

(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD.

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Registration T.A.No. 334 of 1986
(Application under Section 5 of the
Limitation Act dated 31.10.1985/2.11.85)
Union of India and others . . vs. . Cheetoo alias
Chhetoo Ram.

Hon'ble Justice Shri S.Zaheer Hasan, Vice Chairman.

Hon'ble Shri Ajay Johri, Member(A).

(Delivered by Hon. S.Zaheer Hasan, V.C.)

Plaintiff Cheetoo alias Chhetoo Ram filed Suit No. 37 of 1982 in the court of Munsif Rae Bareli. Plaintiff's suit was decreed on 18.3.1985. On 1.11.1985 defendants filed an appeal before the District Judge, Rae Bareli against the judgment and decree passed by the learned Munsif. The appeal was time barred, so an application under Section 5 of the Limitation Act was moved to condone the delay in filing the appeal. This application under Sec. 5 of the Limitation Act and the appeal have been transferred to this Tribunal under Section 29 of the Administrative Tribunals Act (XIII of 1985).

It is alleged that the counsel for the defendants directed his clerk to take certified copy of the judgment, but on the next date he

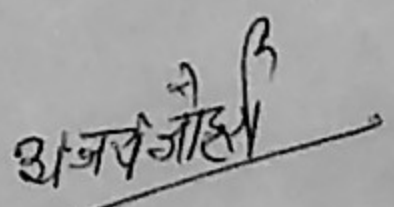
fell^{JK} and he could not inform the counsel. On 6.4.1985 the counsel was informed about this fact by his clerk and the counsel applied for certified copy on the same day. The copy was put on the notice board on 16.5.1985. The counsel was busy in those days. He took delivery of the copy on 25.5.1985. Thereafter the counsel fell ill and the certified copy of the judgment was not sent to the Divisional Railway Manager for action. The copy was received in the office of the Divisional Railway Manager on 2.8.1985. On 8.8.1985 the Department instructed Shri Arjun Bhargawa, Advocate to file the appeal. Shri Arjun Bhargawa was not available in those days and this fact was brought to the notice of the Department on 29.10.1985. On 29.10.1985 instructions were issued to Shri A.K.Srivastava, Advocate to file an appeal. The appeal was prepared on 30.10.1985, the affidavit was sworn on 31.10.85 and the appeal along with the application under Section 5 of the Limitation Act were filed on 1.11.1985.

The certified copy of the judgment was prepared and put on the notice board on 16.5.1985. There was no good ground for not taking the delivery till 25.5.1985. A vague allegation was made that the counsel was too busy in those days to take the copy which was put on the notice board. It is further alleged

that due to illness the certified copy of the judgment, which was received on 25.5.1985, could not be sent to the office of the Divisional Railway Manager till 2.8.1985. It has not been stated in the affidavit as to who was ill and this long gap between 25.5.1985 and 2.8.1985 has not been satisfactorily explained. It is further surprising that between 2.8.1985 and 29.10.1985 no other Advocate was available when it was found that Shri Argun Bhargawa was out. So, the delay in filing the appeal has not been satisfactorily explained and we find no good ground to condone the delay.

This application under Section 5 of the Limitation Act is rejected.

January 15th, 1987 Vice Chairman.
R.Pr./


Member(A).