

**ORDERS OF THE BENCH**

**Date of Order: 09.10.2014**

MA No. 291/00173/2014 & MA No. 291/00174/2014  
(OA No. 321/2005)

Mr. C.B. Sharma, counsel for applicant.  
Mr. Mukesh Agarwal, counsel for respondents.

MA No. 291/00174/2014

Heard on the M.A. No. 291/00174/2014 filed on behalf of the applicant praying for revival of O.A. No. 321/2005.

Learned counsel for the applicant submitted that vide order dated 04.10.2006 in OA No. 321/2005, it was stated that the case is adjourned sine die and will be revived after the decision of the Apex Court in the case. He further submits that since the case before the Hon'ble Apex Court has already been decided, therefore, the O.A. needs to be heard on merit now. He prayed that the O.A. be revived. Learned counsel for the respondents also agreed that the case before the Hon'ble Apex Court has since been decided and, therefore, the present O.A. can be revived to be heard on merit. Accordingly, the M.A. No. 291/00174/2014 is allowed and the O.A. No. 321/2005 is restored to its original number and status.

MA No. 291/00173/2014

Heard on the M.A. No. 173/2014 filed on behalf of the applicant praying for taking legal heirs on record.

In this application, the applicant herein submitted that during the pendency of the adjudication, mother of the present applicant expired on 06.08.2010. The present applicant is legal heir of late Smt. Chameli Devi Kothari W/o late Shri B.L. Kothari (applicant in OA) being son of the deceased (Smt. Chameli Devi Kothari) and, therefore, the name of the present applicant be taken on record.

Learned counsel for the respondents has no objection for taking the name of the present applicant on record as legal heir. Accordingly, the Misc. Application No. 291/00173/2014 is allowed. The amended cause title filed along with the M.A. is taken on record.

OA No. 321/2005

With the consent of the learned counsel for the parties, the O.A. was heard.

Order is reserved.

*Anil Kumar*  
(ANIL KUMAR)  
ADMINISTRATIVE MEMBER

Kumawat

15/X/14  
order pronounced  
today in the  
open court  
15/10/14  
C-0.

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

**ORIGINAL APPLICATION NO. 321/2005**

Order Reserved on: 09.10.2014

**Date of Order:** 15.10.2014

**HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER**

1. Smt. Chameli Devi Kothari W/o late Shri B.L. Kothari, aged about 67 years, R/o 13, Kalyan Colony, Tonk Phatak, Jaipur-302015 and family pensioner of Central Government after death of her husband on 22/02/2005.

(Deceased)

- 1/1. Dinesh Kumar Kothari S/o late Shri B.L. Kothari, aged about 55 years, R/o 13, Kalyan Colony, Tonk Phatak, Jaipur - 302015.

...Applicant

Mr. C.B. Sharma, counsel for applicant.

**Versus**

1. Union of India through its Secretary, Department of Posts, Ministry of Communication and Information Technology, Sanchar Bhawan, New Delhi - 110001.
2. Principal Chief Post Master General, Rajasthan Circle, Jaipur - 302007.

...Respondents.

Mr. Mukesh Agarwal, counsel for respondents.

**ORDER**

The present O.A. was filed by Smt. Chameli Devi Kothari W/o late Shri B.L. Kothari being aggrieved by the letter dated 21.02.2005 (Annexure A/1) issued by the respondents informing that the medical claim bill for Rs. 1,44,614/- are being returned in

*Anil Kumar*

original because there is no provision for medical reimbursement for pensioners.

2. The respondents have filed their reply.

3. The applicant also filed rejoinder to the reply.

4. This Bench of the Tribunal vide order dated 04.10.2006 after hearing the parties, adjourned the O.A. sine die and directed that it would be revived after the decision of the Apex Court in the case. When the case was heard on 09.10.2014 on the M.A. No. 291/00174/2014 for the revival of the O.A., it was agreed between the counsels for the parties that this controversy of providing medical reimbursement to the pensioners of the Postal Department has been settled by the Hon'ble Apex Court. Therefore, the present O.A. was heard on merit with the consent of the parties.

5. The brief facts of the case are that Shri B.L. Kothari (father of the present applicant) retired from the post of Senior Superintendent of Post Offices, Jaipur City, Postal Division, Jaipur and was pensioner of the respondent-department. Shri B.L. Kothari due to the sudden heart problem was admitted in emergency in Tongia Heart and General Hospital, Jaipur and after treatment submitted a medical claim of Rs. 1,44,614/-. This medical claim was returned by the respondents on the ground that there is no provision for pensioner for indoor treatment and they are eligible only for outdoor treatment facilities.

6. Learned counsel for the applicant argued that this controversy has been settled by the Hon'ble Apex Court in the SLP (C) No.

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10659/2005 – **Union of India vs. Prabhakar Sridhar Bapat.** He further submitted that SLP filed by the respondents has been dismissed. The respondents filed a Review Petition No. 1258/2013, which has also been dismissed by the Hon'ble Supreme Court. Thus, the decision of the Hon'ble Apex Court in the case of Union of India vs. Prabhakar Sridhar Bapat has attained finality. He also submits that the similar controversy has been decided by this Bench of the Tribunal in OA No. 360/2013 in the case of **M.D. Pareek vs. Union of India & Ors.** vide order dated 22.04.2014 and the facts and the case law are similar in the present O.A. to that of M.D. Pareek vs. UOI & Ors. (supra). Therefore, the present O.A. can be decided in terms of the orders of this Bench of the Tribunal in OA No. 360/2013 – M.D. Pareek vs. UOI & Ors. (supra).

7. Learned counsel for the applicant submitted that the provisions of Central Services (Medical Attendance) Rules, 1944 are applicable in the cases of retired employees of the Postal Department after the orders passed by the Hon'ble Central Administrative Tribunal, Ahmedabad Bench which was upheld by the Hon'ble High Court of Gujarat and thereafter SLP preferred before the Hon'ble Supreme Court has also been dismissed.

8. In support of his claim, the learned counsel for the applicant also referred to the following case law: -

"(i). Mr. Sadashiv B. Marathe vs. Union of India & Ors. (OA No. 99/2004) - order dated 12.05.2004 – C.A.T., Ahmedabad Bench.

(ii). SCA No. 13120/2004 with SCA No. 13121/2004 and SCA No. 23122/2004 - judgment dated 08.10.2004 – Hon'ble High Court of Gujarat.

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(iii). Shri Chander Shil Bhatia vs. Union of India & Ors. (OA No. 1988/2004) – order dated 06.09.2005 – C.A.T., Principal Bench, New Delhi.

(iv). Union of India vs. late Shri C.S. Bhatia th. P.K. Bh. [WP (C) 3882/2006 – judgment dated 07.11.2008] – Hon'ble High Court of Delhi.

(v). Bhol Ram Sharma vs. Union of India & Ors. (OA No. 456/2007) – order dated 26.11.2009 – C.A.T., Jaipur Bench.

(vi). Sarishti Pal Bhalla vs. Union of India & Ors. (OA No. 631/2011) – order dated 06.12.2012 – C.A.T., Jaipur Bench.

(vii). Union of India & Anr. Vs. Prabhakar Sridhar Bapat [Special Leave to Appeal (Civil) No(s). 10659/2005] – judgment dated 03.04.2012 – Hon'ble Supreme Court of India.

According to the learned counsel for the applicant, in all these cases, it has been settled that the retired Govt. Servants of the Department of Posts and Telecom are entitled for the reimbursement for their medical claims.

9. Learned counsel for the respondents agreed with the averments made by the learned counsel for the applicant that the SLP filed by the Union of India before the Hon'ble Supreme Court in the case of Union of India vs. Prabhakar Sridhar Bapat has been dismissed by the Hon'ble Supreme Court and the Review Petition filed by the Union of India before the Hon'ble Supreme Court has also been dismissed by the Hon'ble Supreme Court and, thus, the decision of the Hon'ble Supreme Court in the case of Union of India vs. Prabhakar Sridhar Bapat has attained finality. However, he

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submitted that as per Rule 2, Note 2 (iv) of the Central Services (Medical Attendance) Rules, 1944, the same are not applicable to the retired Government servants. Therefore, when according to the rules, the applicant was not entitled for medical reimbursement, therefore, his papers for medical reimbursement were returned to him.

10. After hearing learned counsel for the parties, perusal of the record and the case law referred to by the learned counsel for the applicant, I am of the opinion that the learned counsel for the applicant has made out a case for grant of relief in the present O.A. The case of medical reimbursement of the father of the present applicant was returned by the respondents on the ground that there is no provision for indoor treatment for pensioners. However, it is now settled by the judgment of the Hon'ble Supreme Court that even the pensioners of the Post and Telecom Department are entitled for medical reimbursement and this fact is not disputed even by the learned counsel for the respondents. Therefore, the present O.A. is being disposed of in terms of the orders of this Bench of the Tribunal **in OA No. 360/2013 (M.D. Pareek vs. UOI & Ors.)** dated 22.04.2014 (supra).

11. Therefore, in my considered opinion, the case of the present applicant's father can now be considered afresh by the respondents in view of the decision taken by the Hon'ble Supreme Court in the **SLP (C) No. 10659/2005 - Union of India vs. Prabhakar Sridhar Bapat.**

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12. Accordingly, the present applicant is directed to submit the claim of medical reimbursement of his father before the respondents afresh within a period of one month from the date of this order and the respondents are directed to process the claim of the applicant and pass necessary orders within a period of three months from the date of receipt of the medical reimbursement claim from the applicant.

13. With these observations and directions, the present Original Application is disposed of with no order as to costs.

*Anil Kumar*

(ANIL KUMAR)  
ADMINISTRATIVE MEMBER

Kumawat