

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 17th day of February, 2003.

Original Application No. 116 of 2003.

Hon'ble Maj. Gen. K.K. Srivastava, Member- A.

Chandra Shekhar S/o Sri Shiv Nath Ram  
R/o Vill. Parmanandpur, Post- Sajhoi  
Distt. Varanasi.

.....Applicant

Counsel for the applicant :- Sri Vivek Srivastava  
Sri Rajiv Trivedi

V E R S U S

1. Union of India through the Secretary,  
M/o Post and Communication, New Delhi.
2. Director, Postal Services, Allahabad.
3. Post Master General, Allahabad.
4. Superintendent, Post Offices, West Division,  
Varanasi.

.....Respondents

Counsel for the respondents :- Sri G.R. Gupta

O R D E R (Oral)

In this O.A filed under section 19 of the Administrative Tribunals Act, 1985, applicant has prayed for a direction to the respondents to decide the applicant's appeal dated 26.08.2002 (annexure- 3) taking it to be within time.

2. The facts, in short, are that the applicant was employed as Extra Departmental Delivery Agent (EDDA) in the respondents' establishment. He was put off from duty by the Assistant Superintendent of Post Offices, Varanasi

vide order dated 18.02.1992. The applicant preferred a representation before the respondent No. 4 on 04.06.1992. The applicant was served with charge-sheet on 10.12.1992. After completion of enquiry, the Enquiry Officer submitted his report on 27.12.1993 and the removal order was passed by the disciplinary authority on 28.02.1994. The applicant preferred an appeal against the removal order dated 28.02.1994. The appellate authority directed for DENOVO proceedings. However, the disciplinary authority passed the impugned removal order dated 28.06.1995 without holding any enquiry<sup>in fresh</sup>. The applicant challenged the order of the disciplinary authority by filing O.A No. 1062/95 and the same was disposed of by this Tribunal vide order dated 14.02.2002 holding that the O.A was premature and the applicant was directed to file a statutory appeal before the appellate authority within a period of one month from the date of communication of the order of this Tribunal.

3. Sri Vivek Srivastava, learned counsel for the applicant submitted that the applicant was hospitalised from 01.01.2002 to 14.07.2002 at Varanasi Hospital and Research Center and He got the order only on 22.08.2002. The applicant in compliance of the order dated 14.02.2002 passed by this Tribunal in O.A No. 1062/95 preferred an appeal on 26.08.2002 which has been rejected by the appellate authority vide impugned order dated 18.09.2002 on the ground that the same is barred by time. Hence this O.A.

4. Learned counsel for the applicant further submitted that the order of this Tribunal was passed on 14.02.2002. The applicant was already hospitalised at Varanasi Hospital and Research Center<sup>in</sup> upto 14.07.2002. Therefore, he could not adhere to the time framed setout by this Tribunal.

*[Signature]*



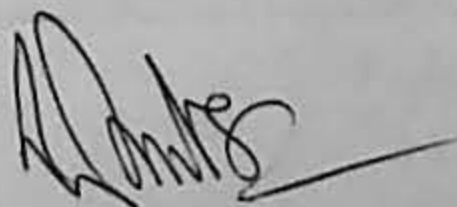
5. However, Sri G.R. Gupta, learned counsel for the respondents submitted that the applicant must have come to know about the order of this Tribunal and he could seek the help of some body to file the appeal within time. He failed to do so and does not deserve for consideration.

6. I have heard both the learned counsel for the parties and perused the records.

7. Admittedly the applicant was hospitalised at Varanasi Hospital and Research Center from 01.01.2002 to 14.07.2002. A copy of discharge certificate has been filed as annexure- 2. In the circumstances, the ground taken by the applicant that he was hospitalised and could not file<sup>h</sup> the appeal within time has force. The appellate authority should have considered this aspect that the applicant was hospitalised and was not in<sup>h</sup> position to file the appeal as<sup>h</sup> having been filed<sup>h</sup> within time. In my opinion, the ends of justice shall be served if the appeal of the applicant filed on 26.08.2002 is decided<sup>h</sup> by a reasoned order within specified time treating the appeal dated 26.08.2002 as having been filed within time.

8. The O.A is finally disposed of with direction to the respondents to treat the appeal dated 26.08.2002 as having been filed within time and the same shall be decided by a reasoned order within a period of three months from the date of communication of this order.

9. There will be no order as to costs.

  
Member- A.

/Anand/