

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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(4)

M.P. No. 1549/91 in
O.A. 1200/91

Date of decision: 2.8.1991

Union of India

Vs.

Applicant

Hari Shankar

Respondent

M.P. No. 1550 in
O.A. 1201/91

Union of India

vs.

Applicant

Subodh Banerjee

Respondent

PRESENT

Shri M.L. Verma, counsel for the applicants.

Shri R.S. Bajwa with Shri S.C. Luthra, counsel for the respondents.

CORAM

Hon'ble Shri Justice Ram Pal Singh, Vice-Chairman (J).

Hon'ble Shri N.V. Krishnan, Member (A).

(Judgment of the Bench delivered by Hon'ble Shri Justice Ram Pal Singh, Vice-Chairman (J).)

J U D G M E N T

MP No. 1549/91 in OA No. 1200/91 and MP No. 1550/91 in OA No. 1201/91 are being disposed of by a common order.

2. The applicant, Union of India, has filed O.A. No. 1200/91 against Shri Hari Shankar and O.A. No. 1201/91 against Shri Subodh Banerjee under Section 19 of the Administrative Tribunals Act, 1985 (hereinafter referred as 'Act'). Both the respondents filed their claim before the Industrial Tribunal and an award was made on 13.5.88 in accordance with Section 17 of the Industrial Disputes Act of 1947. It was published on 10.6.88. The petitioner, Union of India, in these MPs, filed Writ Petition No. 197/89 on 22.1.89 before the High Court of Delhi. This Writ Petition was finally withdrawn on 30.3.90. The High Court of Delhi passed the orders which are reproduced below for convenience:

"Mr. Jain wants to withdraw the petition with liberty to file a fresh petition before the Central Administrative Tribunal. The petition is accordingly dismissed as with-

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drawn with liberty to the petitioner to move the appropriate application before the Central Administrative Tribunal."

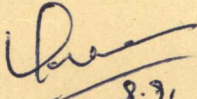
3. As mentioned earlier, this order was passed by the High Court on 30.3.90. The applicant, Union of India, filed these OAs before the Central Administrative Tribunal, Principal Bench, on 22.3.91. Prima facie, both these OAs were filed beyond the period of limitation, as provided in Section 21 of the Act. The petitioner, Union of India, filed the hereinabove mentioned MPs which contain the prayer for condonation of delay. Replies to these MPs have been filed by the respondents who oppose the prayer for condonation of delay. In para 2 of the MPs, the petitioner, Union of India, has stated that the delay during the pendency of the appeal in the High Court of Delhi is bonafide under misapprehension and mistake. This application is completely bereft of any fact as to why this delay has occurred. Assuming that the delay in filing the appeal before the High Court was a bonafide mistake on the part of the counsel, yet the delay after the Writ Petition was withdrawn on 30.3.90 has not been explained as to why the OAs were filed on 22.3.91, virtually a year thereafter.

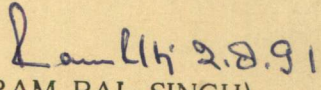
4. Though in the rejoinder to these M.Ps, the respondents have opposed the prayer for condonation of delay, inter alia, they also contended that an appeal against the award did not lie before the High Court. They further contended that the remedy which the Union of India was seeking in the High Court was not available to them under the provisions of Section 17-A and 17-B of the Industrial Disputes Act of 1947.

5. We need not enter into this controversy. We have to consider whether the OAs have been filed within the limitation period as provided in Section 21 of the Act. During the arguments, we questioned Shri M.L. Verma, learned counsel for the petitioner, whether the petitioners would like to amend their MPs to incorporate the details which may show sufficient cause on their part in not filing the O.As within the period of limitation. Shri Verma refused to make any amendment in the MPs. Hence, we have to consider

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whether sufficient cause for condoning the delay, as prayed for in these MPs, exists. It is settled that each day's delay has to be explained by the petitioner who seeks the condonation of delay. Not a word has been mentioned as to who has committed the mistake in filing the appeal before the High Court and what were the misapprehensions in the mind of the petitioner. Datas, circumstances and full details unless furnished, this Tribunal cannot evaluate judicially the sufficient cause for not preferring the OAs within the period of limitation. As the permission to withdraw was granted by the High Court on 30.3.90, a reasonable time of about a month or two may be said to be sufficient within which the OAs could be filed before this Tribunal. The delay in seeking the remedy in the proper forum always confers a right upon the respondents in whose favour the original order has been passed. That right cannot be lightly disturbed or interfered with unless very strong sufficient cause is shown by the applicant. It is the satisfaction of the Tribunal which is material and unless sufficient cause is shown to the satisfaction of this Tribunal, the delay cannot be condoned. We are of the view that both these MPs are bereft of any merit and the petitioner has miserably failed to show sufficient cause for condoning the delay. Consequently, both these MPs are dismissed. Needless to say ^{that} as both the OAs were filed beyond the ^{also} period of limitation, they are dismissed. The parties are directed to bear their own costs.


2.8.91
(N.V. KRISHNAN)
MEMBER (A)


2.8.91
(RAM PAL SINGH)
VICE-CHAIRMAN (J)