

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN.NO. CIVIL APPEAL 1/87. DATE OF DECISION: 16.11.1992.

K.C. Jain.

...Petitioner.

Versus

Union of India.

...Respondents.

CORAM:

THE HON'BLE MR. JUSTICE V.S. MALIMATH, CHAIRMAN.
THE HON'BLE MR. I.K. RASGOTRA, MEMBER(A).

For the Petitioner.

Shri Ashish Kalia, proxy
for Shri R.L. Sethi, Counsel.

For the Respondents.

Shri V.K. Rao, proxy for
Shri A.K. Sikri, Counsel.

JUDGEMENT(ORAL)

(By Hon'ble Mr. Justice V.S. Malimath, Chairman)

This appeal has been preferred invoking Section 29-A of the Administrative Tribunals Act, 1985. The petitioner has challenged the order which denied him the privilege of crossing the Efficiency Bar w.e.f. 1.8.1976. He has been given the benefit from 1.8.1977. The petitioner had filed a suit and the decree passed in the first instance was taken up in appeal. After the dismissal of the first appeal on 11.6.1985, the petitioner had a right to file the second appeal in the High Court. Having regard to the coming into force of the Administrative Tribunals Act, 1985, which was amended by the Act 19 of 1986 inserting Section 29-A w.e.f. 22.1.1986 the petitioner has filed the appeal before this Tribunal. As obviously the appeal has been filed beyond the prescribed period of limitation, he has filed an application for condonation of delay. The delay has not been condoned and a decision in regard to that has now to be taken before the appeal is heard on merits. The petitioner has stated that

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though the judgement was rendered by the first Appellate Court on 11.6.1985, having regard to the unprecedented disturbed condition in that part of the country in Punjab, the petitioner was not able to secure the copy of the judgement promptly. He further stated that with great difficulty, he was able to secure the copy of the judgement only on 21.3.1986. This appeal has been filed before the Tribunal on 10.11.1986. Even assuming that having regard to the unprecedented disturbed condition in that part of the country in Punjab, as stated by the petitioner, he was in a position to secure the copy of the judgement on 21.3.1986, we have to examine as to whether the petitioner has filed the appeal within the prescribed period of limitation after receiving the copy of the judgement on 21.3.1986. The period of limitation being 90 days and the appeal having been filed on 10.11.1986, it is beyond limitation. It is for the petitioner to explain the delay. No attempt has been made to explain the delay. As the petitioner has himself not put forward any cause explaining as to why the appeal could not be filed within time after obtaining the copy of the judgement, the appeal is liable to be failed. Though the petitioner was transferred to Delhi, he has not given any particulars about his posting. That is the matter which is within his knowledge and he should have spoken about in his affidavit if the said circumstances were in his favour. As he has not stated as to when he was transferred to Delhi, we can reasonably draw an inference that he has not disclosed the information as it was not in any way beneficial to him. As no sufficient cause has been shown, the application is liable to be rejected. Application for condonation of delay

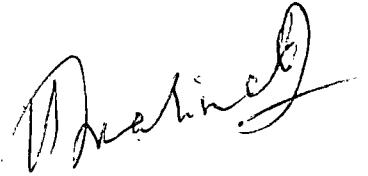
is accordingly rejected. Consequently, the appeal is rejected
as barred by limitation. No costs.


(I.K. RASGOTRA)

MEMBER(A)

'SRD'

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(V.S. MALIMATH)

CHAIRMAN