

Central Administrative Tribunal
Principal Bench, New Delhi.

RA-58/95 in
OA-1264/94

New Delhi this the 31st day of May, 1996.

Hon'ble Sh. B. K. Singh, Member (A)

Sh. Thakur Dass,
S/o Sh. Mahnga Mal,
House No.20, Jhulelal,
Sindhi Society, Pitampura.
Delhi.

Review Applicant

(through Sh. G. D. Bhandari, advocate)

versus

1. Union of India through
the General Manager,
Northern Railway,
Baroda House, New Delhi.

2. The Divl. Railway Manager,
Northern Railway,
State Entry Road, New Delhi.

Respondents

(through Sh. R. L. Bhawan, advocate)

Order (oral)
delivered by Hon'ble Sh. B. K. Singh, Member (A)

This review application is directed against the judgement/order dt. 30.01.1995 alongwith MA-1725/94 filed for condonation of delay. When a misc. application is filed for condonation of delay, the Tribunal has to consider whether there are grounds which can explain away the delay or not. It is only after proper application of mind that exemption has to be granted for condonation of delay. It is admitted that none of the parties were present on the date when the matter was decided.



by the Tribunal. The impugned order is at page 8 of the review application and the deduction of the damage from the gratuity of the applicant has also been referred to and the order of recovery is dt. 24.9.92. The Tribunal has considered MA 1725/94 for condonation of delay. On the basis of the averments made in the counter-affidavit, the Tribunal held the view that the M.A. could not explain away the delay and, therefore, the Tribunal declined to grant the exemption and dismissed the M.A. Once the M.A. for condonation of delay is dismissed the Q.A. was not considered on merits. The Hon'ble Supreme Court has categorically laid down the law that Tribunal is not vested with any inherent power to condone the delay. It has to apply its mind and record reasons if exemption is to be granted in regard to limitation prescribed under Section 21. The exemption can be granted only if the delay is satisfactorily explained. The Hon'ble Supreme Court in a series of judgements have held the view that the party aggrieved by an order has to approach the court for redressal within the statutory period of limitation since after the expiry of that statutory period, the court is not competent to grant the reliefs prayed for. This view was held in case of State of Punjab Vs. Gurdev Singh (1991(4) SCC page 1). This view was further reiterated in case of S.S. Rathore Vs. State of M.P. (AIR 1990 SC 401).

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which laid down the law that cause of action shall be taken to arise on the date of order of the higher authority disposing the appeal/representation. The maximum period prescribed under Section 21 of the A.T. Act, 1985 is 18 months if any representation/appeal is filed and one year if no representation/appeal has been filed against the order. It was further held that repeated representations and memorial to the President do not extend the period of limitation. This view was further reiterated in case of U.O.I. vs. Ratam Chandra Samanta (J.T 1993(3)S.C Page 419). It was clearly held that after expiry of statutory period of 18 months remedy is lost and alongwith it the right also lost to the aggrieved party. The delay deprives of the remedy available to him and if the remedy is not available no relief can be granted. The same view was reiterated in case of ex-Captain Harish Uppal vs. U.O.I. (J.T 1994(3) Page 126) that if the parties just slumber over their rights, the court should decline to interfere. With the efflux of time, the remedy is lost and right also is lost alongwith it. This being so, this order cannot be challenged in the light of the latest decision of the Hon'ble Supreme Court in case of Secretary to Govt of India vs. Sivaram Mahadu Gaikwad (1995 ATC 655). Therefore, the judgement/order of the Tribunal cannot be faulted with. Unless the Tribunal granted exemption for condonation of delay, the matter could not be heard and



decided on merits and, therefore, the Q.A. was dismissed after the MA 1725/94 was dismissed by the Tribunal. The matter of deduction from the gratuity has not been dealt with at all. Since the matter has already been adjudicated upon and the application was dismissed on the ground of limitation, this court which has concurrent jurisdiction cannot interfere with that order. The proper forum would be Hon'ble Supreme Court if it is shown that the applicant has a continuing cause of action and that the deductions cannot take place without a show cause notice. Therefore, this review application is not maintainable and is dismissed accordingly.



(B. K. Singh)
Member (A)

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