

Registration O.A.No.1213 of 1988

U. G. Misra

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Applicant

Vs.

Sr. Superintendent, Posts  
and another

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Respondents.

Hon.D.S.Misra,AM

Hon. G.S.Sharma, JM

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

In this petition u/s.19 of the Administrative Tribunals Act XIII of 1985, the applicant challenges the validity and correctness of the punishment order dated 30.11.1984 passed by the respondent no. 1 dismissing the applicant from service and the order dated 28.5.1985 passed by respondent no.2 dismissing his appeal and for his reinstatement in service.

2. This petition was filed on 19.10.1988 with the allegation that it is within limitation prescribed by S.21 of the A.T.Act. At the time of hearing of this petition for admission on 26.10.1988, on the request of the learned counsel for the applicant he was allowed 3 weeks' time to study legal position as it prima-facie appeared to be time barred. The applicant, thereafter, moved an application on 24.11.88 for condonation of delay with the allegation that after the dismissal of his departmental appeal by the respondent no.2, under a wrong legal advice he filed an appeal before the Asstt. Labour Commissioner Allahabad on 30.12.1985. The Asstt. Commissioner first tried for reconciliation and on his failing in his efforts, he referred the matter to the Industrial Tribunal, Kanpur for adjudication. The Industrial Tribunal rejected the claim of the applicant on 16.5.88 on the ground that it was not maintainable there under the law. The applicant thereafter became ill and remained under treatment at Varanasi from 2.8.1988 to 16.8.1988 and could not file the petition earlier. His own affidavit was filed by the applicant stating these facts along with two medical certificates of private medical practitioners.

3. We have carefully examined the allegations made by the applicant for the condonation of delay. It is noteworthy that no explanation, whatsoever, was given by the applicant in his original petition for the delay after the rejection of his claim by the Industrial Tribunal and the petition was being



treated within time and it is only when this Tribunal found that the application was time barred, the applicant came forward with the allegation of his serious illness. The applicant on his own showing did not take any legal step before 30.12.1985 after the dismissal of his appeal on 28.5.1985 by the respondent no.2. This delay of long 7 months, thus, remains unexplained by the applicant. We are further of the view that after the establishment of the Tribunal and the applicant not being an industrial worker, he should have approached this Tribunal within a year from the date of the order of appeal and the petition, thus, having been filed more than 2 years after the prescribed period of limitation, is grossly time barred and the cause shown by the applicant for this delay, in our opinion, is not sufficient.

4. The application for condonation of delay is accordingly rejected and the petition is dismissed as time barred.

*[Signature]*  
JM

*[Signature]* 2/1/89  
AM

Dated: 2.1.1989  
kkb