

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD.

Registration O.A. No.463 of 1987

Faujdar Applicant

Vs.

Union of India and others ... Respondents

Hon.D.S.Misra, AM

Hon.G.S.Sharma, JM

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

In this petition under Section 19 of the Administrative Tribunals Act XIII of 1985 (hereinafter referred to as the Act), the applicant challenges the order dated 1.3.1984 passed by respondent no.3 withholding his annual increment for one year without cumulative effect. The application was filed on 20.5.1987 with the allegation that the applicant filed an appeal against the impugned order on 11.3.1984 before the Divisional Superintending Engineer (MANDAL ADHIKSAK ABHIYANTA), which has not been decided so far. In our opinion, this petition is barred by time as it has not been filed within one year from the expiry of the period of 6 months since the presentation of his appeal. The contention of the learned counsel for the applicant is that under clause (a) of sub-section (1) of Section 21 of the Act, there is a bar for not filing the petition within 1 year and there is no bar to file a petition after the expiry of one year. We find ourselves unable to accept this contention and for the sake of convenience, we will like to reproduce the relevant clause (a) below :-

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" (1) A Tribunal shall not admit an application ,-

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made ,within one year from the date on which such final order has been made;

..."

2. A simple reading of this clause shows that the Tribunal shall not admit an application unless it is made within one year from the date on which the final order is made. It is, thus, evident that the application has to be made within one year and the contention made to the contrary is not correct. We are further of the view that the case of the applicant will fall under clause (b) of sub-section (1) of section 21 of the Act which provides that an application has to be made within one year from the date of expiry of the period of six months since the filing of the appeal under clause (b) of sub-section (2) of Section 20 of the Act. The limitation of one year prescribed by clause (b) was thus not available to the applicant as it expired on 11.9.1985 before the Act came into force. The applicant ^{could} ~~can~~ move

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this petition within a period of six months prescribed under clause (a) of sub-section (2) of section 21 from the date the Central Administrative Tribunal started functioning and as the same has been filed more than one year thereafter, it is clearly barred by time.

3. It has been next contended that the applicant has been repeatedly harassed by the respondents and he had to file one other such petition against their orders and it is a fit case in which this Tribunal should condone the delay under sub-section (3) of Section 21 of the Act. In our opinion, the grounds contemplated by Section (3) do not cover the present case and, therefore, we would not like to exercise our power of condonation in this case. The applicant will have an opportunity to approach this Tribunal when his appeal is decided.

4. The petition is accordingly dismissed summarily.

[Signature]
27/5/87
MEMBER (A)

[Signature]
27/5/87
MEMBER (J)

Dated 27th May, 1987

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