

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**Jodhpur Bench: Jodhpur.**

**Original Application No. 117/2004**

**Date of decision: 06.08.2004**

**The Hon'ble Mr. J K Kaushik, Judicial Member.**

**The Hon'ble Mr. M K Misra, Administrative Member.**

Kanhaiya Lal Menariya, S/o Sh. Prathvi Raj Menariya, aged 58 years Assistant Post Master, Kankroli, Dist. Rajsamand r/o 17 Nani Gali, Udaipur.

: Applicant.

Rep. By Mr. M.A. Siddigui: Counsel for the Applicant.

**Versus**

1. The Union of India through the Secretary, Government of India, Ministry of Communication, Deptt. Of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. The Senior Superintendent of Post Offices, Udaipur Division, Udaipur.
3. Director, Postal Services, Rajasthan, (Southern Region) Ajmer, Nagaur.
4. Hon'ble Member (Personnel) Postal Services, Board, New Delhi.

: Respondents.

**ORDER**

**Mr. J K Kaushik, Judicial Member.**

Shri Kanhaiya Lal Menariya has filed this Original Application under Rule 19 of the Administrative Tribunals Act, 1985, and has prayed that the O.A may be allowed and the revision petition pending before the respondent No. 4 may be ordered to be decided at an early date.

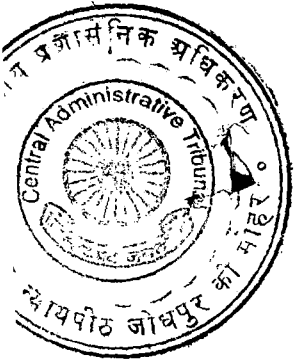
*[Handwritten signature]*



2. We have heard the learned counsel for the applicant at a great length on the admission and have carefully perused the records of this case.

3. The facts of this case as may be succinctly put in are that the applicant was faced with charge sheet under Rule 14 of the CCS (CCA) Rules, 1965 alleging contravention of certain provisions of Postal and Telegraph Manual Part. III. A detailed inquiry was conducted into the allegations and vide order-dated 15.10.93 at Annex. A/1 the disciplinary action culminated into imposition of penalty of reduction of his present pay to the minimum of the time scale for a period of 5 years, with further directions that the official will not earn any increment during the period of such reduction and on the expiry of such period of reduction, the reduction will postpone the future increments of pay. Further the applicant preferred an appeal to the Director of Postal Services and the same came to be rejected vide order-dated 07.04.97 at Annex. A/2. Subsequently he preferred revision petition dated 25.11.2002 but the same is pending and has not been decided so far.

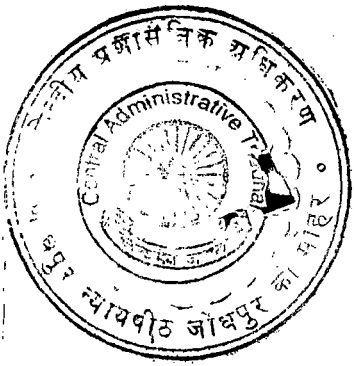
4. The learned counsel for the applicant has endeavored to persuade us that the respondents are taking unusual time in deciding the revision petition of the applicant which is pending for about one and a half years with them. He was confronted with a query as to how the O.A is within limitation in as much as the appellate order is dated 07.04.97 and the revision petition itself has been preferred after a period of 5 years. However, no satisfactory explanation was forthcoming and the learned counsel for the applicant insisted that a prayer of the applicant



*[Handwritten signature]*

may be accepted and OA may not be decided on merits since the final order is required to be passed by the reviewing authority itself.

5. We have considered the submissions put forth by the learned counsel for the applicant. As far as law of limitation is concerned as per Sec. 21 of the Administrative Tribunals Act the O.A is required to be filed within a period of one year from the date of final order and in case an appeal has been filed or any alternative remedy which is available is availed of and the final order in that having not been passed within prescribed period then he would get 6 more months i.e. (total of one year and six months period from the date of final order. If the applicant had statutory remedy of filing the revision petition the same has to be availed of within prescribed time for the same or at least within a reasonable time. Since no specific time is provided for filing the revision petition, six months time is a reasonable time to be taken and in that way the applicant ought to have filed the revision petition in October 1997 itself. But the same having been not done in this case, no benefit of limitation can be granted to him. The benefit of limitation can be granted only in cases where there is a provision of statutory appeal or statutory remedy and the same is availed of. The limitation of law has been propounded by the Apex Court by a Constitution Bench in the case of **S.S. Rathore vs. UOI** [AIR 1990 SC 10], wherein an elaborate discussion has been held on Sec. 21 as well as Sec. 20 of the Administrative Tribunals Act, 1985. It has been categorically held that the repeated representations or any other appeal or memorial, which is not provided in the statutory rules,




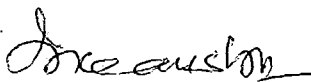
*[Handwritten signature]*

will not extend the period of limitation. In this view of the matter we come to an inescapable conclusion that the OA is hit by the limitation and the same cannot be entertained. We also find that the applicant has not filed any application for condonation of delay in the filing the O.A and hence this Tribunal cannot condone the delay. Until the delay is condoned, by the Tribunal the Tribunal will not proceed to examine the merits of this case. In this view of the matter, this case cannot be entertained. We also derive support of our view from a judgement of the Apex Court in the case of **Ramesh Chand Sharma vs. Udham Singh Kamal** [2000 (1) ATJ 172] wherein their Lordships of the Apex Court were examining the order passed by one of the Benches of this Tribunal, in which the OA relating to promotion matter was entertained on merits without their being an application for condonation of delay and also without condoning the delay. The order of the Tribunal was reversed holding that until the delay is condoned the case cannot be entertained on merits.



6. In view what has been said and discussed above, the OA sans merit and the same stands dismissed as hit by law of limitation in limine at the admission stage.

  
(M K Misra)  
Administrative Member

  
(J K Kaushik)  
Judicial Member.

Jsv./Lalit.

Recd. A.D. Copy of order with  
Petition Copy, Sumo do R-1 do R-4  
Micro 187 do 190 ct 09/8/04

R-1 do 3, Serial  
R-4, awaited

Receipt Copy

Tep  
13/8/04

Part II and III destroyed  
in my presence on 25/10/13  
under the supervision of  
section officer ( ) as per  
order dated 13/10/13

*J.R. Ghosh*  
Section officer (Records) 25.10.2013