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RESERVED

Court No.2

Central Administrative Tribunal
Allahabad.

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Registration O.A.No.477 of 1986

Chhotelal Mani Tripathi

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Applicant

Vs.

General Manager, North Eastern
Railway, Gorakhpur and
others

...

Respondents.

Hon.D.K.Agrawal, JM
Hon.K.Obayya, AM

By Hon.D.K.Agrawal, JM

This Application u/s.19 of the Administrative Tribunals Act XIII of 1985 was filed on 4.9.1986 aggrieved with the order of punishment dated 7.7.1983 passed by Chief Personnel Officer, North Eastern Railway, Gorakhpur retiring the Applicant from service compulsorily and the order passed by the General Manager, North Eastern Railway, Gorakhpur rejecting the appeal dated 24.5.1984.

2. The Application, prima-facie, is barred by time. The Applicant's contention is that he had filed a revision dated 15.10.1985 addressed to General Manager, North Eastern Railway Gorakhpur which was rejected by order dated 13.6.1986 and, therefore, the Application was within time. The alleged revision was filed after a lapse of about 17 months. It was addressed to the General Manager who was appellate authority only. The revision did not lie to the General Manager. There is also a limitation provided under R.25 of the Railway Servants Discipline and Appeal Rules, 1968. Therefore, the result is that the alleged revision filed by the Applicant on 15.10.85 and addressed to the General Manager cannot be treated as revision in the eye of law. Consequently, it has to be held that the Applicant did not avail remedy after the appeal was rejected by order dated 24.5.1984. In this view of the matter,

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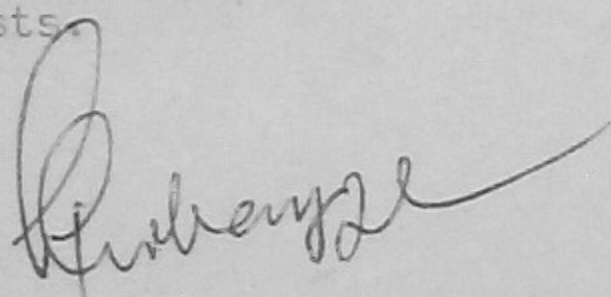
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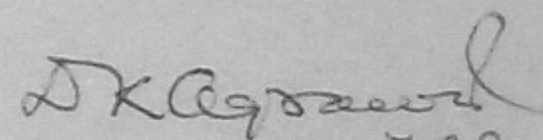
the present Application filed on 4.9.1986 is barred by time according to the provisions contained in S.21 of the Administrative Tribunals Act XIII of 1985. The cause of action having accrued three years prior to 1.11.1985, i.e. on 24.5.1984, the Application should have been filed on or before 30.4.1986.

3. We also find that Union of India has not been impleaded as necessary party. Therefore, the Application is bad for non-joinder of necessary party.

4. We have also perused the record concerning disciplinary proceedings. It would appear that the recommendation of the inquiry officer was to the effect that the Applicant be dismissed from service but the disciplinary authority taking a lenient view, only imposed the punishment of compulsory retirement so that the Applicant may not be put to further financial loss. Thus, we are of opinion that this is not a fit case for interference by this Tribunal for condonation of delay.

5. The Application is dismissed without any order as to costs.


MEMBER (A)


MEMBER (J) 7.3.90.

Dated 7.3.1990
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