

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 505/1996

New Delhi this the 14th September, 1998.

HON'BLE SHRI JUSTICE K. M. AGARWAL, CHAIRMAN

HON'BLE SHRI R. K. AHOOJA, MEMBER (A)

S. P. Jain S/O M. S. Jain,
R/O Flat No. 185-D, Pocket-C,
Siddharth Extension,
New Delhi-110014.

... Applicant

(By Shri P. P. Khurana, Advocate)

-Versus-

1. Union of India through
Secretary to Govt. of India,
Ministry of Information & Broadcasting,
Shastri Bhawan, New Delhi.

2. Director General,
All India Radio,
Aakashvani Bhawan,
Parliament Street,
New Delhi-110001.

... Respondents

(By Shri N. S. Mehta, Advocate)

O R D E R (ORAL)

Shri Justice K. M. Agarwal :

Heard the learned counsel for parties.

2. This OA has been filed for quashing three orders dated 8.4.1993, 21.9.1993 and 6.9.1995, filed as Annexures A-1 to A-3.

3. It does not appear necessary to give detailed facts of the case as the learned counsel for the applicant submitted that the applicant will be



satisfied. if the respondents are directed to decide his appeal against the two orders dated 8.4.1993 and 21.9.1993 after setting aside the order dated 6.9.1995 dismissing his appeal as barred by time.

4. In the light of this submission, very brief facts may be narrated.

5. After imposition of penalty and denial of suspension period to be treated as period spent on duty, the applicant preferred an appeal on 28.2.1994 addressed to the Secretary, Ministry of Information and Broadcasting. It further appears the appeal ought to have been addressed to the President of India and, therefore, by letter dated 28.4.1995 issued from the office of the Secretary, Ministry of Information and Broadcasting the applicant was advised either to prefer a separate appeal to the President or to permit the department to forward his already filed appeal to the President after treating it to have been addressed to the President of India. By letter dated 6.6.1995 the applicant requested the respondents to treat his appeal to have been addressed to the President of India for disposal of the appeal in accordance with law. Accordingly, the appeal was treated to have been addressed to the President of India. Thereafter, the Deputy Director (Administration) on behalf of the Director General, All India Radio sent the impugned

For

letter dated 6.9.1995 saying that the appeal of the applicant was barred by time and accordingly, rejected. In these circumstances, the present OA was filed.

6. After hearing the learned counsel for parties, we are of the view that the order as communicated by letter dated 6.9.1995 is erroneous. The appeal was preferred by the applicant in time, though it was addressed to a wrong authority. After the mistake was pointed out to the applicant, he agreed his appeal to be treated as addressed to the competent authority. In these circumstances, even if there was any delay in presentation of the appeal or deemed presentation of appeal to the competent authority, the applicant was entitled to exclusion of the period during which the appeal was pending with the Secretary of the Ministry of Information and Broadcasting on the analogy of Section 14 of the Limitation Act, 1963.

7. The impugned Annexure A-3 also appears to be cryptic in nature. How and why the appeal was treated to be barred by time, has not been stated. We are, therefore, of the view that the order Annexure A-3 deserves to be quashed and as a consequence thereof the other two orders impugned before us shall go before the President for consideration pursuant to the *Im* appeal filed by the applicant against those orders.

13

8. In the result, this OA succeeds and it is hereby allowed. The impugned order dated 6.9.1995, Annexure A-3, is hereby quashed and the respondents are directed to decide the appeal of the applicant against the other two impugned orders on merits by treating the appeal as within time. The appeal may be decided within a period of three months from the date of receipt of a copy of this order. No costs.

Km

(K. M. Agarwal)
Chairman

R. K. Ahooja

(R. K. Ahooja)
Member (A)

/as/