

**(2002) 03 AHC CK 0109**

**Allahabad High Court**

**Case No:** Civil Miscellaneous Writ Petition No. 11541 of 2001

Uma Shankar

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

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**Date of Decision:** March 20, 2002

**Acts Referred:**

- Administrative Tribunals Act, 1985 - Section 21, 21(3)

**Citation:** (2002) 3 UPLBEC 2169

**Hon'ble Judges:** Rakesh Tiwari, J; M. Katju, J

**Bench:** Division Bench

**Final Decision:** Dismissed

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### **Judgement**

M. Katju and Rakesh Tiwari, JJ.

Heard learned Counsel for the petitioner and Sri Govind Saran, learned Counsel for the respondent. The petitioner is challenging the impugned order of the Central Government dated 2nd February, 2001. The Tribunal has dismissed the O.A. on the ground of limitation prescribed u/s 21 of the Administrative Tribunal Act. The learned Counsel for the petitioner submitted that once a petition has been admitted by the Central Administrative Tribunal it cannot be dismissed on the ground of limitation. This argument is not correct. It is the duty of a Court to dismiss a petition on the ground of limitation unless the delay has been condoned. Hence, unless an application has been filed for condonation of delay u/s 21(3) of the Administrative Tribunal and such application is allowed, the Tribunal has to dismiss the petition on the ground of limitation even if it had earlier admitted the petition. Merely because the Tribunal has admitted a petition, that does not mean that it can overlook the point of limitation, rather the correct position of law is that it has to be dismissed on the ground of limitation unless the delay is condoned u/s 21(3) of the Act.

2. In this case no application u/s 21(3) had been filed and the petition had been dismissed for default on 9th May, 2000 and the recall application was also dismissed

on 7th November, 2000 both of which orders were recalled on 2nd February 2002. However, the Tribunal did not permit the petitioner to file a delay condonation application at such a late stage. The Tribunal rightly dismissed the O.A. as barred by limitation (wrongly called laches by the limitation). There is no infirmity in the order of the Tribunal and it is accordingly dismissed.