

10.06.2025
(D/L-23)
Ct. No.4
(B.K.N.)

W.P.C.T. 184 of 2024
National Projects Construction
Corporation Ltd. & Ors.
Vs.
Shri Samir Dhar & Another

Mr. A. K. Acharyya,
Mr. Subir Banerjee,
Ms. Moumita Das

...for the Petitioners

Mr. Jagadish Ranjan Das

...for the Respondent No. 1

1. Heard learned counsel for the petitioner as well as the learned counsel for the respondents.
2. The private respondent served the petitioner Corporation and approached the Central Administrative Tribunal, Kolkata Bench post retirement alleging that he has been made to superannuate seven months prior to his due date of retirement. The Tribunal has found that the representation of the petitioner dated 21.03.2016 was pending and as such has directed for disposing of the representation.
3. The learned counsel for the petitioner submits that the Original Application was filed before the Central Administrative Tribunal, Kolkata Bench which was not having the territorial jurisdiction to entertain the issue. He submits that from the entire narration of the petitioner's service history as emanating from the Original Application it is obvious that no part of the

petitioner's service career was within the State of West Bengal and within the territorial jurisdiction of the Central Administrative Tribunal, Kolkata Bench. The order of the Tribunal directing for disposal of representation, therefore, is unsustainable. He has relied upon a decision of the Apex Court in the case of ***Union of India and Another –Vs.- A. Shainamol, IAS and Another***, reported in ***(2021) 20 SCC 267***. Relying on this judgment, specifically paragraph 47 thereof he submits that the Original Application was required to be filed at a place where the applicant was posted. Since he was never posted within the State of West Bengal under the territorial jurisdiction of the Central Administrative Tribunal, Kolkata Bench, his Original Application before the Central Administrative Tribunal, Kolkata Bench was not maintainable.

4. He further submits that the issue regarding date of birth has been racked up by the petitioner after his retirement by filing the Original Application. The date of birth (12.05.1958) has been recorded at the time of his appointment in the year 1979. Such belated claim should not be entertained.
5. The learned counsel for the applicant/respondent has drawn attention of the Court towards Rule 6 (2) of the Central Administrative Tribunal (Procedure) Rules, 1987 framed in exercise of powers under Section 35 and 36 of the Administrative Tribunal Act by the

Central Government. Referring to the said provision he submits that since the petitioner has filed the Original Application subsequent upon his retirement and he was an ordinary resident of the State of West Bengal, filing of the Original Application before the Central Administrative Tribunal, Kolkata Bench is sustained by Rule 6(2) of the 1987 Rules.

6. It is further submitted by the learned counsel for the applicant/respondent that the Tribunal has not decided the issue regarding the petitioner's claimed date of birth, the pending representation has merely been directed to be disposed of.
7. Considering the rival submissions and upon going through averments made in the Original Application we find that there is no dispute on the point that the petitioner during his service was not posted within the State of West Bengal under the territorial jurisdiction of the Central Administrative Tribunal, Kolkata Bench. There is also no dispute regarding the fact that the Original Application has been filed before the Central Administrative Tribunal, Kolkata Bench after the applicant/respondent had retired. It is in this factual background that the rival submissions have to be considered.
8. The petitioner's reliance placed on decision in the case of **A. Shainamol (supra)**, in our opinion appears to be misplaced. From bare perusal of the judgment it

is obvious that the applicant before the Tribunal had secured employment in an all India service wherein she was allotted the Himachal Pradesh cadre. She was seeking allotment of a different cadre for various reasons which are not relevant for the present case. In respect of such a prayer for allotment of Maharashtra cadre she has invoked the jurisdiction of the Central Administrative Tribunal, Ernakulam Bench within the State of Kerala. Though she was employed and allotted a cadre in Himachal Pradesh, she had invoked the jurisdiction of the Central Administrative Tribunal Ernakulam Bench at Kerala. The Apex Court, therefore, considered the provisions contained in Rule 6 of the 1987 Rules, to be akin to the provision regarding territorial jurisdiction contained in Article 226. In paragraph 47 of this report the Apex Court has taken note of the fact that the applicant was not posted in the State of Kerala on the date of filing of the application; and also that she has not explained how the cause of action either wholly or in part had arisen within the jurisdiction of the Tribunal at Kerala. In paragraph 51 of the report Apex Court concluded the issue as follows:

“51. It may be noticed that the Union had not raised objection about the entertainment of an original application filed by the applicant before the Ernjakulam Bench of the Central Administrative Tribunal. It appears that the applicant filed an application before the Ernakulam Bench for the reason that she was permanent resident in the State or may be for the reason, the order of allocation was

received by her in the State of Kerala. Both of these reasons do not give rise to part of cause of action arising within the jurisdiction of the Ernakulam Bench of Tribunal. At this stage, the applicant is not being non-suited on the ground that the Ernakulam Bench of the Tribunal had no jurisdiction.”

9. We, therefore, find that judgment of the Apex Court relied upon by the learned counsel for the petitioner is distinguishable on facts. The applicant therein filed the application before the Tribunal at a time when she was in service but not posted within the jurisdiction of the Central Administrative Tribunal Bench which she chose to invoke. The Apex Court has also taken note of the fact that the cause of action did not arise wholly or partly within the jurisdiction of the said Tribunal. In the present case, however, the facts are different. The applicants herein invoked the jurisdiction of the Central Administrative Tribunal, Kolkata Bench, after retirement since he is ordinarily residing in the state of West Bengal.
10. We, therefore, find force in the submission of the learned counsel for the applicant/respondent that Rule 6(2) sustains filing of such an application by the applicant before the Kolkata Bench. Rule 6(2) relied upon by the learned counsel for the applicant/respondent reads as follows:

“6. Place of filing applications. –

.....

(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.”

11. We, therefore, find no force in the submission of the learned counsel for the petitioner relying upon Rule 6 which obviously operates in a different field for a different set of circumstances, and would not apply to a retired person. We find no reason to interfere with the order passed by the Tribunal directing for disposal of the representation.

12. The order of the Tribunal was passed on 14.03.2024. The Tribunal has directed for disposing of the representation by a reasoned and speaking order within eight weeks from receipt of a certified copy of the order of the Tribunal. Since the present writ petition was pending we consider it appropriate to modify the order of the Tribunal limited to the stipulated time for disposing of the representation. The order be read as directing for passing of a reasoned and speaking order in compliance of the Tribunal's order, but within eight weeks from receipt of a certified copy of the order passed by this Court today.

13. The writ petition is accordingly dismissed.

(Madhuresh Prasad, J.)

(Supratim Bhattacharya, J.)