

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

XXXXX XXXLXXXX
NEW BOMBAY BENCH

(21)

XXXXXXX

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T.A. No. 46/87

DATE OF DECISION 2.8.1989Shri K.S.Sonar

Petitioner

Advocate for the Petitioner(s)

Versus

Union of India and others.

Respondent s

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.S.Shah, Vice Chairman

psj

The Hon'ble Mr. P.S.Chaudhuri, Member (A)

Ch

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal?

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY 400 614

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T.A.No. 46/87

Shri K.S.Sonar
Bharat Ratna Indira Nagar,
Zopadapatti, Opp. Pundalik's
Floor Mill, Solapur.

... Applicant

Vs.

1. Union of India through
The General Manager,
Central Railway,
Bombay V.T.

2. The Divisional Railway Manager,
Central Railway, Solapur.

... Respondents

CORAM: Hon'ble Vice Chairman Shri P.S.Shah
Hon'ble Member (A) Shri P.S.Chaudhuri

ORAL JUDGMENT

Dated 2.8.1989

(PER: P.S.Shah, Vice Chairman)

Mr.M.M.Sudame, Advocate for the applicant states that he has returned the papers of this case to the applicant about one month back and he has instructed the applicant to make his own arrangements for this case. He also states that he has given his no objection for appearance of some other advocate. Mr.Sudame has asked for an adjournment on that ground. The adjournment is refused. If the papers have been taken away by the applicant, it was the applicant's duty to make arrangements to remain present either through Advocate or in person today, which is the date of hearing of the M.P.No. 269/82 which has been transferred to this Tribunal by the Civil Court. The case to proceed for hearing on merits.

2. In this case, the applicant had filed a civil suit in the court of the Civil Judge, Senior Division at Solapur challenging the order of his removal from service w.e.f. 10.8.1978. The suit was filed on 29.9.1982 i.e. after the period of limitation was over. The applicant, therefore, filed an application for condonation of delay under Section 5 of Indian Limitation Act, the same day in the said suit.

Om

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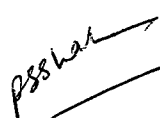
3. The first question is whether the application for condonation of delay in filing a civil suit is ^mnot maintainable. Section 5 of the Indian Limitation Act provides for extension of a prescribed period of limitation in certain cases. It provides that any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period. This would show that the provision is applicable only to an appeal or application and not to a suit.

4. Since, in our opinion, the application for condonation is not maintainable, the same must stand rejected. Consequently, the civil suit which is clearly barred by limitation, being filed after the expiry of the prescribed period of three years from the date of cause of action must also stand dismissed as barred by limitation, having regard to the provisions of Section 3 of Limitation Act. Even taking into account the period of two months of notice under Section 80 of the Civil Procedure Code, the suit ought to have been filed on or before 10.10.1981. The suit is thus obviously barred by limitation and must stand dismissed.

5. Tr.A.NO. 46/87 accordingly stands rejected. However, we direct that there shall be no order as to costs.



(P.S. CHAUDHURI)
Member (A)



(P.S. SHAH)
Vice Chairman