



CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH
KOLKATA

No.O A.350/201/2017
M.A.350/88/2017

3.9.
Date of order : 22.10.2019

Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

HIFZUR RAHMAN & 25 OTHERS
VS.
UNION OF INDIA & OTHERS
(S.A.I.L)

For the applicant : Mr. M. Maitra, counsel

For the respondents : Mr. N.C. Bhattacharyya, counsel
Mr. L.K. Pal, counsel

O R D E R

Bidisha Banerjee, Judicial Member

By way of M.A.No.88/2017 26 applicants have sought for liberty to pursue their remedies jointly. The prayer they seek by way of original application is as under:-

- "a) Grant leave under Rule 4(5) of Central Administrative Tribunal (Procedure) Rules, 1987 to move this application jointly;
- b) To set aside and/or quash and/or cancel the impugned circular dated November 04, 2016 issued by the Respondent Authority;
- c) To direct the Respondent Authority to make disbursement of due revised salary benefits and arrears thereto in favour of the Applicants herein in terms of the provisions as contained in NCWA-VI and NCWA-VII as also as per the commitment made by the Respondent Authority in the meeting dated September 05, 2015;
- d) Direct the Respondent Authority to pay interest to the Applicants herein for delayed payment of the said benefits @ 10% per annum computable from July 01, 1996 till the date of actual payment of the same.
- e) To direct the Respondent Authority to produce the entire records of the case."

2. A preliminary objection has been raised by the respondents that no part of cause of action had arisen within the territorial jurisdiction of

C.A.T., Kolkata Bench and that entire cause of action arose within the State of Bihar and only because the Respondent Nos.4 and 5 are seated in the State of West Bengal, it would not confer any jurisdiction upon this Kolkata Bench to consider the matter particularly when Respondents Nos.4 and 5 have got nothing to do in regard to the reliefs claimed by the applicants.

At hearing, Id. counsel for the respondents would vociferously oppose admission on the ground of maintainability. He would submit that the order impugned in the present O.A. is a circular dated 04.11.2016 issued by Steel Authority of India Limited, Collieries Division, Chasnalla Colliery from its office at Dhanbad. Id. counsel would further submit that none of the applicants reside within the territorial jurisdiction of this Tribunal i.e. within the state of West Bengal and they are aggrieved in regard to a circular issued from Dhanbad pursuant to the decision of the Board of Directors and Ministry of Steel, offices of both being situated outside West Bengal, this Tribunal lacks jurisdiction to entertain the lis.

The respondents would refer to a decision in **Eastern Coalfields Ltd. and Others Vs. Kalyan Banerjee** reported in (2008)3 Supreme Court Cases 456 where cause of action arose in the state of Jharkhand outside West Bengal and the Hon'ble Apex Court decided that Hon'ble High Court at Calcutta would lack jurisdiction to entertain any writ petition from the employees of the company on the specious plea that head office of the company is situated in Kolkata. We further note that

an application can be made within the jurisdiction of a Court if cause of action or part of cause of action has arisen within that jurisdiction. Part of cause of action means ingredients which materialise into a cause. If ultimately no cause is materialised, there can be no question of existence of a part of cause of action.

3. The question whether a Tribunal has jurisdiction on certain facts depends not on the truth or falsehood of the facts into which it has to inquire, or upon the correctness of its findings on these facts, but upon their nature, which is determinable at the commencement – not at the conclusion of the inquiry.

4. Since the issue of jurisdiction is a preliminary issue to be raised and decided at the threshold we address the preliminary objection raised by the respondents in regard to admission of the O.A.

In terms of Administrative Tribunals Act, C.A.T., Kolkata Bench lacks jurisdiction in regard to part of cause of action which has partly arisen in the state of Jharkhand and partly in Delhi, as noticed in the present case. Administrative Tribunals have been established under the aegis of the Administrative Tribunals Act 1985. Chapter III of the Act provides for jurisdiction, powers and authority of Tribunals under the Act. The provisions make it clear that the Tribunals will exercise jurisdiction on recruitments and service matters relating to civil services or posts. The Tribunal has the same jurisdiction, which a civil court or a High Court was exercising before establishment of the Tribunal, over all matters in relation to recruitment and all service matters in respect of

All India Services and civil service or civil post or to a post held by a civilian in Defence Services. It is true that forum depends on litigants' discretion i.e. litigant has a right to choose the forum that will serve him better. Nevertheless it is trite law that such choice is available only in regard to choosing forum where part of cause of action has arisen.

5. We note that for determination of jurisdiction of a forum, cause of action has been given great importance. In the case of **Rajasthan High Court Advocates' Association vs. Union of India** reported in **2001 AIR SCW 1**(para 17), the Hon'ble Supreme Court had this to say regarding cause of action:

"The expression 'cause of action' has acquired a judicially settled meaning. In the restricted sense, cause of action means the circumstances forming the infraction of the right or the immediate occasion for the action. In the wider sense, it means the necessary conditions for maintenance of the suit, including not only the infraction of the right, but also the infraction coupled with the right itself. Compendiously the expression means every fact, which it would be necessary for the plaintiff to prove, if traversed, in order to support his right to the judgment of the Court. Every fact, which is necessary to be proved, as distinguished from every piece of evidence, which is necessary to prove each fact, comprises in 'cause of action'. It has to be left to be determined in each individual case as to where the cause of action arises."

Tribunal will, therefore, assume jurisdiction when the cause of action arose within its territory.

6. In cases where final order has been received at the address of the respondent, the address does not form jurisdiction. Jurisdiction over the cause will lie with the originating address. **[State of Rajasthan & Others vs. Swaika Properties & Another , (1985)3 SCC 217].**

7. Id. counsel for the applicant repelling the arguments advanced by the Id. counsel for the respondents on the issue of maintainability of

the present O.A., would vociferously submit that the right of the applicants emanate from an agreement entered into by the employees and the respondent authorities including the respondent No.4 and 5, therefore, part of cause of action has arisen at Kolkata at the seat of respondent No.4 and 5.

8. We heard the ld. counsel for the parties and perused the materials on record.

9. We would discern that the impugned circular dated 04.11.2016 is under challenge and not the agreement entered into by the Respondents Nos.4 and 5 on behalf of SAIL.

We further note that the applicant has not assailed wrongful implementation of the circular dated 04.11.2016 by the respondents No.4 and 5. The said respondents can be at the best be addressed as the executing authority of the decision of the Board of Directors or Ministry of Steel which has decided to make a payment effective from 01.01.1997. Therefore, not the implementation of the circular dated 04.11.2016 but the circular itself that encompasses the decision of the Board of Directors and Ministry of Steel, is under challenge. The circular being neither issued by Respondent No.4 nor by Respondent No.5, under no stretch of imagination the territorial jurisdiction of the subject matter in the instant case can be stretched beyond the boundaries of the State of Jharkhand or the principal seat of SAIL at New Delhi.

10. Accordingly the O.A. fails due to lack of jurisdiction.
Consequently the M.A. is disallowed.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

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