
(2002) 08 MAD CK 0142

In the Madras High Court

Case No : Writ Petition No. 19314 of 2002

P.K. Rajendranathan Achari

APPELLANT

Vs

The Government of India

RESPONDENT

Date of Decision : 14-08-2002

Acts Referred:

Administrative Tribunals Act, 1985 — Section 20, 21
Central Administrative Tribunal (Procedure) Rules, 1987 — Rule 6, 6(1)
Constitution of India, 1950 — Article 226

Citation : (2002) 08 MAD CK 0142

Hon'ble Judges : V.S. Sirpurkar, J;F.M. Ibrahim Kalifulla, J

Bench : Division Bench

Advocate : S. Venkataraman, for the Appellant; Balaji, for J. Madanagopal Rao, SCGSC, for the Respondent

Judgement

V.S. Sirpurkar, J.—Rule returnable forthwith. Mr.Balaji for Mr. J. Madanagopal Rao, Senior Central Government Standing Counsel takes notice.

2. The petitioner made a representation while he was in Coimbatore for upgrading his post. He was at the relevant time working in the post of Enforcement Inspector (Technical). In that representation which is dated 3.11.1997, he sought an ultimate prayer of fixing his basic pay at par with the basic pay of Technical Investigators of the same batch as was permitted by the Government of India vide notification dated 30.9.1997. This representation was not accepted by the Government of India. There were such common representations made by number of other persons also. By order dated 12.3.2001, the Government of India issued a Memorandum which was general in nature and not directed to the individuals separately. In that Memorandum, the Government of India held that the proposals regarding removal of anomalies and placing the respective posts in the upgraded revised pay scale were not acceded to by the Finance Ministry. Similar such orders were passed by the Government of India on some different dates also.

3. The petitioner herein filed an Original Application before the Central Administrative Tribunal, Madras Bench (hereinafter referred to as "the Tribunal"). At the time when the so-called representation was decided by issuance of Memorandum mentioned above and further at the time of filing the Original Application, admittedly, the petitioner was transferred as Enforcement Inspector (T) at Power Loom Service Center, Industrial Estate, Belgaum in Karnataka State. Seeing that he is posted outside the State of Tamil Nadu, an objection was raised by the Registry regarding the territorial jurisdiction of the Bench at Madras. The Tribunal has accepted the objection and has rejected the matter on the basis of the jurisdiction. The Tribunal took the view that the impugned orders were not passed on the representation, but in view of the policy decision taken by the Ministry of Defence and therefore, orders which were challenged were the orders de hors the representation. The Tribunal took the view that the matter fell outside the jurisdiction since, the petitioner himself was not posted in Tamil Nadu. It is this order which is challenged herein.

4. Mr. Venkataraman, learned counsel for the petitioner firstly invites our attention to Sections 20 and 21 of the Administrative Tribunals Act, 1985 and contends that for the purposes of limitation, the making of the representation and the decision thereof are the relevant factors. He therefore contends that the representation and making thereof would be a part of cause of action. According to him, since that representation has been sent by the petitioner from Coimbatore which is within the jurisdiction of the Madras Bench of the Central Administrative Tribunal, the jurisdiction lies with the Madras Bench. He further points out that even under the Central Administrative Tribunal (Procedure) Rules, and more particularly, under Rule 6(1), it is specifically provided that the application could be filed by the applicant with the Registrar of the Bench where the cause of action, wholly or in part, has arisen. According to the learned counsel, the cause of action having arisen in this case in Coimbatore because of the petitioner having despatched the representation from Coimbatore, the Bench would have the necessary jurisdiction.

5. The learned counsel representing the learned Senior Central Government Standing Counsel however opposes this and supports the order of the Tribunal.

6. In the first place, Rule 6 specifically provides that the application could be filed in the Bench which has the jurisdiction of the place where the applicant is posted at that time. That is clearly out of question because, admittedly, at the time of the issuance of the challenged Memorandum, and also at the time of filing of the application, the applicant was posted at Belgaum which would be in the jurisdiction of Karnataka Bench and not Madras Bench of the Central Administrative Tribunal. Therefore that part of the rule is not applicable. For considering the second eventuality the question is, whether the cause of action has arisen wholly or in part within the State of Tamil Nadu. The learned counsel insists that since the representation was sent from Coimbatore, it would be a part of cause of action. We are unable to agree with this contention. In our

opinion, in the first place, mere sending of the representation has not resulted in the passing of the order. Even if the representation was the reason for passing the order, the place from where the representation has been sent has no relevance unless the grievance in the representation has arisen at the place wherefrom the representation is sent. In our opinion, nothing would depend upon the fact that the representation was sent from Coimbatore. After all, the cause of action has arisen on the issuance of Memorandum. Had that representation not been answered to by the Government and had it been kept pending, then perhaps, the petitioner could have had the cause of action in Madras Bench because, in that case, entertaining of the representation was itself a fact in issue. The non-consideration of the representation sent from Coimbatore would have certainly given the cause of action to the petitioner to file an application in Madras. However, that is not the case here. The representation stands considered and rejected, in the sense that, a Memorandum is issued by the Central Government taking up a certain policy decision. It is the policy decision that has actually resulted in a cause of action. If we consider the matter from the other angle also, i.e., the angle of limitation, the result would be the same. The representation has been sent on 3.11.1997. That cannot be held to be the starting point of the limitation. The relevant date for the limitation for the present dispute would be the date of disposal of the representation which was only on 12.3.2001. Therefore, the Tribunal was correct in holding that the cause of action arose only on issuance of impugned Memorandum and not merely by sending the representation. It may have resulted into the passing of the Memorandum, but that would not by itself mean that some part of the cause of action has taken place at Coimbatore. Admittedly the person concerned was serving at Belgaum on the date when the Memorandum was issued.

7. The learned counsel then relied upon the decision in *Navinchandra N. Majithia Vs. State of Maharashtra and Others*, . In that case, the Bombay High Court's decision was reversed by which the Bombay High Court had held that it had no jurisdiction since the First Information Report was lodged in Shillong. We have absolutely no difficulty with the principles laid down in this decision. However, the fact that the decision is apposite only to the jurisdiction under Article 226 of the Constitution of India and further, the concerned facts and the findings on facts are entirely different, would make the decision wholly inapplicable. In paragraph 44 of this decision, the Supreme Court has given a very clear finding in the following words:

" In the present case, a large number of events have taken place at Bombay in respect of the allegations contained in the FIR registered at Shillong. If the averments in the writ petition are correct then the major portion of the facts which led to the registering of the FIR have taken place at Bombay. Therefore, it is almost impossible to hold that not even a part of the cause of action has arisen at Bombay so as to deprive the High Court of Bombay of total jurisdiction to entertain the writ petition filed by the petitioner."

8. These observations would make the matter more clear as, in the aforementioned case, on facts, the Supreme Court had given a clear finding that part of the cause of action had taken place at Bombay. We also cannot forget the fact that the observations of the Supreme Court are in respect of the jurisdiction of a Criminal Court to try an offence while we are dealing with a subject covered by the service jurisprudence. The decision is therefore of no consequence. The petition has no merits. It is dismissed. No costs.

9. Needless to mention that the petitioner's right to move the appropriate Bench remains inspite of this order.