

3

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

Original Application No.151/90
Miscellaneous Petition No.210/90

Mr. Clement Bara ... Applicant

vs.

Union of India & Ors. ... Respondents

CORAM : Hon'ble Member (J), Shri A.P.Bhattacharya
Hon'ble Member (A), Shri M.Y. Priolkar.

Appearances:

Shri M.A. Mahalle, Advocate,
for the applicant.

None present for the
respondents.

JUDGEMENT:

Dated : 18.7.1990

[Per. Shri A.P.Bhattacharya, Member (J)]

This application under Section 19 of the Administrative Tribunal^s Act, 1985, has been filed by Shri Clement Bara against Union of India, represented by the Secretary, Ministry of Commerce and two others. The applicant has filed the Miscellaneous Petition praying for condonation of delay.

2. Against the applicant a charge sheet was issued on 16.2.1982. After holding an enquiry, the Enquiry Officer submitted his report with a finding of guilt against him. Accepting the report submitted by the Enquiry Officer, the disciplinary authority imposed a penalty by reducing his pay by 8 stages for a period of five years with effect from 1.7.1983. It was further directed that he would not get increment of pay during the period of reduction and after expiry of ^{that} period such reduction would ^{have} ~~be~~ the effect of postponing his future

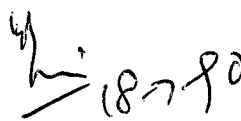
Cont'd. . . 2/-

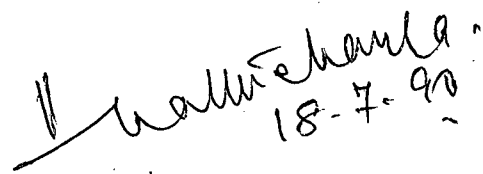
increment of pay. He preferred an appeal which ended in rejection. In filing the application, the applicant has prayed for quashing the charge sheet and the report submitted by the Enquiry Officer, the order passed by the disciplinary authority imposing the penalty on him and the appellate order passed by the appellate authority. In his Miscellaneous Petition the applicant has prayed for condonation of the delay in filing the ^{original} application.

3. At the very outset we must say that the applicant's claim is stale and is hopelessly barred by limitation. The allegation made against him in the charge sheet issued on 16.2.82 was that he remained absent from 29.6.1981 without permission. From the record we find that the applicant with his defence assistant attended the enquiry. Annexure A-2 to the application shows that on 13.2.1986 the disciplinary Authority imposed the penalty as mentioned above on him annexing a copy of the enquiry report thereto. On 21.3.86 (vide Annexure A-13) the applicant ^{preferred} ~~prayed for~~ an appeal which was rejected by the appellate authority on 27.10.1986. The present application has been filed by the applicant on 8.3.1990. In referring to Annexure A-14 to the application it has been argued by the side of the applicant that a review application was made by him thereafter to the Minister of Commerce. That appeal was filed on 1.12.86. Not getting any reply to the review application he submitted a memorial to the President of India. In our opinion submission of the review application to the Minister and a memorial to the President of India the applicant would not get any extension of ^{the} period of limitation. His period of limitation would begin to start from 27.10.86 when his appeal, as provided by the relevant rules, was rejected by the appellate authority. By no ^{stretch} ~~stage~~ of imagination the Minister of Commerce would be taken as the reviewing

(5)

authority to whom the applicant would prefer a review application. It has been held by the Supreme Court in the case of S.S. Rathore v/s State of Madhya Pradesh, reported in AIR 1990, Supreme Court, Page 10, that submission of just a memorial or representation to the Head of the establishment shall not be taken into consideration in the matter of fixing limitation. The appeal to the Minister or a memorial to the President of India cannot be regarded as a ^{step towards} ~~stage of~~ exhaustion of departmental remedies as contemplated in section 20 of the Administrative Tribunal's Act, 1985. Such being the position and as and when the application had not been filed within the period contemplated in Section 21 of the aforesaid Act this application is liable to ~~the be~~ rejected. The grounds mentioned by the applicant in his Miscellaneous Petition are not at all satisfactory. So, considering all, we dismiss both the original application and ^{the} Miscellaneous Petition summarily.


(M.Y. Priolkar)
Member (A)


(A.P. Bhattacharya)
Member (J)