

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ( ALLAHABAD BENCH ), ALLAHABAD.

O.A.NO. O.A.No. 315/92  
T.A.NO.

OF 199

Date of decision : 14.10.92

..... Union of India & DPO ..... Petitioner

..... Sri G.P. Agarwal ..... Advocate for the Petitioner.

Versus

..... Dan Singh and others ..... Respondent

..... Advocate for the Respondent (s).

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CORAM:-

The Hon'ble Mr Justice U.C.Srivastava, V.C.

The Hon'ble Mr. K.Obayya, A.M.

1. Whether Reporters of local papers may be allowed to see the judgment ? *N*
2. To be referred to the Reporter or not ? *N*
3. Whether their Lordships wish to see the fair copy of the judgment ? *N*
4. Whether to be circulated to all other Benches ? *N*

  
Signature

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD

O.A.No. 315/92

Union of India and others. ....Applicants

Versus

Dan Singh and others .....Respondents.

Hon'ble Mr. Justice U.C.Srivastava, V.O.  
Hon'ble Mr. K. Chavv. A.M.

( By Hon'ble Mr. Justice U.C.Srivastava, V.C.)

The respondents have not put in appearance even though the notice appears to have ~~xxx~~ been served upon him.

2. This application is directed against the order passed by the Prescribed Authority and the appellate order passed by the court of Addl. District Judge, Allahabad. The respondents have opposed that order under appeal in the payment of Wages Act on account of short payment and the application was allowed. Against the said order the Union of India filed an appeal in the court of District Judge which was transferred to the court of VII Addl. District Judge. The Addl. District Judge, VII has dismissed the appeal on the ground that it is barred by time. The Addl. District Judge took the view that section 5 of the Limitation Act does not apply to the proceedings under section 17 Indian Limitation Act. Under section 17 the prescribed period of 30 days for filing the appeal is provided but no clear consequence for not filing the appeal beyond the period of 30 days was provided, and as such the applicability of

Jaswant Singh Vs. Jagannath, 1954 Supreme Court 210 wherein it has been held wherever the period of consequences are not provided it cannot always be taken as mandatory. However, the period consequence has not been applied to the Addl. District Judge as the District Judge is vested with power to consider the question of condonation of delay and it appears that he did consider it by <sup>the</sup> ~~by~~ <sup>the</sup> suspicious circumstances and the delay was not condoned. The facts as stated by the applicant and as that on the record makes it clear that the delay being short having been sufficiently explained it was a fit case which should have been disposed of on merit to make a reference of the cases including the case of Supreme Court and in reply to the case the learned counsel for the applicant, as the position is very clear and as such the application is accordingly allowed. The orders dated 4.12.91 and 16.4.86 passed by the Addl. District Judge and Prescribed Authority are set aside and the Addl. District Judge/ District Judge are directed to dispose of the appeal on merits.

3. There is no order as to the costs.

A.M.

V.C.

Dated: Allahabad  
14th Oct., 1992

(AR)