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CENTRAL ADMINISTRATIVE TRIBUNAL ALIAHABAD.

Registration(PA) no. 528 of 1986
(U/s 29(A) CAT Act)
Union of India, and three others appellants
Versus

Suresh Respondents.

Hon'ble D.S.Misra, A.M.

Hon'ble G.S.Sharma, J.M.

(By Hon'ble G.S.Sharma)

The defendants in suit no.83 of 1985 filed by the plaintiff-respondent(Suresh) against them in the court of Civil Judge Shahjahanpur had preferred this appeal under Section 29(A) of the A.T.Act XIII of 1985 on 18.9.1986 against the judgment and decree dated 26.2.1986 passed by the Addl. Civil Judge Shahjahanpur decreeing the suit ex parte for a declaration that the plaintiff is the sole heir and legal representative of his deceased father Shyam Lal, who was in the employment of the appellants. An application under Section 22(3) of the A.T.Act XIII of 1985 has also been filed for condoning the delay in filing the appeal.

2. In support of the application for the condonation of delay, learned Addl. Standing Counsel had contended before us that this tribunal has inherent powers to condone the delay even if Section 22(3) of Act XIII of 1985 is not applicable and after condoning the delay the appeal be admitted for hearing on merits. We have carefully considered the contentions raised before us on the question of condonation and the maintainability of this appeal and we are of the view that the contentions

are not well founded and this appeal is not maintainable before this tribunal, even if the delay is condoned.

3. The original Act XIII of 1985 did not provide for any appeals and for the first time by inserting Section 29-A a provision ^{for} ~~that~~ an appeal was made in respect of the cases decided before 1.11.1985 ~~but~~ against which no appeals could be preferred by that day, and the appeals from such cases could be filed within 90 days from the date the amendment in this connection received the assent of the President. The assent of the President was received on the Amendment Act on 25.3.86 and the present appeal could, therefore, be filed by 24.6.86. Section 29-A does not make any provision for the condonation of delay in filing the appeals under this Section and that is why the contention of the appellants is that we should exercise our inherent powers ^{for} ~~in~~ condoning the delay. The appellants have further placed their reliance on Section 22(3) of Act XIII of 1985 which provides that the tribunal shall have the powers of the Civil Court for dealing with certain matters enumerated in Clause (a) ^{to} ~~(a)~~ (i) of subsection (3). These clauses do not ^{and} include the power of condonation in the matters of delay and as such is of no help to the appellants.

4. It is not in dispute that the Limitation Act 1963 is not applicable to the cases instituted before this tribunal and the various benches have held that it has no application to the cases filed before the tribunal. Sub Sections (1) ^{and} (2) of Section 21 of the Act XIII of 1985 prescribe the limitation for original

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-3-

applications filed before the tribunal under Section 19 of the Act and sub section (3) makes a specific provision for condonation of delay in filing such applications. We are, therefore, of the view that the Parliament in its wisdom conferred the power of condonation of delay on this tribunal in filing the original applications under Section 19 but did not consider expedient to confer such powers in respect of appeals to be filed under Section 29-A of the Act. In view of this scheme of the Act, it will not be proper on our part to exercise our inherent powers in condoning the delay of about 3 months in filing the present appeal and the application for condonation of delay is accordingly rejected.

5. Apart from the question of delay, it appears from the copies of the judgment and decree of the trial court filed by the appellants that the respondents had filed a suit for declaration that he was the sole heir and legal representative of his deceased father and was entitled to get the dues of his father in connection with the service matter payable by the appellants. It was, thus, a suit for the recovery of the dues ~~and~~ of his father and was based on the succession of the plaintiff as his heir. This ^{does} ~~will~~ not raise ^a dispute in respect of service matter, and as such if the appellants were ^{aggrieved} ~~agreed~~ by the judgment and decree passed by the learned Addl. Civil Judge, they should have filed the appeal in the High Court of Judicature at Allahabad and not before this tribunal. Thus even for want of jurisdiction

(10) 23
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-4-

this appeal is liable to be dismissed.

6. There is yet one other and a basic aspect for consideration. Section 29-A provides for appeals against the judgments and decrees passed before 1.11.85, the date of the establishment of the tribunal and ^{not} after its establishment. The appeal filed by the appellants against a decree passed on 26.2.1986 is therefore not covered under Section 29-A and is not maintainable before this tribunal.

The appeal is accordingly dismissed without any order as to costs.

J. M.
J.M.

A. M.

A.M.

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