

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No. 3775/2015

New Delhi, this the 28th day of April, 2016.

**HON'BLE MR. JUSTICE PERMOD KOHLI, CHAIRMAN
HON'BLE MR. SUDHIR KUMAR, MEMBER (A)**

Neeta Dutta, Retd. Hindi Translator,
Aged about 52 years,
W/o Shri Santanu Dutta,
C/o Vandana Sharma
Jalvayu Vihar, Sec-25, N-290,
Noida-201301. ... Applicant

(By Advocate: Ms.Priyanka Bhardwaj for Shri M.K.Bhardwaj)

Versus

1. Union of India
Through its Secretary,
Ministry of Information and Broadcasting,
Shastry Bhawan, New Delhi.
2. Prasar Bharti,
Through its Chief Executive Officer,
2nd Floor, PTI Building,
Parliament Street, New Delhi.
3. The Director General,
All India Radio, Akashvani Bhawan,
Sansad Marg, New Delhi.
4. The Pay & Accounts Office,
Through its Chief Executive Officer,
All India Radio, Akashvani Bhawan,
Parliament Street, New Delhi. ... Respondents

(By Advocate:Shri Rajeev Sharma)

ORDER (ORAL)

By Mr. Justice Permod Kohli

On 25.04.2015, learned counsel for the respondents was granted time to examine as to whether this matter is covered by earlier judgment of this Tribunal.

2. Today, short reply has been filed on behalf of respondents no.2 to 4. The reply makes an interesting reading. In Para-5 of the reply, it is specifically admitted by the respondents that the case of the applicant is squarely covered by the judgment dated 21.08.2014 passed by this Tribunal in OA No.1938/2013 and connected OA No.2985/2013 - ***Lalita Joshi & others v Union of India & others.*** It is further indicated that the applicant, being similarly situated person, is entitled to the Grade Pay of Rs.6600/- in terms of order dated 06.01.2015. It is also acknowledged that the applicant is entitled to release of withheld amount of Rs. 3,70,216/- and vide letter dated 08.01.2015, Respondent No.4 (Pay & Accounts Officer) was requested to release the withheld amount, and also settle the pensionary benefits of the applicant by granting the Grade Pay, as mentioned above.

3. The Respondent No.4 has, however, taken a different view, and has refused to grant necessary relief to the applicant as per her entitlement. From perusal of the communication dated 11.06.2015 at page 90 of the main OA, it appears that the applicant has been denied the relief merely on the ground that the cited judgment was *in personam*, and cannot be applied to the applicant. This seems to be a totally unjustified ground for rejecting the case of the applicant when her entitlement to Grade Pay of Rs.6600/- is not disputed in terms of judgment dated 21.08.2014. We take a serious note of such an approach of the officials of the respondent-department for declining the relief to the applicant, who is otherwise entitled to the same. Though she may not have been party to any earlier judgment, but the

controversy being identical and the judgment having attained finality, there is no valid ground to deny the relief to the applicant despite her entitlement.

4. We have noticed in number of cases that plenty of employees are being denied relief despite directions by the Tribunal for granting consideration in accordance with the directions and mandate of some earlier judgments, or judgments of the coordinate Benches having attained finality. The denial is not on merits or on some distinctive features which are apparently justifiable to deny such claim. We have observed that even where the claim of an applicant is permissible under dictum of an earlier final verdict of the Tribunal, such claims are rejected merely on the ground of the person not being party to the earlier *l/s*. This has not only created discrimination but has generated avoidable and unnecessary litigation with the Government, which does not serve any purpose of the administration nor of the public servant concerned. Rejection of a claim on some distinctive features or on valid legal grounds may be justifiable, but not on the ground of the individual not being a party to the *l/s*, even though the mandate of the judgment is clear and unambiguous. This issue is no more *res integra* having been considered by the Hon'ble Supreme Court in various judgments. The Apex Court in **State of Uttar Pradesh & Others vs. Arvind Kumar Srivastava & Others** [(2015) 1 SCC 347], on consideration of various earlier decisions on the subject, has held as under:

"23) The legal principles which emerge from the reading of the aforesaid judgments, cited both by the appellants as well as the respondents, can be summed up as under:

(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

(2) However, this principle is subject to well recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.

(3) However, this exception may not apply in those cases where the judgment pronounced by the Court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the Court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated person. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularisation and the like (see K.C. Sharma & Ors. v. Union of India (*supra*)). On the other hand, if the judgment of the Court was in personam holding that benefit of the said judgment shall accrue to the parties before the Court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence."

The case of the applicant is governed by the dictum in para-23(1) above. There has been no delay on the part of the applicant to approach the respondents, but her claim has been arbitrarily and unfairly rejected.

5. This OA is accordingly allowed. The respondents are directed to grant relief to the applicant in terms of the judgment dated 21.08.2014 passed in OA No.1938/2013 and OA No.2985/2013. The respondent No.4, in particular, is directed to implement the judgment qua the applicant within a period of four weeks from the date of receipt of copy of this judgment, failing which, if there is any delay, the applicant shall be entitled to the interest at the rate of 6%, and interest shall be recovered personally from the pay of respondent no.4.

6. A copy of this order be also sent to the Secretary, Department of Personnel & Training, as also to the Secretary, Department of Expenditure, and Secretary, Ministry of Law and Justice, to be circulated to all concerned with the observation that wherever a person approaches the concerned authorities seeking the relief based upon an earlier final/concluded judgment of this Tribunal, or any other competent Court, the relief has to be granted, notwithstanding the fact whether the person was a party to such /is or not. It is only claims of persons falling under para 23(2) of the judgment of the Hon'ble Supreme Court in **State of Uttar Pradesh & Others vs. Arvind Kumar Srivastava & Others** (supra) that relief may not be granted. Wherever it is found that the relief sought has been declined merely on the ground that the similarly placed person was not a party in the

earlier judgment, though covered under paras 23 (1) and (3) of the aforesaid judgment of the Apex Court, the official found responsible for denial of relief shall be personally liable. No order as to costs.

(SUDHIR KUMAR)
MEMBER (A)

(PERMOD KOHLI)
CHAIRMAN

/kdr/