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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JODHPUR BENCH,
AT JAIPUR.

Date of decision: December 15, 1988.

O.A.No.604/1988

SHRI MAHESH CHANDRA VERMA

... Applicant.

Mr. A.L. Verma

... Advocate for the
applicant.

Versus

GENERAL MANAGER, (TELECOM),
DISTRICT JAIPUR & OTHERS.

... Respondents.

CORAM:

The Hon. Mr. B.S.Sekhon, Vice Chairman.

The Hon. Mr. G.C.Singhvi, Admn. Member.

B.S. SEKHON.

The following adverse remarks were made by
respondent No.4, Shri K.G.Arora, Assistant Engineer,
in the ACR of the applicant for the year 1983-84:-

" Col.8(e)(iii)

Remarks

Ability to carry out
adjustment.

"Poor"

The aforesaid remarks were conveyed to the applicant
vide communication dated May 18, 1984 (copy Ann.A.1).
As per his application dated May 22, 1984, the applicant
sought some information and thereafter submitted an
appeal to the Divisional Engineer Phones (Internal) on
June 28, 1984. Copy of the appeal is Ann.A.3. The appeal
was rejected by the Divisional Engineer Phones on
December 31, 1984. While rejecting the appeal the D.E.
upheld the adverse remarks and confirmed the same.
The applicant filed a review application to the D.E.
on May 31, 1985 and submitted an appeal to the District
Manager Phones on April 15, 1986. Copies of the review
application and appeal are Anns.A.5 and A.6 respectively.
Two representations were submitted by the applicant to
the General Manager (Telecom) on September 8, 1987 and
February 18, 1988. Copies of the same are Anns.7 and 8
respectively. By virtue of the communication dated

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March 18, 1988 the applicant was advised that the Appellate Authority is D.E. and that he should represent to the D.E. and not to the G.M. In this Application preferred under section 19 of the Administrative Tribunals Act, 1985 the applicant has prayed for expunction of the aforesaid adverse remarks as also for quashing the orders of the Appellate Authority.

2. The grounds set forth in the Application are that respondents No.3 and 4 wrote the ACR mala fide, without any basis, respondent No.4 has been bearing grudge against the applicant as he had made a complaint against him to the effect that he was allowing over-time to other persons who were not in his unit, the procedure prescribed in Rules 174, 175, and 179 of the P & T Manual Vol.III had not been followed, respondent No.4 never apprised him about any unsuitability or lack of knowledge or anything adverse to the applicant during the whole year and that the adverse remarks are arbitrary and against the principles of natural justice.

3. It is evident from a perusal of the prayer clause that the applicant seeks expunction of the adverse remarks passed for the year 1983-84 and quashing of the orders made by the Appellate Authority. The grievance arose on the date when the adverse remarks were communicated to the applicant, that is on May 18, 1984 as also on the date when the orders dated December 31, 1984 made by the Appellate Authority were communicated to the applicant. The Application is thus ex-facie barred by limitation. Cognisant of the aforesaid position, the applicant has submitted a petition under section 21(3) of the Administrative Tribunals Act, 1985 praying for condonation of delay. What is thus to be seen is as to whether the applicant has made out a sufficient cause in support of the request for condonation of delay. The ground

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put forward by the applicant is that he has challenged the order dated Feb. 29, 1988, whereby his representation was rejected by respondent No. 1. Saying that the copy of the aforesaid order is Ann. A. 6, the applicant has asserted that he was advised by his counsel that he can file an Application under section 19 of the Act within six months of the date of rejection of the representation and that the delay has occurred on account of legal advice tendered to him which was also believed by him. According to the applicant, his belief was honest and bona fide and that there was sufficient cause for not making the Application within the period of limitation. There is no order of February 29, 1988. Copy Ann. A. 6 is really a copy of the appeal dated April 15, 1986. The assertion of the applicant that the communication dated February 29, 1988 is the only communication of rejection of his representation is not well founded. Ann. A. 4 goes to show that the applicant's appeal had been rejected by the D.E. as far back as December 31, 1984. The cause of action accrued to the applicant on the date he was conveyed the decision of the D.E. rejecting his appeal. The factum of applicant having been advised of the decision of the D.E. stands established from Ann. A. 5, copy of the further representation dated May 31, 1985 made by the applicant. It is common place that mere making of representation and that too to the authorities who were not competent to entertain the same does not enlarge the period of limitation. The petition about condonation of delay also does not disclose the name of the advocate who tendered legal advice and the date on which such advice was given. On the basis of such a vague petition which is also full of inaccuracies, we find it difficult to return a finding that the applicant has made out a sufficient cause for condonation of delay. Such a

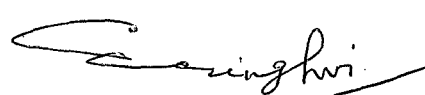
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finding cannot be returned even if a very liberal yardstick is adopted.

4. In sum, the petition for condonation of delay merits rejection. Consequently, the Application is hereby rejected at the admission stage on the ground of its being barred by limitation.


(G.C. Singhvi)
Admn. Member.
15-12-88.


(B.S. Sekhon)
Vice Chairman.
15-12-88

Copy of decision sent to the -
Pet. C Sri Mahesh Chandra Verma
Vide D.O. 6103 of 22 Dec 1988
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