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M.P. No. 239/88
O.A. No. 202/88.

Vs.

CORAM:

Hon'ble Mr. Kaushal Kumar, Member.

For the applicant: _____ in person.

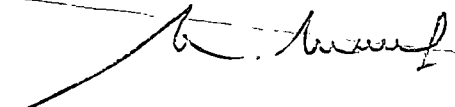
(delivered by Hon'ble Mr. Justice K. Madhava Reddy, Chairman).

This application under Section 19 of the Administrative Tribunals Act, 1985 is directed against Order No. 752-E/508 dated 3rd September, 1984 (Annexure A-6) by which some members of the staff were placed on the Provisional Panel in order of merit for the post of APD (Class II). In this panel, the applicant's name does not figure. He concludes that this is due to some adverse remarks made in his Confidential Report which were communicated to him on 2/10-7-1984. His representations against the adverse remarks were considered by the competent authority and rejected and the competent authority found no justification to expunge the adverse remarks. That was communicated to him on 16.8.1984 (Annexure A-5). The applicant has chosen to file this application calling in question the said proceedings on 16.9.1987 which is more than one year after the commencement

of the Tribunal. The application is, therefore, prima facie time-barred.

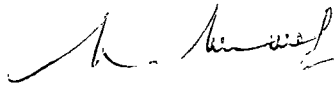
2. The applicant has also filed a Miscellaneous Petition for condonation of delay. All that he states in this Misc. petition is that he had preferred an appeal against the impugned order and thereafter, made some more representations. But no reply was received. When the representations were filed and at what stage they are, it is not clear. If the appeal is pending, he should await the order on his appeal. If the appeal was filed more than $1\frac{1}{2}$ years ago and if he wanted to approach the Tribunal even while the representation/appeal is pending, treating it as having been rejected, he should have done so within one year of the expiry of six months. In the absence of these particulars, this application under Section 19 of the Act cannot be treated as filed within time. The other ground mentioned in the application for condoning the delay is that he had no means to spend for the case. He is an employee of the Railways. He was prosecuting his case before the Labour court. For any application under Section 19 of the Act, a fee of Rs. 50/- only is payable. The plea of the applicant that he had no means to file this application is untenable. Lastly, it is mentioned that he was busy with his official duties and could not spare any time. Both these assertions are belied by the fact that he has been prosecuting another proceedings before the Labour Court (Central) Jalandhar in Application No. 11-C of 1984.

3. In view of the above, we hold that sufficient cause has not been shown for condoning the delay. Misc. petition for condoning



the delay is accordingly rejected. Consequently, Original application No. 202/88 is also dismissed as barred by time.

There will be no order as to costs.



(Kaushal Kumar)
Member



(K. Madhava Reddy)
Chairman

May 4, 1988.