

(2006) 12 CAL CK 0002

Calcutta High Court

Case No: W.P.C.T. No. 437 of 2006

Sikander Rajak

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision: Dec. 15, 2006

Acts Referred:

- Administrative Tribunals Act, 1985 - Section 19
- Central Administrative Tribunal (Procedure) Rules, 1987 - Rule 6
- Constitution of India, 1950 - Article 226, 227

Citation: (2007) 1 ILR (Cal) 419

Hon'ble Judges: Kishore Kumar Prasad, J; Bhaskar Bhattacharya, J

Bench: Division Bench

Advocate: Achin Kumar Mazumder, for the Appellant; Sudipto Panda, for the Respondent

Final Decision: Allowed

Judgement

Bhaskar Bhattacharya, J.

This writ-application under Articles 226/227 of the Constitution of India is at the instance of an Applicant u/s 19 of the Administrative Tribunal Act, 1985 (hereinafter referred to as the Act) and is directed against order dated April 17, 2006 passed by the Central Administrative Tribunal, Kolkata Bench, in Original Application No. 23 of 2005 thereby rejecting the application filed by the Petitioner on the ground of want of territorial jurisdiction.

2. The case made out by the writ Petitioner in the application u/s 19 of the Act may be summarised thus:

3. The writ-Petitioner was appointed as sub-bungalow peon by the Chief Personal Officer, Chittaranjan Locomotive Works and on being so appointed, he was posted under the Chief Mechanical Engineer, the Respondent No. 4. By an order dated February 28, 2004, the said Respondent No. 4 was transferred to Hazipur under the

East Central Railway and at the same time, the writ Petitioner was also transferred along with the said Respondent No. 4 with the stipulation that he would act as the substituted bungalow-peon under the said Respondent No. 4.

4. Although the Respondent No. 4 moved to Hazipur pursuant to the order of transfer dated February 28, 2004, he did not take the writ-Petitioner with him for the purpose of performing the duty of the substituted bungalow-peon at Hazipur, and asked the writ Petitioner to stay at Chittaranjan and serve as bungalow-peon at that place so long his family was not shifted to Hazipur. The writ Petitioner, accordingly, performed his duty as substituted bungalow-peon at Chittaranjan till the month of April 2004.

5. Ultimately, the writ-Petitioner was driven out by the wife of the Respondent No. 4 from the bungalow at Chittaranjan, as a result, he went to Hazipur to join his duty as bungalow-peon of the Respondent No. 4. However, The East-Central Railway Authority did not permit the writ-Petitioner to join at Hazipur and his salary was stopped from the month of April 2004. In spite of making representation before the Respondents, they did not pass any order permitting the writ Petitioner to join at Hazipur. Hence, the application was filed before the Tribunal.

6. The Railway Authority took a preliminary objection as regards the territorial jurisdiction of the Tribunal to entertain the said application. According to the Railway Authority, the writ-Petitioner haveing claimed relief against the East-Central Railway Authority, the Head Office of which is situated beyond the territorial limit of the Tribunal at Kolkata, the application was not maintainable.

7. the Tribunal, by the order impugned herein has accepted such preliminary objection and has rejected the application on the ground of lack of territorial jurisdiction by giving opportunity to the writ-Petitioner to move before appropriate forum in accordance with law.

8. Being dissatisfied, the Applicant u/s 19 of the Act has come up with the present writ-application.

9. Mr. Mazumder, the learned adocate appearing on behalf of the writ-Petitioner has contended before us that the Tribunal refused to exercise jurisdiction vested in it by law by rejecting the application on the ground of lack of territorial jurisdiction. Mr Mazumder contends that the writ-Petitioner having prayed before the Tribunal for enforcing the order of transfer dated February 28, 2004 passed from the office of the Chittaranjan Locomotive Works situtated within the territorial jurisdiction of the Tribunal, part of cause of action of filing the application arose within the jurisdiction of the Tribunal and as such, the Tribunal was entitled to decide the application on merit. He, therefore, prays for setting aside the order impugned and sending the matter back to the Tribunal for decision on merit.

10. Mr Panda, the learned advocate appearing on behalf of the Union of India has opposed the aforesaid contention advanced by Mr Mazumder and has submitted that the entire records of the case were lying in the office at Hazipur and at the same time, the writ petitioner has also prayed for direction upon the authority at Hazipur to permit him to join at that place and as such, the Tribunal rightly rejected the application on the ground of want of territorial Jurisdiction. Mr panda contends that the Tribunal had no authoirty to pass any direction upon the East-Central Railway to accept the writ-Petitioner and permit him to join duty there. He, therefore, prays for dismissal of the present writ-application.

11. Therefore, the only question that arises for determination in this writ-application is whether the Tribunal at Kolkata had the territorial jurisdiction to entertain the application u/s 19 of the Act.

12. After hearing Mr Mazumder appearing on behalf of the writ Petitioner and Mr Panda, appearing on behalf of the Union of India and after going through the materials on record, we are of the view that the Tribunal below erred in law in rejecting the application filed by the writ Petitioner on the ground of want of territorial jurisdiction. According to Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987, even if a part of cause of action for filing an application arises within the territorial jurisdiction of the Tribunal, the said Tribunal is entitled to decide an application notwithstanding the fact that the Respondents are stationed beyond the territorial limit of the Tribunal or that the Applicant for the time being was posted at a place beyond that limit. There is no dispute that the sole grievance of the writ-Petitioner is that although the Railway Authority appointing him has transferred him to Hazipur, he is not permitted to join at the place of transfer. In substance, he wants to enforce the order of transfer issued by his appointing authority from Chittaranjan, a place which is within the territorial limit of the Tribunal and at that time, he was posted at such place within the territorial limit of the Tribunal when he received the order of transfer.

13. We, therefore, find that at least a part of the cause of action has definitely arisen within the territorial limit of the Tribunal at Kolkata. The jurisdiction to entertain an application u/s 19 of the Act according to Rule 6 mentioned above vests in the Tribunal which has jurisdiction over the area where either the Applicant is for the time being posted or at least, a part of the cause of action for filing such application has arisen and the place of office of the Respondent or the place where the records are available, is inconsequential for the above purpose.

14. We, therefore, set aside the order passed by the Tribunal and hold that the application filed by the writ Petitioner before the Tribunal at Kolkata was quite maintainable. We, accordingly, direct the Tribunal at Kolkata to decide the application on merit. We make it clear that we have not gone into the merit of the application.

15. The writ application is, thus allowed. In the facts and circumstances, there will be however, no order as to costs.

Kishore Kumar Prasad, J.

I agree.