

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

Dept. of

O.A. No.
T.A. No. 962

1937

DATE OF DECISION

8.88

Union of India Petitioner

Sri A.V. Srinivasan Advocate for the Petitioner(s)

Versus

Vishwanath Lal Srinivasan Respondent

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. D.S. Missrs, Am

The Hon'ble Mr. A.S. Bhagwati, M

- 1. Whether Reporters of local papers may be allowed to see the Judgement ?
- 2. To be referred to the Reporter or not ? *Paras 4 & 5*
- 3. Whether their Lordships wish to see the fair copy of the Judgement ?
- 4. Whether to be circulated to other Benches ?

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Reserved

Central Administrative Tribunal, Allahabad.

Registration Appeal No.962 of 1987

Union of India .. Appellant.

Vs.

Vishwanath Lal Srivastava .. Respondent

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

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

This appeal u/s.29-A of the Administrative Tribunals Act XIII of 1985 (hereinafter referred to as the Act) against the ex parte ~~dear~~ judgement and decree dated 3.10.1985 in suit no.1449 of 1984 passed by I Munsif Gorakhpur was filed on 14.10.1987 with an application for condonation of delay. It is alleged in the application for condonation of delay that for the first time on 27.7.1987 in the proceedings under Payment of Wages Act in the Labour Court Gorakhpur, the Law Assistant of the appellant knew at the time of arguments advanced on behalf of the respondent that he had obtained an ex parte decree on 3.10.1985 and prior to that the appellant had no knowledge of the filing of the suit and the obtaining of the decree against it by the respondent. It is also stated that there is no record of receiving any summons of the said case in the office of the appellant. Besides filing the present appeal, the appellant also moved an application under O.IX R.13 CPC which was registered as misc.case no.208 of 1987 in the Court of Munsif I Gorakhpur for setting aside the ex-parte decree ^{is stated to be} which ^{was} pending. The validity of the ex parte decree has been challenged even ^{on merits.} ~~otherwise.~~

2. Despite sufficient opportunity the plaintiff-respondent did not appear before this Tribunal. The first point to be considered in this appeal is whether this Tribunal has jurisdiction to condone the delay in filing the appeals u/s.29-A of the Act and if so whether the cause shown is sufficient. It was conceded on behalf of the appellant that Section 29-A does not contain any provision for condoning the delay but it was contended that the inherent powers of the Tribunal are unfettered and delay can be condoned in exercise thereof. This matter had cropped up before this Bench in some cases even earlier and we had held that inherent powers could not be exercised in such cases. As the matter was raised before us again and the learned counsel for the appellant insisted that as the inherent powers of this Tribunal are very wide, the same may be exercised for the ends of justice in proper cases, we will like to re-examine the matter once again.

3. It is the settled view that the provisions of Limitation Act 36 of 1963 are not applicable to the cases instituted before the Central Administrative Tribunal. Naturally, S.5 of the said Limitation Act which specifically applies to the condonation of delay in filing appeals and applications can have no application to appeals filed before the Tribunal u/s.29-A of the Act. It is on account of this position the learned counsel for the appellant has been insisting for invoking the inherent powers. There can be no dispute that every Court

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or a Tribunal does possess ~~some~~ inherent powers, which are to be exercised to prevent the abuse of its process or to secure the ends of justice. The Central Administrative Tribunal too is devoid of such inherent powers and the same have been specifically recognised by R.24 of the Central Administrative Tribunal (Procedure) Rules, 1987. The main question which arises for consideration is whether the inherent powers vested in any Court or Tribunal are unlimited and can be exercised to any extent for achieving the ends of justice or to prevent the abuse of its process. In our opinion, such powers are not unlimited and can be exercised only to the extent to which they may not come in conflict with the specific provisions of any law. In other words, the inherent powers can be exercised if there is no express or implied bar to exercise them in a particular case or situation. It is well settled that the inherent powers of the Court cannot override the express provision of law- Arjun Singh Vs. Mohinder Kumar (A.I.R. 1964 S.C.-993). It is also well settled that no Court has any inherent power to invest itself with the jurisdiction where it is not conferred by law- Raja Soap Factory Vs. S.P. Shandharaj (A.I.R. 1965 S.C.-1449). The scope of inherent powers has thus to be carefully examined before invoking such powers.

4. Keeping these limitations in view it is to be seen whether there is any limitation on the inherent powers of this Tribunal for condoning

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the delay in appeals u/s.29-A. As the Limitation Act 36 of 1963 has no application to the cases before the Tribunal, the Parliament prescribed special provisions of limitation for the purpose of filing applications u/s.19 of the Act in S.21. Under sub-section (3) of S.21, the Parliament specifically conferred the power of condoning the delay in making the applications u/s.19 and in our view, similar powers should have been conferred by the Parliament for condoning the delay in filing the appeals u/s.29-A. The fact that S.29-A prescribes the limitation for filing appeals before the Tribunal from the cases decided by the Civil Courts before the establishment of the Tribunal but does not speak of any condonation of delay clearly shows that the Parliament in its wisdom did not consider it necessary or expedient that any delay should be condoned in presenting appeals under this provision. In view of this implied bar imposed by law it is not permissible to us to condone the delay by exercising our inherent powers.

5. It may be pointed out that in the original Act XIII of 1985, there was no provision for filing appeals before the Tribunal against the judgments and decrees passed by the Courts and for the first time after the establishment of the Central Administrative Tribunal, the desirability of introducing such provision was felt to provide a forum for appeals against the judgments and decrees passed before the establishment of the Tribunal but from which no appeals could be preferred till the establishment of the Tribunal. Section 29-A was, therefore, inserted in the original Act

by Administrative Tribunal (Amendment) Act 19 of 1985 which received the assent of the President on March 25, 1986 and a period of 90 days was prescribed for filing the appeals from the date of the assent under this Section. As a period of 4 months 25 days or even more had already elapsed after the passing of the decree against which appeals could be filed u/s.29-A, the Parliament provided 90 days more for filing such appeals and to discourage any further delay in preferring such appeals no provision for condonation of delay in filing such appeals seems to have been made u/s.29 A like S.21 of the Act.

6. Several High Courts have held that inherent powers of the Court cannot be used to get over the period of limitation prescribed under Limitation Act. We may quote in this connection Mohd.Gulam Rabbani Vs. Bankipore Hari Sabha (A.I.R. 1973 Patna -358, Ram Shankar Vs. Lalita Prasad (A.I.R. 1964 Alld.-124) and Ram Yagya Vs. Jagannath Prasad (A.I.R. 1965 Alld.-64).

7. In view of these considerations, we are of the view that S.29-A does not contemplate that the period prescribed for filing appeals under it has to be enlarged by condoning the delay on any ground and we will, therefore, not exercise our inherent powers to do so. There is yet another ground in this case for not condoning the delay. The applicant has already filed an application under O.IX R.13 CPC for setting aside the ex parte decree which appears to be more appropriate remedy available to the applicant.

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8. The application for condoning the delay in filing this appeal is accordingly rejected and the appeal is dismissed as time barred.

Devanand

MEMBER (J)

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MEMBER (A)

Dated: 2nd Aug. 1988
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