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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 11931/2016

Date of decision: 21st December, 2016

MAHANAGAR TELEPHONE NIGAM LTD AND ANR. Petitioner
Through Mr. Sarfaraz Khan and Mr. Saiful Islam,
Advocates.

Versus

SHASHI BHUSHAN SAHAY Respondent
Through

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

SANJIV KHANNA, J. (ORAL)

Learned counsel appearing for the Mahanagar Telephone Nigam Ltd. has drawn our attention to order dated 25th May, 2016 passed in W.P. (C) No. 4757/2016, *Mahanagar Telephone Nigam Ltd. and Anr. Vs. T.R.K.R. Kumhar and Ors.* and submits that an order of remand was passed for a fresh decision in the original application.

2. We are afraid and would record that there are distinct and striking dissimilarities and the argument fails to notice the distinguishing factors in the two cases. In *T.R.K.R Kumhar* (supra), the order of the Tribunal dated 5th May, 2014 was made subject matter of challenge in W.P. (C) No. 6539/2015, which was disposed of vide order dated 10th July, 2015, permitting the petitioner to file a review application. The review application was thereafter filed and was

dismissed on the ground that it was beyond the scope and ambit of power of review. In these circumstances and with the consent of the respondent-employee, vide order dated 25th May, 2016, the order dated 5th May, 2014 passed by the Tribunal was set aside for a fresh decision in the OA.

3. The facts of the present case are different. A consent order dated 6th November, 2012 was passed in OA No. 882/2012, filed by Shashi Bhushan Sahay, the respondent herein. The learned counsel for the petitioner had stated that the respondent would be entitled to the relief as prayed for in the Original Application which included the claim for interest @ 12% on the delayed payment. In view of the said statement, the OA was dismissed, but with a direction that the petitioner would ensure that all the benefits arising out of the decision were released to the respondent within a period of one month. The petitioner on their own had stated that the respondent- Shashi Bhushan Sahay would be entitled to interest.

4. The petitioner had thereafter filed a review application in the year 2013, stating that their counsel had wrongly made a statement qua payment of interest. On the other aspects, including the entitlement to monthly compensation of Rs.3,000/- from 1st April, 1999 to 30th June, 1999 and then with effect from 3rd January, 2000 to 1st January, 2005, the petitioner had accepted the decision dated 6th November, 2012.

5. The review application was dismissed by the Tribunal on 5th

May, 2014.

6. The present writ petition was filed on 6th December, 2016, after a delay of nearly two and a half years from the order dated 5th May, 2014. The orders dated 5th May, 2014 and 6th November, 2012 are challenged in the present writ petition. The only explanation and reason given for the delay is to be found in paragraph 17 at page 21 of the writ petition. This paragraph states that the delay in filing the present petition was caused due to inadvertence. This cause and reason, in our opinion, is not a satisfactory or good reason to explain or overlook the delay and laches stretching over a period of nearly 900 days. The respondent, in the present case, has been waiting for a long time for payment of amount, which was admittedly due and payable. He has also claimed interest on account of the delay in payment. It is apparent that the petitioner has been grossly negligent and derelict in challenging the orders.

7. Keeping in view the period of delay and also the feeble explanation given by the petitioner, we are not inclined to issue notice in the present writ petition and the same is dismissed.

SANJIV KHANNA, J.

SANJEEV SACHDEVA, J.

DECEMBER 21, 2016/NA