

Jay Sankar Dehury ... Applicant
Versus
UOI & Ors. ... Respondents

Order dated 17 September, 2009.

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THE HON'BLE MR. JUSTICE K. THANKAPPAN, MEMBER (J)

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THE HON'BLE MR. C.R. MOHAPATRA, MEMBER (A)

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Applicant, in this Original Application under section 19 of the Administrative Tribunals Act, 1985 assails the order under Annexure-A/5 dated 13.05.2005 of the Disciplinary authority removing the Applicant from service at the end of the disciplinary proceedings initiated against the applicant and the order of the appellate authority under Annexure-A7 dated 02.08.2006 rejecting the appeal of the applicant on the ground of delay and laches in preferring the appeal.

2. After filing the counter by the Respondents, the Applicant has also filed rejoinder in this case.

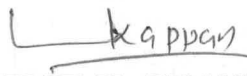
3. Having heard the rival submission of the parties, perused the materials placed on record. We feel that there is no need to go deep into the matter in view of the fact that the order of punishment is dated 13.05.2005(Annexure-A/5) and as per Rules he was to submit his appeal within a period of 45 days whereas he preferred the appeal on 15.07.2005 (Annexure-A/6). Admittedly there was delay of about 15 days. For this reason, the appellate authority instead of considering the merit rejected the appeal of the applicant on the ground of delay without

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dealing with the contentions raised by the Applicant in his appeal. Power has been vested with the appellate authority to condone the delay in appropriate case but it is not forthcoming from the order as to why the appellate authority was not inclined to invoke such power; especially when this being a case of removal that too the applicant was aged about 33 years. It is the consistent view of this Tribunal that hypertechnical law of limitation should not stand on the way of dispensation of justice. We would have appreciated the order of the appellate authority had he rejected the appeal of the applicant on technical ground at least after hearing the applicant on the point of delay. Having not done so, we are left with no option but to quash the order of the appellate authority under Annexure-A/7 and remit the matter back to him without expressing any opinion on the merit of the matter with direction to consider the appeal of the Applicant without being influenced by the contentions raised in the counter and pass a reasoned order on the merit within a period of sixty days from the date of receipt of this order. Ordered accordingly.

4. With the observation and direction made above, this OA stands disposed of. No costs.


(JUSTICE K. THANKAPPAN)
MEMBER (JUDICIAL)


(C.R. MOHAPATRA)
MEMBER (ADMN.)