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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1993/2016

MONI SINGH KROTIAPetitioner

Through: Mr. Ashok Kumar Sharma, Sr
Advocate with Mr. Kshitij Mudgal and Mr.
Ansh Mittal, Advs.

versus

GOVT. OF NCT OF DELHI & ORSRespondents

Through: Mrs Avnish Ahlawat SC
GNCTD Services, Mr Nitesh Kumar Singh,
Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% **19.05.2026**

C. HARI SHANKAR, J.

1. This writ petition arises out of order dated 16 October 2025 passed by the Central Administrative Tribunal¹ in OA 3859/2015, preferred by the petitioner, which has been dismissed on the ground that OA was barred by *res judicata* and limitation, without going into merits.

2. The petitioner had earlier approached the Tribunal by way of OA 671/2003 seeking appointment as OT Technician in Lal Bahadur Shashtri Hospital. That OA was disposed of in the following terms:

¹ "the Tribunal" hereinafter



“12. The cumulative results of these discussions compel us to hold that the applicant has been given a raw deal and his grievances are required to be redressed. We direct that since the applicant has come successful in the written test, without any further formalities, he should be conferred with appointment, as the Medical Officers were clamouring that existing posts required to be filled up expeditiously. The concerned respondent should ensure that appointment order should be issued to the applicant as OT Technician, within three weeks from today. *However, it may not be possible for us to take note of his claim that he has a right to get appointment retrospectively, in these proceedings; he may represent in the matter.*

13. Nothing stated in the order should also be taken as frustrating the right of the fourth respondent, if any, as we have not independently discussed about his credentials than what was essential for disposal of this Original Application alone. No costs.”

3. Apparently having represented and not succeeded in having his appointment as OT Technician made effective from 12 October 2002, the petitioner re-approached the Tribunal by way of OA 3859/2015.

4. Strangely, the Tribunal has disposed of the OA in the following fashion:

“2. Once the issue regarding appointment of the applicant as OT Technician was directly and substantially an issue in OA No. 671/2003 (ibid), the applicant cannot maintain a separate OA for appointment from retrospective effect. Such claim would be barred by constructive res judicata.

3. *As far as the observations made by the Tribunal regarding the representation to be made by the applicant in the matter is concerned, it was only an equitable observation to enable the applicant to work out his claim with the respondents.*

4. Regarding judicial intervention in the matter, the Tribunal made a specific observation that it was not possible for it to take note of his claim that he has a right to get appointment retrospectively. *In one way, the Tribunal had specifically*



adjudicated the claim of the applicant regarding the appointment from retrospective date also. Above all, the order was passed by the Tribunal on 24.04.2009 and the present OA filed by the applicant on 12.10.2015 is also barred by limitation. If the applicant had any impression that ramification of the order passed by the Tribunal was that the respondents would have to take decision in his representation, he could have taken the recourse permissible under law in this regard. We do not find the OA maintainable and the same is accordingly dismissed in *limine*.”

(Emphasis supplied)

5. We are truly surprised at the impugned order passed by the Tribunal. It is completely incomprehensible, to us, as to how the Tribunal has held that “in one way”, it “had specifically adjudicated the claim of the applicant regarding the appointment from retrospective date also”. It appears that, while so holding, the Tribunal did not properly read paras 12 and 13 of its earlier order, which stand extracted in the immediately preceding paragraphs of its order. In para 12 of the earlier order dated 24 April 2009, the Tribunal specifically observed that it was not possible for the Tribunal to take note of the petitioner’s claim for retrospective appointment and granted him permission to represent in the matter.

6. Obviously, therefore, the Tribunal had not adjudicated on the petitioner’s claim for retrospective appointment with effect from 12 October 2002.

7. As per the liberty granted by the Tribunal and having reapproached the Tribunal, we are of the opinion that the Tribunal could not have dismissed the petitioner’s OA on the ground of *res judicata* and limitation without going into merits.



8. Interestingly, the Tribunal has computed limitation also w.e.f. the date of its earlier order dated 24 April 2009. We are unaware of any law by which the limitation to approach the Tribunal is computed from the date of an earlier order passed by the Tribunal.

9. We say no more.

10. For the aforesaid reasons, the impugned order is quashed and set aside.

11. OA 3859/2015 is restored to the Tribunal to be decided on merits. As the OA was dismissed even without calling for a counter affidavit, let a counter affidavit be filed within four weeks by the respondent before the Tribunal. Rejoinder, if any, be filed within four weeks by the petitioner.

12. As the OA is of considerable vintage, we request the Tribunal to take a decision on the said OA as expeditiously as possible, preferably within twelve weeks from the date of hearing.

13. Both sides would appear before the Tribunal on 13 August 2026. Neither side would be entitled to take adjournment on the said date.

14. The writ petition is allowed to the aforesaid extent.



15. We make it clear that we have not expressed any opinion on the merits of the dispute.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

MAY 19, 2026/dsn