

**Central Administrative Tribunal
Principal Bench**

**RA No.181/2015
in
OA No.3419/2012**

New Delhi, this the 21st day of April, 2016

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. P. K. Basu, Member (A)**

1. Mahanagar Telephone Nigam Ltd., through
CMD, Jeevan Bharti Tower, 12th Floor,
Connaught Place, New Delhi-110001.
2. The Executive Director,
Mahanagar Telephone Nigam Ltd.,
Telephone House, Prabha Devi,
Bhavani Shankar Road,
Dadar (West), Mumbai-400028. ... Applicants

(By Advocate: Shri R. N. Singh)

Versus

1. T.R.K.R. Kumhar,
568, K/56, Krinapalli,
Alambagh, Lucknow-226005.
2. Vinod Kumar Verma,
Quarter No.E-3,
BSNI Telephone Exchange,
J.P.Nagar, Jalandhar, Punjab.
3. R.S. Bhatnagar,
A-302, Shanti Nath Avenue,
Chakradhar Nagar,
Nalla Sopara West,
Distt. Thane, Maharashtra-401203.
4. Rajender Singh Tushir,
1125, Village & PO Alipur,
Near Sabji Mandi, Delhi-110036. ... Respondents

(By Advocate : Shri Puneet Verma)

ORDER

Justice Permod Kohli, Chairman :

This review is directed against the order dated 05.05.2014 passed by this Tribunal in OA No.3419/2012, whereby following directions were issued:

“8. In the above facts and circumstances of the case, we have no hesitation to allow this OA. Accordingly, the impugned Office Orders dated 30.04.2011, 19.03.2012 and 08.08.2012 are quashed and set aside. However, in our considered view, the 12% interest claimed by the Applicants is quite arbitrary and it has no basis. We, therefore, allow the interest at the rate applicable to the General Provident Fund (GPF). Accordingly, we direct the Respondents to calculate the interest at the GPF rate for the amounts of compensation paid to the Applicants and disburse the same within a period of 2 months from the date of receipt of a copy of this order. They shall also calculate the interest at the same rate and paid to the Applicants on newspaper allowance and bonus if they were also not paid from the due dates. They shall also, for the sake of convenience of the Applicants, furnish a detailed calculation sheets pertaining to the total interest payable to them on account of all the three accounts, i.e., the monthly compensation @ Rs.3000/-, newspaper allowance and bonus. The aforesaid directions shall be complied with, within a period of 2 months from the date of receipt of a copy of this order.”

2. The review petitioners preferred a writ petition [WP(C) No.6539/2015] before the Hon'ble High Court of Delhi. The said petition was, however, withdrawn to avail the remedy of review on two counts, i.e., (i) the question of limitation, and (ii) *res judicata* have not been considered by the Tribunal. The review petitioners were allowed liberty to file review petition with the further observation that in the event review is

filed within ten days, it would not attract the period of limitation. It is under these circumstances that the present review petition has been filed.

3. Learned counsel appearing for the review petitioners has argued that the OA filed by the respondents herein was barred by time, and that though the plea of limitation was specifically raised in the counter filed to the OA, but the same has not been decided. In response to this argument, it is contended that at the time of hearing the OA, the plea of limitation was never argued and is deemed to have been abandoned. Learned counsel for the review petitioners further submitted that the OA was hit by the doctrine of *res judicata*, including constructive *res judicata*. This plea is also opposed by the other side on the same line that no such plea was invoked during the course of arguments while addressing the court.

4. We have heard the learned counsel for the parties. The scope of review is limited, confined to the grounds under Order XLVII Rule 1 of the Code of Civil Procedure, read with Section 22 (3) (f) of the Administrative Tribunals Act, 1985. Though in paragraph 5(a) of the review petition, the ground urged is error apparent on the face of record, however, learned counsel for the review petitioner has not been able to show us any such error apparent on the face of the record from the judgment under review. Otherwise also, the contention of the review petitioner that the OA was barred by limitation has not been substantiated from the record, what to say of the judgment under review. There is no

specific averment in the counter on the plea of limitation except a vague preliminary objection that the claim is barred by limitation, delay and laches. Similarly, on the question of *res judicata* as well, no specific averment is contained in the counter affidavit nor is apparent from the judgment impugned to establish that the doctrine of *res judicata* is attracted in any manner.

5. No merit. Review dismissed.

(P. K. Basu)
Member (A)

(Permod Kohli)
Chairman

/as/