

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA



No. O.A. 350/00689/2019

Date of order: 27.6.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Partha Chakraborty,
Son of Santosh Chakraborty,
Aged about 39 years,
Working as Para Teacher of West Bengal Government,
Residing at Kuch-Kuchia (Math Para),
Post Office, Police Station and District - Bankura,
West Bengal,
Pin - 722 101.

Applicant

- VERSUS -

1. Union of India,
Through the Secretary to the
Government of India,
Ministry of Labour,
Shramshakti Bhawan,
New Delhi - 110 001.
2. The Director General,
ESIC Head Quarters Office,
Panchdeep Bhawan,
CIG Marg,
New Delhi - 110 002.
3. The Joint Director (Recruitment) ESTC,
Headquarters Office,
Panchdeep Bhawan,
CIG Marg,
New Delhi - 110 002.
4. The Assistant Director (Recruitment),
ESIC Head Quarters Office,
Panchdeep Bhawan,
CIG Marg,
New Delhi - 110 002.
5. The Medical Commissioner,
ESIC, Head Quarters Office,
Panchdeep Bhawan,

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CIG Marg,
New Delhi - 110 002.

6. The Medical Superintendent,
ESIC Hospital,
Adityapur,
Jamshedpur,
Jharkhand,
Pin - 831 013.

.. Respondents

For the Applicant : Mr. T.K. Biswas, Counsel

For the Respondents : Mr. S. Banerjee, Counsel

ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

The applicant has approached the Tribunal under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

- (a) An order directing the respondents to set aside the orders dated 7.8.2010 (Annexure "A-5") dated 21.12.2010 (Annexure - "A-7") and dated 4.2.2011 (Annexure - "A-8") and thereafter further directing the respondents to consider the re-medical Board (Except Joka Hospital) for Examine the applicant and also justifying the two Medical Certificates which was issued by the Bankura Hospital and Private Doctor (Annexure-A/8) if the applicant is found fit medically then further directing the respondents to join his duty to the post of Radiographer of ESIC Hospital, Adityapur, Jamshedpur, Jharkhand with all consequential benefits.
- (b) An order directing the respondents to produce all relevant rules and records which was relating to this application.
- (c) Any other order or further order or orders as to this Hon'ble Tribunal may deem fit and proper."

2. Heard both Ld. Counsel, examined documents on record. The matter is taken up at the admission stage.

3. The submissions of the applicant, as articulated through his Ld. Counsel, is that, in response to a notification dated 1.4.2009, the applicant applied for the post of Radiographer and successfully qualified in the written test and interview. Thereafter, on 14.7.2010, the respondents issued him an offer of appointment and Para 1(x) of the

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same required that he would be required to be medically examined by medical board, ESIC Hospital and Occupational Disease Centre, (EZ), Diamond Harbour Road, Joka, Kolkata.

That, the medical board of the ESIC Hospital did not find him fit for the said purpose and the said information was communicated to him on 7.8.2010 as annexed at A-5 to the O.A.

That, thereafter, the applicant visited the doctor and HOD, Eye Department at Bankura Sammilani Medical College & Hospital, Bankura, who, however, issued a certificate stating that he had normal eye sight regarding colour vision. Following the same, the applicant approached the respondent authorities for a scope of re-examination before any medical board except ESIC at Joka, Diamond Harbour Road, Kolkata. The respondents informed him on 21.12.2010 that the final decision would be that of the Medical Superintendent, ESIC Hospital, Adityapur, Jamshedpur and his prayer for re-consideration could not be acceded to. Further on 4.12.2011, his prayer to re-appear in any other medical board was also turned down by the respondent authorities.

4. During hearing, Ld. Counsel for the respondents objected to the very maintainability of the Original Application on the ground that the applicant had applied for the post of Radiographer in the ESIC Hospital, Adityapur, Jamshedpur, Jharkhand and the competent authority to decide on his medical fitness was the Medical Superintendent, ESIC Hospital, Adityapur, Jamshedpur, Jharkhand. Further his appeal for re-examination was also rejected by the ESIC Hospital, Adityapur, Jamshedpur Jharkhand.

The respondents further pointed out that, apart from Union of India and ESIC Headquarters, New Delhi, who are respondent Nos. 1 to 5

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to the O.A., the only other respondent in the array is respondent No. 6, namely, the Medical Superintendent, ESIC, Adityapur, Jharkhand.

Ld. Counsel for the respondents would vociferously argue that the primary cause of action has arisen in Jharkhand as all the orders impugned have been issued by the ESIC, Hospital. Adityapur, Jharkhand. Hence, the Kolkata Bench of the Tribunal lacks jurisdiction in a matter, which arose in Jamshedpur, Jharkhand and that no directions can be issued by the Kolkata Bench on a matter relating to the State of Jharkhand.

5. In Section 5 of the Administrative Tribunals Act, 1985, the following has been stated:-

5. Composition of Tribunals and Benches thereof. (1) Each Tribunal shall consist of [a Chairman and such number of Judicial and Administrative Members] as the appropriate Government may deem fit and, subject to the other provisions of this Act, the jurisdiction, powers and authority of the Tribunal may be exercised by Benches thereof.

[(2) Subject to the other provisions of this Act, a Bench shall consist of one Judicial Member and one Administrative Member.]

[**] Sub-section (3) omitted by Act 19 of 1986, sec. 6 (w.r.e.f. 1.11.1985).

(4) Notwithstanding anything contained in sub-section (1), the Chairman—
[(a) may, in addition to discharging the functions of the Judicial Member or the Administrative Member of the Bench to which he is appointed, discharge the functions of the Judicial Member or, as the case may be, the Administrative Member, of any other Bench;]

(b) may transfer [a Member] from one Bench to another Bench;

[(c) may authorize [the Judicial Member] or the Administrative Member appointed to one Bench to discharge also the functions of the [Judicial Member or the Administrative Member, as the case may be,] of another Bench; and;]

(d) may, for the purpose of securing that any case or cases which, having regard to the nature of the questions involved, requires or require, in his opinion or under the rules made by the Central Government in this behalf, to be decided by a Bench composed of more than [two Members] issue such general or special orders, as he may deem fit.

[Provided that every Bench constituted in pursuance of this clause shall include at least one Judicial Member and one Administrative Member.]

(6) Notwithstanding anything contained in the foregoing provisions of this section, it shall be competent for the Chairman or any other Member authorized by the Chairman in this behalf to function as [a Bench] consisting of a Single Member and exercise the jurisdiction, powers and authority of the Tribunal in respect of such classes of cases or such matters pertaining to such classes of cases as the Chairman may by general or special order specify:

Provided that if at any stage of the hearing of any such case or matter it appears to the Chairman or such Member that the case or matter is of such a nature that it ought to be heard by a Bench consisting of [two Members], the case or matter may be transferred by the Chairman or, as the case may be, referred to him for transfer to, such Bench as the Chairman may deem fit.

[(7) Subject to the other provisions of this Act, the Benches of the Central Administrative Tribunal shall ordinarily sit at New Delhi (which shall be known

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as the Principal Bench), Allahabad, Calcutta, Madras, New Bombay and at such other places as the Central Government may, by notification, specify].

(8) Subject to the other provisions of this Act, the places at which the Principal Bench and other Benches of a State Administrative Tribunal shall ordinarily sit shall be such as the State Government may, by notification, specify.]”

The Table of jurisdiction of Benches of Central Administrative Tribunal as notified vide GSR 890 (E), dated 23rd November, 2000, published in the Gazette of India, Extra., Pt. II, Sec. 3(i), dated 23rd November, 2000 is as follows:-

Sl. No.	Bench	Jurisdiction of the Bench
1.	Principal Bench (New Delhi)	National Capital Territory of Delhi
2.	Ahmedabad Bench	State of Gujarat
3.	Allahabad Bench	(i) State of Uttar Pradesh excluding the Districts mentioned against Serial Number 4 under the jurisdiction of Lucknow Bench
4.	Lucknow Bench	Districts of Lucknow, Hardoi, Kheri, Rai Bareilly, Sitapur, Unnao, Faizabad, Ambedkar Nagar, Baharaich, Shravasti, Barabanki, Gonda, Balrampur, Pratapgarh, Sultanpur in the State of Uttar Pradesh
5.	Bangalore Bench	State of Karnataka
6.	Calcutta Bench	(i) State of Sikkim (ii) State of West Bengal (iii) Union Territory of Andaman and Nicobar Islands
7.	Chandigarh Bench	(i) State of Jammu and Kashmir (ii) State of Haryana (iii) State of Himachal Pradesh (iv) State of Punjab (v) Union Territory of Chandigarh
8.	Cuttack Bench	State of Orissa
9.	Ernakulam Bench	(i) State of Kerala (ii) Union Territory of Lakshadweep
10.	Guwahati Bench	(i) State of Assam (ii) State of Manipur (iii) State of Meghalaya (iv) State of Nagaland (v) State of Tripura (vi) State of Arunachal Pradesh (vii) State of Mizoram
11.	Hyderabad Bench	State of Andhra Pradesh
12.	Jabalpur Bench	(i) State of Madhya Pradesh (ii) State of Chattisgarh
13.	Jodhpur Bench	State of Rajasthan excluding the Districts mentioned against Serial Number 14 under the jurisdiction of Jaipur Bench
14.	Jaipur Bench	Districts of Ajmer, Alwar, Baran, Bharatpur, Bundi, Dausa, Dholpur, Jaipur, Jhalawar, Jhunjhuna, Kota, Sawai Modhopur, Sikar, Tonk and Karauli in the State of Rajasthan
15.	Chennai Bench	(i) State of Tamil Nadu (ii) Union Territory of Pondicherry
16.	Mumbai Bench	(i) State of Maharashtra (ii) State of Goa (iii) Union Territory of Dadra and Nagar Haveli (iv) Union Territory of Daman and Diu

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17.	Patna Bench	(i) State of Bihar (ii) State of Jharkhand
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There is hence a clear earmarked jurisdiction among the Benches. While the Calcutta Bench, according to the above notification, is entrusted with matters arising from the State of Sikkim, the State of West Bengal and the Union Territory of Andaman and Nicobar Islands, it is the Patna Bench which is delegated with jurisdiction over the State of Jharkhand.

Hence, it is clear that the Calcutta Bench (as notified) lacks jurisdiction over the State of Jharkhand. It is also a settled principle of law, as ruled by Hon'ble Apex Court in **State of Rajasthan vs. Prakash Chand & Ors. (AIR 1998 SC 1344)** that any adjudication made by a Court without allocation is void.

5. Accordingly, the matter is dismissed as lacking in jurisdiction with liberty to the applicant to seek redressal in a judicial forum of appropriate jurisdiction, if so advised.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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