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RESERVED

Central Administrative Tribunal, Allahabad.

Registration no. M.A. of 1986.

M.M.Singh Applicant

Vs.

Union of India and others Respondents.

Hon. D.S.Misra, AM

Hon. G.S.Sharma, JM

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

This is a restoration application and be registered as such. The registration no. O.A.194 of 1986 filed by the applicant on 6.5.1986 was dismissed by this Bench on 12.8.1986 with the observation that the applicant was not present and had not complied with the repeated directions of the Bench to amend his petition, which was partly time barred and it was accordingly dismissed for want of prosecution as well as time barred. Against this order, the applicant moved the present restoration application on 1.10.1986 with the allegation that the intimation of the order dated 23.6.1986 fixing 11.7.1986 for admission was duly received by him but due to curfew in Allahabad city, he did not appear and sent a telegram. The intimation of the next date 12.8.1986 was received late and as such, he could not appear on that day and the case was dismissed in default on that day and the intimation of this order was received by the applicant on 6.9.1986. The applicant's counsel has filed his own affidavit stating that the contents of the application are correct. In our opinion, learned counsel for the applicant ~~should~~ have no knowledge of the facts stated in the application as the applicant lived at Lucknow and we feel that such affidavit should not have been filed by the learned counsel for the applicant. We further feel that after the filing of the application, it was the duty of the applicant to watch the proceedings of this case ~~or~~ under the law ^{and}

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or rules of the Tribunal, he was not entitled to any notice of any date while sitting at Lucknow. A part of the claim is also time barred and from all this, the only conclusion is that the applicant was not prosecuting his case seriously. However, in the interest of justice, we do not like to take strict technical view in this case and setting aside the order dated 12.8.1986, direct the applicant to seek necessary amendment in his petition within a month to exclude the part of the claim, which is time barred.

kp *20.11.86*
Member (A)

Subarna
20/11/86
Member (J)

Dated 20.11.1986
kkb