
(2003) 09 KAR CK 0011
In the Karnataka High Court
Case No : Writ Petition No. 39337 of 2002

K. Balaji

APPELLANT

Vs

Integral Coach Factory

RESPONDENT

Date of Decision : 23-09-2003

Acts Referred:

Central Administrative Tribunal (Procedure) Rules, 1987 — Rule 6, 6 (1)
Constitution of India, 1950 — Article 226

Citation : (2003) ILR (Kar) 4202 : (2003) 4 KCCR 320 SN

Hon'ble Judges : R.V. Raveendran, J;H. Billappa, J

Bench : Division Bench

Advocate : P.S. Rajagopal, K. Puttegowda and M.N. Prasanna, for the Appellant;
A.V. Venugopalagowda, for the Respondent

Final Decision : Dismissed

Judgement

R.V. Raveendran, J.—The respondent - Integral Coach Factory, Chennai invited applications for appointment to certain Group C posts as per Employment Notification No. 2/PII/2000 dated 8.2.2000. Petitioner, a permanent resident of Bangalore, was an applicant. He was selected, but was found unfit for employment on medical grounds. Feeling aggrieved, the petitioner has approached the Central Administrative Tribunal. Bangalore Bench, in Original Application No. 1814/2000 for quashing the communication dated 24.10.2000, by which, petitioner was informed that he was found to be medically unfit for appointment. He also sought a direction to respondents to appoint him to the post of Office Clerk Grade II or Accounts Clerk in pursuance of the employment Notification dated 8.2.2000 with all consequential benefits.

2. The Central Administrative Tribunal, by order dated 27.9.2002 has dismissed the said application on the ground that the petition was not maintainable before the Bangalore Bench, as no part of cause of action arose at Bangalore. Feeling aggrieved, the petitioner has filed this petition.

3. Petitioner contends that as he is a permanent resident of Bangalore and as he

has received several communications addressed by the respondent at Bangalore, including the impugned order, a part of the cause of action arose at Bangalore. According to him, as he sent the application from Bangalore and as he received the rejection communication at Bangalore, a part of cause of action arose at Bangalore. It is also contended that if petitioner could file a Writ Petition in Karnataka High Court on the cause of action, he can also file an application before the Tribunal's Bangalore Bench.

4. The jurisdiction of High Court under Article 226 bears no comparison. The matter is governed by Rule 6 of the Central Administrative Tribunal (Procedure) Rules, 1987, in so far the Tribunal is concerned and the said Rule is extracted below:

"6. Place of filing application :- (1) An application shall ordinarily be filed by an applicant with the Registrar of the Bench with whose jurisdiction -

- (i) the applicant is posted for the time being, or
- (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 Principal Bench and subject to the orders u/s 25, such application shall be heard and disposed of by the Bench which has jurisdiction over the matter.

(2) Notwithstanding anything contained in Sub-rule (1), persons who have ceased to be in service by reason of retirement, dismissal or termination of service may at his option file an application with the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application."

5. The following position is evident from Rule 6:(a) Where the relationship of employer and employee exists, an application can be filed by the employee wherever he is posted for the time being; (b) If he has ceased to be in service, he will have the option to file the application before the Bench within whose jurisdiction he ordinarily resides; (c) But, if the person approaching the Tribunal is neither an employee nor an ex-employee of the respondent and the relationship of employer and employee has not come into existence at all, the matter is governed by the ordinary rule, and the application has to be filed before the Bench within whose jurisdiction, the cause of action wholly or in part has arisen.

6. Cause of action is the bundle of facts which taken with the law applicable to them, gives the plaintiff a right to relief against the defendant/respondent. The following principles are well settled in regard to place of cause of action:

(a) The place where the defendant/respondent resides or carries on business is relevant for purpose of determining the cause of action. The place of residence or place of business of a plaintiff/ petitioner is not relevant for determining the

question as to where the cause of action arose, unless a part of the cause of action has arisen at that place - vide Narayan Swamy G.V. Vs. Union of India and Others, .

(b) A notification inviting applications for appointment, is only an invitation to offer. The application for appointment by the candidate is the offer. But, when an application for appointment is posted from the place of residence of the petitioner, it cannot be said that a part of cause of action arises in that place. The offer is considered to be made when it is communicated, that is the place where it is received. If it is made by post, the cause of action arises at the place where the offer is received and not at the place of dispatch of the offer. Though an offer is a part of the cause of action, the mere fact that the offer is posted at a particular place would not be a part of cause of action, as there would be no proposal till it comes to the knowledge of the person to whom the proposal is made - vide Ahmad Bux Alla Jovaya Vs. Fazal Karim, and Dhanraj Mills limited Co. Vs. Narsingh Prasad Boobna and Others, .

(c) Merely receiving a communication rejecting an application for employment at the place of residence of a candidate will not give rise to a cause of action at that place - vide State of Rajasthan and Others Vs. Swaika Properties and Another, .

7. In this case, the offer by petitioner was made by post from Bangalore and received at Chennai. The rejection was made at Chennai and only the communication thereof was received by petitioner at Bangalore. Therefore, no part of the cause of action arose within the jurisdiction of the Bangalore Bench of the Central Administrative Tribunal. Therefore, we do not find any error in the order of the Tribunal.

8. Petition is therefore dismissed as having no merit. The dismissal is however subject to the clarification that the dismissal will not come in the way of the petitioner seeking leave of the Chairman of the Central Administrative Tribunal as contemplated under the proviso to Rule 6(1) of the Rules.