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Court no.1
Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Original Application No. 775 of 1986

Kamla Prasad Misra

... Applicant.

Versus

Divisional Engineer

Telephone and others

... Respondents.

Hon'ble D.S.Misra-AM

Hon'ble G.S.Sharma-JM

(Delivered by Hon'ble D.S.Misra)

In this application under Section 19 of the Administrative Tribunals Act XIII of 1985, the applicant has challenged the order No.Q-172/XB/DISC/4 dated 31.5.1979 passed by Assistant Engineer Trunks, Allahabad by which his increment for 1 year was stopped. The applicant has contended that the above order of punishment was passed as a result of the inquiry held in a disciplinary proceeding. The applicant has alleged that he filed an appeal against the order of punishment to the Divisional Engineer(Phones) (respondent no.1) on 22.7.1979(copy at annexure-C) The same was rejected on 5.8.1980 saying that it was time barred, copy at annexure-D. The applicant has further alleged that he preferred a second appeal to the Director (Telecom)Varanasi on 3.10.1980, copy at annexure-A. He has further alleged that as he did not receive any reply to the second appeal, He submitted a representation to the next higher authority viz., General

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Manager (Telephone) U.P. Circle, Lucknow on 23.2.1982 (annexure F to the petition) and another representation to D.G.P&T New Delhi on 6.9.1983 (annexure G to the application). As there was no response from D.G. P & T, he filed another representation to the next Higher Authority, Ministry of Communication on 6.3.1985 (annexure H to the application) and a memorial to the President on 6.3.1986, copy annexure I to the application).

2. We have heard the learned counsel for the applicant, who has argued that the applicant had taken due precaution to file appeal/representation to the next higher authority at suitable intervals, but had failed to receive any reply, hence this application under Section 19 of the A.T. Act.

3. We have considered the matter in all respects and we find that under the rules, there is no provision for a second appeal in disciplinary cases and the gap between the decision of the appellate authority and the date of this application being large, the application is not covered within the period of limitation prescribed u/s 21 of the A.T. ct. We accordingly reject the petition summarily.

4. However, we find that the applicant had filed his first appeal before the Divisional Engineer (Phones) after a gap of 53 days from the

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date on which order of punishment was passed by the disciplinary authority. Thus, there was a delay of about a week in filing the appeal. In our view the Divisional Engineer (Phones) dealt with the matter in a purely technical way and without entering into the merits. We are of the opinion that the Divisional Engineer (Phones) should have entertained the appeal dated 22.7.1979 of the applicant and given a decision on merit of the case. We accordingly, suggest that Divisional Engineer Phones, Allahabad may recall the appeal and decide it on merits.

Blm 19.1.87 } *J.M. 19.1.87*
A.M. J.M.

JSingh/41-1987.