiction in respect of 16 districts of the State of Rajasthan whereas remaining jurisdiction in State of Rajasthan has been conferred to Jodhpur Bench. Further as per Section 19 (1) of the Administrative Tribunal's 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 redressal of his grievance. Further Rule 6 of the CAT (Procedure) Rules, 1987 inter-alia also provides that an application can be filed with the Registrar of the Bench where cause of action is wholly or partly arisen. Thus in view of the statutory position as noticed above, the jurisdiction to deal with the matter has been conferred on the different Benches of the Central Administrative Tribunal by the Legislature enacting various provisions under the Administrative Tribunal's Act, 1985. The fact that the applicants are residing within the territorial jurisdiction of this Tribunal and they have also received communication whereby they have been declined appointment on the post to which they were selected by the Recruitment Board, Bangalore/ Jammu & Kashmir this fact itself will constitute part of cause of action as alleged by the applicants for the purpose of maintainability of these OAs. The answer to this question according to us is in negative. The matter on this point is no longer res-integra and the same was considered by this Bench in the case of in the case of **Jitendra Kumar Mittal vs. Union of India & Others,**

2006(1) SLJ 393 (CAT) whereby this Tribunal has considered the matter in the light of provisions contained under Section 19 of the Administrative Tribunal's Act read with Rule 6 of the CAT (Procedure) Rules, 1987 vis-à-vis provisions contained under Section 20 of the CPC and Article 226(2) of the Constitution of India and it was held that the power of Hon'ble High Court under Article 226 are much wider than the jurisdiction which has been conferred on the CAT under the aforesaid provisions. It was further held that mere receipt of communication does not constitute the cause of action. At the best receipt of order or communication only gives the party right of action based on the cause of action arising out of the action complained of. Such finding was recorded on the basis of the judgment of the **Naik Nakul Deb Singh etc. vs. Deputy Commandant (CISF Unit), Kottayam & Others,** 1999(6) SLR 381. Further in the case of Jitendra Kumar Mittal, this Tribunal has held as under:-

> "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 bundes 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."

4. It may further be stated here that the decision in the case of Naik Nakul Deb Singh (supra) was further approved by the Apex Court in the case of **Musuraf Hossain Khan vs. Bhagheeratha Engg. Ltd**

& Others, JT 2006 (3) SC 80, which has been reproduced in Para No. 23 of the judgment.

5. Reliance placed by the learned counsel for the applicant to the judgment rendered by this Tribunal in OA No. 224/2002 decided on 23.09.2002, **Ganpat Lal Meena vs. Directorate of Census Operation & Another** and judgment of the Apex Court in the case of **Union of India & Others vs. Rajesh P.U., Puthuvalnikathu & Another,** 2003 (7) SCC 285 is of no consequence as the issue regarding the territorial jurisdiction was neither raised nor considered either by this Tribunal in the case of Ganpart Lal Meena nor by the Apex Court in the case of Rajesh P.U. (Supra). As can be seen from Para 4 of the judgment rendered by the Apex Court, the judgment was rendered by the CAT Bench while dismissing the OA at admission stage on merit observing that action relating cancellation having been taken bona fide and in public interest after due deliberation, does not call for interference and there was no legitimate cause of action. Thus the issue regarding the maintainability of the OA on account of territorial jurisdiction was neither raised nor considered by the Tribunal. However, the Hon'ble High Court set aside the finding recorded by the Administrative Tribunal on the ground that entire selection of 134 posts of Constables by CBI could not have been cancelled where irregularities were committed and identified only in the case of 31 candidates. The view taken by the Hon'ble High court was confirmed by the Apex Court. Similarly, this Tribunal in the case of Ganpat Lal Meena has decided the matter on merit and the question of jurisdiction was neither raised nor decided. Thus according to us, the applicants

cannot drive any assistance from these judgments as this a settled position in law that judgment is binding in respect of the issued raised and decided by the court.

6. The ratio as laid down by the Jaipur Bench in the case of Jitendra Kumar Mittal (supra) is fully applicable in the facts and circumstances of this case. Therefore, in our considered opinion, this application is not maintainable.

7. In view of what has been stated above, we are of the view that the present OAs are not maintainable. The Registry is directed to return the Paper Book to the applicants for presentation to the appropriate authority by keeping a copy of the same. No costs.

(B.L. KHATRI)
MEMBER (A)

(M.L. CHAUHAN)
MEMBER (J)

AHQ