

(AK)

(B)

6/80Hon. D.S. Misra - AM  
Hon. G.S. Sharma - JM

Rejoinder affidavit has been filed on behalf of the applicant today. List is for hearing an admission as well as trial hearing on 7/3/88.

DeAMJMSH7.3.1988/Hon'ble Ajay Johri - AM  
Hon'ble G.S. Sharma - JM

Heard Shri M.P.Tandon for the applicant and Shri K.C.Sinha for the respondents on the point of limitation. The applicant has sought exemption from the prescribed period of limitation on the ground that he being uneducated and virtually illiterate, he was not aware ~~of the~~ <sup>of</sup> legal remedies available ~~exact as~~ to him. He had filed an appeal on 17.8.1979 to the President of India against his retirement which according to him was pre-mature as his date of birth has been recorded wrongly. He was advised to file appeal to the Secretary, Ministry of Defence, Government of India which he did on 24.11.1979. He has said in his application that he sent few reminders, but he got no response. He therefore, approached the Supreme Court Legal Aid Committee, who referred the matter to the Secretary, U.P.State Legal Aid & Advice Board, Kesarbagh, Lucknow. The U.P.State Legal Aid Committee also did not respond and ultimately with the advice of a counsel from Dehradun, he has filed this application on 13.7.87. The applicant has said that he was normally to retire on 10.2.1991 and therefore, loss to him was recurring one and hence, the delay in filing the application may be condoned. The applicant has not been able to explain

why even after, he got no response in 1982 from the U.P. State Legal Aid & Advice Board, he did not take action till 1987. We consider that the application is badly time barred. The applicant was superannuated on 28.2.1979 on attaining the age of 58 years according to the recorded date of birth. We do not consider that the delay has been sufficiently explained and, therefore, we reject the application being time barred. The parties will bear their own costs.

Shahid.

31/3/88  
A.M.

Subarao  
1/3/88  
J.M.