

**Central Administrative Tribunal
Principal Bench**

RA No.114/2016 in
OA No. 42/2014

This the 31st day of May, 2016

Hon'ble Mr. V. N. Gaur, Member (A)

1. Smt. Shakuntala
W/o Late Sh. Mahesh Chand
2. Vineet (Minor son aged 16 years)
S/o Late Sh. Mahesh Chand
R/o: C-69/C, Mandawali Fazalpur,
Unchepar, Delhi-110092.
Also at:
B-82/B, Lajpat Nagar,
Sahibabad Ghaziabad, U.P.

- Applicants

Versus

Union of India through

1. Secretary,
(Department of Telecommunication),
Sanchar Bhawan,
20, Ashoka Road,
New Delhi.
2. The CGM/Chief Accounts Officer,
MTNL, Eastern Court, Janpath,
New Delhi-110001.
3. The CMD
Mahanagar Telephone Nigam Limited,
At Khursheed Lal Bhawan,
New Delhi-110050.
4. Smt. Sushila Devi
W/o Late Sh. Mahesh Chand
5. Smt. Rajjo Devi
W/o Late Sh. Ram Kishan
(Mother of Late Sh. Mahesh Chand)

Respondents No.4 and 5
R/o: Quarter No.1727, GPO,
Kashmere Gate, Delhi-110006.

- Respondents

ORDER (IN CIRCULATION)

The review applicants have filed this RA in OA No.42/2014 which was dismissed by this Tribunal on 17.05.2016 with the following order:

“8. It is further noted that the applicants and the respondents no. 4 and 5 and other family members of the deceased employee from the first marriage, have entered into a MOU where the terms have been laid down for sharing movable and immovable assets left behind by late Sh. Mahesh Chand including the service dues and benefits from the official respondents. This MOU has not been denied by the respondents 4 and 5. In the MOU with regard to the amount of leave encashment, CGEGIS, arrears of salary, gratuity, GPF and any other payment from the office of the deceased employee the family members of the deceased employee from the first marriage have agreed to give Rs.4,00,000/- in lumpsum to the applicants no.1 & 2 as a mutually agreed share of the latter in the aforementioned dues. The MOU also lays down their decision with regard to the compassionate appointment, family pension, any dues from MTNL Society and any other movable/immovable property etc. In such a situation, it is upto the parties to the MOU to honour the terms agreed to among themselves. If one party has agreed to pay Rs.4,00,000/ to the other party, the same can be done even after the pensionary dues have been received by one party from the official respondents without their involvement. This Tribunal cannot give any direction in the matter.

9. In the above circumstances, the OA is found to be devoid of merit and the same is dismissed.”

2. In the grounds for review of the aforementioned order in the review application it has been stated that the Tribunal had observed in the operative para of the judgment that applicants and respondents no.4 & 5 and the other family members of the deceased employees had entered into MOU whereby respondents

no.4 & 5 have agreed to give Rs.4,00,000/- to the applicants. The Tribunal relying on the said MOU had left it open to the parties to settle their mutual claims and refused to give any further direction in the matter. The result is that respondents no.4 & 5 are hand in glove with the official respondents and have denied the applicants their legitimate claims including the sum of Rs.4,00,000/- to the applicants. It has been further submitted that the applicants are legal heirs of the deceased employee. The Tribunal after observing that the child born from the first marriage of the deceased employee had all legal rights but grossly erred in not deciding and granting the rights to applicant no.2, the son of the deceased employee. It has been pointed out that the official respondents were in undue haste while releasing the DCRG and pensionary benefits to the respondents no.4 & 5 which clearly smacks of malafide on their part, and therefore, the applicants have made a prayer for review of the order dated 17.05.2016.

3. The law with regard to the review of its own order by Courts is quite clear. There is limited scope for entertaining a request for review as by way of review neither the applicants can reargue their case nor the Tribunal can act as its own appellate authority. The Tribunal cannot recall its earlier order until there is an error apparent on the face of the record or where new facts or evidence

have been brought in, which could not be done in the first instance despite a thorough due diligence.

4. The power of review of its own order by this Tribunal emanates from Section 22(3)(f) of the Administrative Tribunals Act. In ***Ajit Kumar Rath v. State of Orissa and Others***, (1999) 9 SCC 596 the Hon'ble Apex Court held that "power of review available to the Tribunal under Section 22 (3)(f) is not absolute and is the same as given to a Court under Section 114 read with Order 47 Rule 1 of CPC."

5. In ***Union of India v. Tarit Ranjan Das***, (2004) SCC (L&S) 160 the Hon'ble Apex Court held that the scope of review is rather limited and it is not permissible for the forum hearing the review application to act as an appellate authority in respect of the original order by a fresh order and rehearing of the matter to facilitate a change of opinion on merits.

6. From a perusal of the review application and grounds on the basis of which review has been sought it is quite clear that the review applicants have failed to point out any error on the face of record that would justify invoking the review justification of the Tribunal. The facts narrated in the review application are nothing but a repetition of what had already been brought out in the OA and were taken note of in the order dated 17.05.2016 before

arriving at the final decision. There is no new fact or evidence pleaded in the RA.

7. RA is, therefore, devoid of merit and the same is dismissed as such.

‘sd’

(V.N.Gaur)
Member (A)