

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

**Misc. Application No. 291/593/2017,
Original Application No. 291/547/2017,
Misc. Application No. 291/153/2018
&
Misc. Application No. 291/764/2018**

Order Reserved on: 13.12.2018

DATE OF ORDER: 03.01.2019

CORAM

**HON'BLE MR. SURESH KUMAR MONGA, JUDICIAL MEMBER
HON'BLE MR. A. MUKHOPADHAYA, ADMINISTRATIVE MEMBER**

Hariom Meena S/o Shri Sheoram Meena, aged about 29 years, R/o Village Raitha Kanan, Post Chakeri, District & Tehsil Sawaimadhopur.

....Applicant
Mr. Amit Mathur, counsel for applicant.

VERSUS

1. West Central Railway, through its General Manager, Jabalpur, Madhya Pradesh.
2. Chief Personnel Officer, West Central Railway, Jabalpur, Madhya Pradesh.
3. Railway Recruitment Cell through its Chairman, West Central Railway, Jabalpur, RB-3, 422/1-2, Nehru Railway Colony, Howbagh, Jabalpur, Madhya Pradesh.

....Respondents
Mr. Anupam Agarwal, counsel for respondents.

ORDER

Per: Suresh Kumar Monga, Judicial Member

Misc. Application No. 291/153/2018 has been filed by the respondents with the assertions that the applicant has preferred the Original Application challenging the orders dated 20.06.2017, 16.08.2017 and 05.09.2017 with a further prayer for issuance of a direction to give him appointment pursuant to

Employment Notice dated 15.12.2010. It has further been averred that the said Employment Notice has been issued by the Railway Recruitment Cell, Jabalpur and as per terms of Para 17 contained therein, in case of any dispute, the same can be adjudicated upon before the Central Administrative Tribunal, Jabalpur. While referring Para 17 of the Employment Notice, the respondents have prayed for dismissal of the Original Application on the ground that the Jaipur Bench of this Tribunal lacks territorial jurisdiction.

2. The original applicant by way of filing a reply to aforesaid Misc. Application has joined the defence. It has been averred that the respondents cannot lay down the condition like Para 17 in the Employment Notice dated 15.12.2010 ousting the jurisdiction of this Bench of the Tribunal. The Railway is an institution having its offices all over India. It has further been averred that the condition laid down in Para 17 of the Employment Notice confining the jurisdiction to Jabalpur Bench of this Tribunal, in case of any dispute, is illegal as part of the cause of action has arisen to the applicant within the territorial jurisdiction of Jaipur Bench of this Tribunal as he is a resident of Sawaimadhopur and all the communications were given to him at Sawaimadhopur. With all these assertions, the original applicant has prayed for dismissal of the Misc. Application No. 291/153/2018.

3. Heard learned counsels for the parties.

4. Shri Anupam Agarwal, learned counsel for the respondents / railways submitted that the original applicant had applied for selection and appointment on a Group 'D' post pursuant to Employment Notice No. 05/10 dated 15.12.2010, which was issued by Railway Recruitment Cell, West Central Railway, Jabalpur. He, while referring Para 17 of said Employment Notice, argued that it was specifically stipulated in the Employment Notice itself that in the eventuality of any dispute, the same can be raised before the Central Administrative Tribunal, Jabalpur. He further argued that in view of said stipulation, the jurisdiction of all other Benches except Jabalpur Bench of this Tribunal was ousted. He, thus, submitted that the Original Application cannot be maintained before the Jaipur Bench of this Tribunal. In support of his arguments, he placed reliance upon a judgment of the Hon'ble High Court of Gujarat rendered on 14.06.2016 in the case of **Yuvrajsingh Dilipsingh Zala vs. UOI & Ors.**, Special Civil Application No. 4528/2016. He also relied upon a judgment of Principal Bench of this Tribunal in the case of **Mukesh Kumar Meena vs. Union of India & Ors.** (OA No. 2833/2010 – decided on 15.03.2011), and a judgment of Jaipur Bench of this Tribunal in the case of **Gajanand Saini vs. Union of India & Anr.** (O.A. No. 291/39/2018 – decided on 14.11.2018).

5. Per contra, Shri Amit Mathur, learned counsel for the original applicant argued that condition with regard to exclusion of jurisdiction as stipulated in Para 17 of the Employment Notice dated 15.12.2010 is contrary to Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987 read with

Section 19 (1) of the Administrative Tribunals Act, 1985. He further submitted that the judgment rendered by the Hon'ble High Court of Gujarat in the case of **Yuvrajsingh Dilipsingh Zala** (supra) is per incuriam as while rendering the said judgment, the Hon'ble High Court has not considered the provisions of Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987 as well as the provisions of Section 19 (1) of the Administrative Tribunals Act, 1985. Learned counsel further argued that the original applicant is a resident of Sawaimadhopur and he received all the communications from respondents at Sawaimadhopur and, therefore, this Bench of the Tribunal has got the jurisdiction to entertain the Original Application. He, thus, submitted that the Misc. Application deserves to be dismissed.

6. Considered the rival contentions of learned counsels for the parties and perused the record.

7. Admittedly, Employment Notice dated 15.12.2010 was issued by the Railway Recruitment Cell, West Central Railway, Jabalpur inviting applications from eligible candidates for selection and appointment on various posts. The eligible candidates from all over India could apply for selection and appointment to the posts advertised through said Employment Notice. A perusal of para 17 of the said Employment Notice reveals that the jurisdiction to raise any dispute regarding selection and appointment is confined to Central Administrative Tribunal, Jabalpur only. The laudable object which one can see

behind the exclusion clause with regard to the jurisdiction of all other Benches of this Tribunal is to avoid the conflicting decisions from different Benches in the eventuality of disputes being raised by the candidates before the different Benches of this Tribunal. While dealing with an identical situation in the matter of centralized all India recruitments, the Hon'ble High Court of Gujarat in the case of **Yuvrajsingh Dilipsingh Zala** (supra) has held that the aggrieved party shall have to approach the court where the jurisdiction is mentioned in the advertisement. Paragraphs 4.04 to 4.06 of the said judgement read thus:-

4.04. In the case of **ABC Laminart Pvt. Ltd. Versus A.P. Agencies, Salem** reported in (1989) 2 SCC, 163, the Hon'ble Supreme Court has considered the question with respect to ouster of jurisdiction in a case where more than one Court having jurisdiction and the contract to vest jurisdiction in one of them and the Hon'ble Supreme Court has held that such a contract and ouster of jurisdiction is not against public policy. It is held by the Hon'ble Supreme Court that there may be two or more competent Courts, which can entertain a suit consequent upon a part of cause of action having arisen there within, if the parties to the contract agreed to vest jurisdiction in one such court to try dispute which might arise between themselves the agreement would be valid. In para 21 of the said decision of the Hon'ble Supreme Court has observed as under :

21. From the foregoing decisions it can be reasonably deducted that where such an, ouster clause occurs, it is pertinent to see whether there is ouster of jurisdiction of other courts. When the clause is clear unambiguous and specific accepted notions of contract would bind the parties and unless the absence of ad idem can be shown, the other Courts should avoid exercising jurisdiction. As regards construction of the ouster clause when words like 'along' 'only' 'exclusive' and the like have been used there may be no difficulty. Even without such words in appropriate cases the maxim expressio unius est exclusio alterius' - expression of one is the exclusion of another may be applied. What is an appropriate case shall depend on the facts of the case. In such a case mention of one thing may imply exclusion of another. When certain jurisdiction is specified in a

contract an intention no exclude all others from its operation may in such cases be inferred. It has therefore, to be properly construed.

4.05. Again the same proposition of law has been pronounced by the Hon'ble Supreme Court in the case of **Rajasthan State Electricity Board Vs. Universal Petrol Chemicals Limited** reported in (2009) 3 SCC 107.

4.06. Considering the fact that it was a centralized recruitment and the applications were invited from all over the country, with a view to see that there may not be different proceedings in different Courts / High Courts, the aforesaid clause 11 is provided conferring the jurisdiction only in the tribunal / Court in Bombay. Therefore, it appears that there is valid reason to provide ouster clause 11.+

8. An identical issue was raised before this Bench of the Tribunal in the matter of **Gajanand Saini** (supra) and while relying upon the aforesaid judgment rendered by the Hon'ble High Court of Gujarat in the case of **Yuvrajsingh Dilipsingh Zala** (supra), the Original Application was returned to the applicant enabling him to present the same before the Principal Bench of this Tribunal as there, in the said case, an objection with regard to territorial jurisdiction was raised by the Kendriya Vidyalaya Sangathan in the matter of centralized all India recruitments.

9. Though this Bench of the Tribunal has already held the jurisdiction ouster clause valid in the matters of centralized all India recruitments but still learned counsel for the original applicant strenuously argued that a part of the cause of action has accrued to the original applicant within the territorial jurisdiction of this Bench of the Tribunal as he is residing at Sawaimadhopur and all communications were delivered to him

by the respondents at Sawaimadhpur. As part of the cause of action accrued to him within the territorial jurisdiction of this Bench of the Tribunal, therefore, in view of the provisions of Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987 read with Section 19 (1) of the Administrative Tribunals Act, 1985, the Misc. Application filed by the respondents deserves to be dismissed and the jurisdiction of this Bench of the Tribunal to entertain the Original Application cannot be ousted. Learned counsel has gone to the extent to argue that even the judgment rendered by the Hon'ble High Court of Gujarat in the case of **Yuvrajsingh Dilipsingh Zala** (supra) is per incuriam as while rendering the said judgment, aforesaid provisions of law have not been taken into consideration.

10. It appears to us that while raising the aforesaid argument, learned counsel for the original applicant has totally remained oblivious about an earlier judgment rendered by this Bench of the Tribunal in the case of **Jitendra Kumar Mittal vs. Union of India and Ors.**, 2006 (1) SLJ 393 (CAT). In the said judgment, exactly the identical pleas were raised on behalf of the applicant therein and while dealing with the provisions of Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987 read with Section 19 (1) of the Administrative Tribunals Act, 1985, the jurisdiction ouster clause in the matters of all India recruitments was held to be valid. This Bench of the Tribunal after noticing the aforesaid relevant provisions, in the said case, in paragraph 8 onwards has held as under: -

38. 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) XXX XXX XXX

(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

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 were 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 was to join 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.

9. The view which has been taken by this Tribunal is no longer res-integra and is fully supported by various decisions of the Apex Court as well of the High Court, few of which are noticed here. In the case of [Union of India and Ors. v. Adani Exports Ltd. and Anr.](#), the Apex Court has held that existence of the registered office of a Company within territorial jurisdiction of the Court does not ipso facto give a cause of action to that Court. It was further held that in order to confer jurisdiction on a High Court to entertain a writ petition, the High Court must be satisfied from the entire facts pleaded in support of the cause of action that those facts do constitute a cause so as to empower the Court to decide a dispute which has, at least in part, arisen within its jurisdiction. It was further held that facts which have no bearing with the lis or the dispute involved in the case, do not give rise to a cause of action. Further, the Full Bench of the Kerala High Court in the case of Naik Nakul Deb Singh etc. v. Deputy Commandant (CISF Unit), Kottayam and Ors. 1999(6) SLR 381 has held that receipt of communication by itself does not constitute cause of action. At the best receipt of the order or communication only gives the party right of action based on the cause of action arising out of the action complained of. When that action takes place outside the territorial jurisdiction of the High Court and an appeal therefrom is dismissed by an Appellate Authority located outside the jurisdiction of the High Court cause of action wholly arises outside the jurisdiction of the High Court and [Article 226\(2\)](#) of the Constitution cannot be involved to sustain a writ petition on the basis that part of cause of action has arisen within the jurisdiction of the Court, merely because the appellate order communicated and received while the petitioners was residing within the jurisdiction of the Court.

10. Moreover, in , [State of Rajasthan and Ors. v. Swaika Properties and Anr.](#) the Hon'ble Supreme Court has ruled that even for the purpose of exercise of jurisdiction under [Article 226\(2\)](#), 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. Accordingly, it was held that only because the petitioner in that case received notice under Section 52(2) of the Rajasthan Urban Improvement Act, 1959 at Calcutta, no cause of action or part of cause of action arose in Calcutta, since the acquisition was done in Rajasthan by passing the

appropriate order and consequently the notified land vested with the Rajasthan Government. Thus, as per the law laid down in this case it is clear that neither the cause of action nor part of cause of action would arise to the applicant only because he received the impugned order passed in Delhi in Jaipur. Even the Hon'ble High Court of Karnataka in [Narayan Swamy G.V. v. Union of India and Ors.](#) 1998(5) Kar. L.J. 279 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. The Hon'ble High Court also referred to a judgment of the Supreme Court in , [Oil and Natural Gas Commission v. Utpal Kumar Basu and Ors.](#) in which it was held that only because the respondent before the Supreme Court read advertisement at Calcutta and submitted the offer from Calcutta and made representations from Calcutta would not constitute facts forming an integral part of cause of action. The Hon'ble High Court also took note of the observations of the Hon'ble Supreme Court made in Natural Gas Commission's case in Para 12 of the said judgment of the Supreme Court which reads as under:

It must be remembered that the image and 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. We are greatly pained to say so but if we do not strongly deprecate the growing tendency we will, we are afraid, be falling in our duty to the institution and the system of administration of justice. We do hope that we will not have another occasion to deal with such a situation....

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.

12. Therefore, in my considered opinion, 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.ö

11. An identical issue was also raised before the Principal Bench of this Tribunal in the case of **Mukesh Kumar Meena** (supra) wherein the applicant, who was residing at New Delhi, wanted to raise a dispute with regard to recruitment made by

South Central Railway, Secundrabad while relying upon the provisions of Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987 read with Section 19 (1) of the Administrative Tribunals Act, 1985. The Principal Bench of this Tribunal after taking into consideration the said provisions of law has held that simply because the applicant is residing at New Delhi and his permanent address is of New Delhi, will not confer jurisdiction upon it.

12. In the conspectus of discussions made hereinabove, we are not inclined to accept the argument of learned counsel for the original applicant that the judgment rendered by the Hon'ble High Court of Gujarat in the case of **Yuvrajsingh Dilipsingh Zala** (supra) is per incuriam. We also do not find any substance in his argument that since the applicant is residing within the territorial jurisdiction of this Bench of the Tribunal, therefore, in view of the provisions of Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987 read with Section 19 (1) of the Administrative Tribunals Act, 1985, the jurisdiction ouster clause as contained in Para 17 of the Employment Notice dated 15.12.2010 is invalid and the Original Application cannot be returned because of lack of territorial jurisdiction. We, thus, hold that the Original Application cannot be entertained before this Bench of the Tribunal and the same is liable to be returned to the applicant.

13. Accordingly, Misc. Application No. 291/153/2018 filed by the respondents is allowed. The Registry is directed to return

the Original Application to applicant enabling him to present the same before the Jabalpur Bench of this Tribunal, if so advised. While returning the Original Application, a copy of the same shall be retained by the Registry.

**(A. MUKHOPADHAYA)
ADMINISTRATIVE MEMBER**

**(SURESH KUMAR MONGA)
JUDICIAL MEMBER**

Kumawat