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Reserved

Central Administrative Tribunal,
Allahabad.

Registration No. A.No.303 of 1986.

Union of India and Others Appellants.
Vs.
Lal Bahadur Respondent.

Hon. D.S.Misra, AM
Hon. G.S.Sharma, JM

(By Hon. G.S.Sharma, JM)

This appeal under Section 29-A of the Administrative Tribunals Act XIII of 1985, though wrongly mentioned as an application under Section 19 of the said Act, was filed on 30.6.1986 against the judgment and decree dated 31.3.1984 passed by XII Additional Munsif Allahabad in suit no.140 of 1977 with an application under Section 5 of the Limitation Act. It was alleged in the application under Section 5 of the Limitation Act that the copies of the judgment and decree were made available to the appellants on 11.5.1984 but on account of lack of decision on the part of the railway administration, and also on account of missing of files and burning of records, the appeal could not be preferred earlier. An affidavit of the Law Superintendent of the Northern Railway, Allahabad was filed in support of the application. On the notice being issued to the respondent, he filed objections against the application for

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condonation of delay supported by his own affidavit stating that the record was neither misplaced nor burnt and the cause shown for delay of about 20 months, is not sufficient. He also filed a certificate of the A.R.K. of the Court of District Judge, Allahabad to the effect that the record of the case is available in the record room, meaning thereby that it was neither destroyed nor misplaced.

2. In our opinion, this appeal is misconcieved and is not maintainable under the law irrespective of the question of limitation involved in it. Section 29 A of the Act added by ~~Central~~² Administrative Tribunals (Amendment) Act, 1986, which for the first time provided for the filing of appeals before the Tribunal, runs as follows :-

" Provision for filing of certain appeals-
Where any decree or order has been made or passed by any Court (other than a High Court) in any suit or proceeding before the establishment of a Tribunal, being a suit or proceeding the cause of action whereon it is based is such that it would have been, if it had arisen after such establishment, within the jurisdiction of such Tribunal, and no appeal has been preferred against such decree or order before such establishment and the time for preferring such appeal, under any law for the time being in force had not expired before such establishment, such appeal shall lie :-

(a) to the Central Administrative Tribunal within 90 days from the date on which the Administrative Tribunal (Amendment) Bill, 1986 receives the assent of the President, or within 90 days from the date of receipt of the copy of such decree or order, whichever is later, or

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(b) to any other Tribunal, within 90 days from its establishment or within 90 days from the date of receipt of the copy of such decree or order, whichever later."

3. Section 29-A clearly provides that where any decree or order has been made or passed by any Court before the establishment of the Tribunal and no appeal has been preferred against such decree or order before such establishment and the time for preferring such appeal had not expired before such establishment, such appeal shall lie before the Tribunal. In the instant case, though the decree in question was passed before the establishment of the Tribunal, the period of limitation prescribed for filing the appeal against the same before the District Judge expired much before the Central Administrative Tribunal was established and as such, the present appeal is not maintainable under Section 29-A of the Act and the question of condoning the delay does not arise. Even on merits, we feel that the application given by the applicant for condoning the delay does not disclose good and sufficient ground for condoning the delay ^{over} of ~~about~~ 20 months. The appeal is, thus, barred by limitation.

4. We accordingly dismiss the appeal as not maintainable and direct the parties to bear their own costs.

[Signature]
Member (A)

Dated 9.2.1987
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[Signature]
9/2/87
Member (J)