IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

JAIPUR, this the 21st day of May, 2010

Original Application No. 260/2010

CORAM:

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

1. Arun Kumar Sharma
s/o Shri Mahesh Kumar Sharma,
aged about 22 years,
r/o village Hod,
via Khandela, District Sikar.

2. Vijay Kumar
s/o Shri Champa Lal,
aged about 22 years,
r/o Village Hod,
via Khandela, District Sikar.

3. Mukesh Kumar Sharma
s/o late Shri Sita Ram,
aged about 24 years,
r/o Village and Post Office Chharsa,
Borawali Dhani, Tehsil Shahpura,
District Jaipur.

.. Applicants

(BY Advocate: Shri Amardeep Atwal)

Versus

1. Union of India
through its Secretary,
Ministry of Human Resources,
New Delhi.

2. Staff Selection Commission
through its Regional Director,
Government of India, Block No.12,
CGO Complex, Lodhi Road,
New Delhi.

... Respondents

(By Advocate: .....)

ORDER (ORAL)

The applicants have filed this OA thereby praying that direction may be given to the respondents to produce the complete record pertaining to Sub-Inspectors in Central Police Organisation Examination, 2009 and to declare the result and call them for interview. By way of interim relief, it has been prayed that the respondents may be directed to call the applicants for interview which is starting from 24th May, 2010.

2. Briefly stated, facts of the case are that an advertisement for recruitment to the post of Sub-Inspectors in the Central Police Organisations Exmination, 2009 was issued vide advertisement dated 30.5.2009 (Ann.A/2). The applicants were eligible for the said examination. As per the scheme of the selection, candidates were required to undergo written examination followed by Physical Endurance Test (PET) and medical examination and persons who qualify the aforesaid examination/tests were required to be called for interview/personality test. The case of the applicants is that they have qualified the aforesaid tests and despite this, they have not been called for interview. As can be seen from Ann.A/1 the Staff Selection Commission has prescribed cut-off marks for the purpose of interview. For unreserved candidates, the cut-off marks are 220. It appears that the applicants have not obtained the aforesaid cut-off marks being unreserved candidates. As such, they have not been called for interview. It is on the basis of these facts, the applicants have filed this OA. The learned counsel for the applicant also stated that vacancies are available and in that contingency, even if the

applicants have obtained lesser marks than the cut-off marks, they ought to have been called for interview. In para-2 of the OA, the applicants have made the following averments:-

> "2. Jurisdiction of the Tribunal:
>
> The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal."

3. I have heard the learned counsel on the point of territorial jurisdiction. I am of the view that this Bench has no territorial jurisdiction to entertain the matter in view of the provisions contained under Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987, as well as the condition as stipulated in Para-27 of the advertisement. Para-27 of the advertisement is reproduced hereinbelow:-

> "27. COURTS JURISDICTION:
>
> Any dispute in regard to this recruitment will be subject to courts/tribunals having jurisdiction over the place of concerned regional/sub-regional office of the SSC where the candidate has submitted his/her application."

As can be seen from Para-15 of the advertisement, the applicants who belongs to Jaipur were required to submit their application to Regional Director (NR), Staff Selection Commission, Lodhi Road, New Delhi. Thus, in view of this specific condition laid in the advertisement, I am of the view that any dispute regarding this recruitment has to be raised before the Principal Bench and not before this Bench.

4. That apart, according to me, the cause of action wholly or partly has arisen outside the territorial jurisdiction of this Tribunal as the applicants are aggrieved by the action taken by the Staff Selection commission through its Regional Director (NR), New Delhi. Even the applicants have impleaded Union of India, Ministry of Human Resources, New Delhi and Stafff Selection Commission, New Delhi as respondents in this OA. Simply because the applicants belong to District Sikar and Jaipur which fall within the territorial jurisdiction of this Tribunal and they have applied for the post and appeared in the examination at Jaipur will not ipso-facto means that cause of action has partly arisen within the territorial jurisdiction of this Tribunal.

5. The matter on this point is not 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 quote 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.

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:-

"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 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."

6. The ratio as laid down by this Tribunal in the case of Ramesh Chand (supra) based on the decision of Jitendra Kumar Mittal is squarely applicable in the facts and circumstances of this case. Simply because the applicants are residing within territorial jurisdiction of this Tribunal and have also appeared in the examination at Jaipur will not confer cause of action so as to confer territorial jurisdiction on this Tribunal in view of the reasoning given in para 11 of the judgment of Jitendra Kumar Mittal (supra) as reproduced in the earlier part of this judgment.

7. For the foregoing reasons, without going into merit of the case, I am of he view that the present OA can be disposed of at this stage as this Tribunal has got not territorial jurisdiction.

8. Accordingly, the Registry is directed to return the paper book of OA and MA to the applicants for presenting the same before the competent court by retaining one copy for record.

(M.L.CHAUHAN)
Judl. Member

R/