

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00102/2021

Jabalpur, this Wednesday, the 10th day of February, 2021

HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER
HON'BLE MS. NAINI JAYASEELAN, ADMINISTRATIVE MEMBER



Naval Singh Kushwaha, S/o Shri Prabhu Lal Kushwaha
 D.O.B. 15.06.1971, R/o Village Khalgawali Raisen,
 District Raisen (MP), Occupation-Motor Driver
 O/o Telecom District Engineer, PTS Bhawan,
 Bhopal Road, Raisen, District Raisen (M.P.) **-Applicant**

(By Advocate – **Shri S.K.Nandy**)

V e r s u s

1. Chief Managing Director, Bharat Sanchar Nigam Ltd.
 Harish Chandra Mathur Lane, Janpath,
 New Delhi-110001

2. The Chief General Manager,
 M.P. Telecom Circle, Bharat Sanchar Nigam Ltd.
 Hoshangabad Road, Bhopal-462018 (MP)

3. The Telecom District Engineer
 BTS Bhawan, Bhopal Road,
 Raisen, District Raisen (MP) **- Respondents**

(By Advocate – **Shri D.S.Baghel**)

O R D E R(ORAL)

By Ramesh Singh Thakur, JM:-

Heard.

2. This Original Application has been filed calling in question the legality, validity and propriety of the order dated 13.01.2021 by which the respondents have ordered a huge



recovery of penalty amounting to Rs. 4,26,125/- against the applicant in lieu of conversion of his General provident Fund patronage into Employees Provident Fund Patronage. The balance of the EPF account of the applicant has been adjusted which has been abruptly started after illegal conversion from GPF to EPF from the month of October, 2017. Copy of the order dated 13.01.2021 is annexed as Annexure A-1 and the copy of the order dated 15.12.2020 is annexed as Annexure A-2.

3. The impugned order has been challenged on the ground that the applicant was serving with the respondents department i.e. DoT before the formation of BSNL and he was subsequently appointed in BSNL and his recruitment was made prior to formation of BSNL and training was completed. Thus, if any delay has taken place in his appointment in the department that is attributable toward the respondents. Thus, the respondent authorities have rightly issued orders by sanctioning him permission to fill the option form for absorption in BSNL. Thus, there was no fault in issuing the presidential order for absorption in BSNL. So the applicant was rightly granted the benefit of GPF patronage. Now after a lapse of 16 years, the respondents have directed



a huge amount of recovery from the applicant, which is bad in law. The respondents has not followed the principle of natural justice and fair play as the respondent authorities have now failed to understand that a right has accrued in his favour for availing GPF patronage. Thus, by stoke of a singly pen the said benefit which has accrued way back in the year 2001-2002 cannot be snatched away. The respondents have straight away changed applicant's GPF account to EPF account without disclosing the fact as to how the amount of GPF earlier deducted would be adjusted and as to how the EPF patronage would be granted to him from the date of his appointment and how the account of EPF would be balanced by giving all consequential benefits. Further, the applicant has also relied upon the judgment passed by the Hon'ble Apex Court in the matters of **State of Punjab vs. Rafiq Masih (White Washer)**, 2015 (4) SCC 334, whereby the principle of recovery has been laid down.

4. The counsel for the applicant further submits that in the impugned order no reasons have been given which is bad in law. Counsel for the applicant also submits that the applicant has also filed the representation Annexure A-4, which is also pending consideration.

5. At this stage learned counsel for the applicant submit that the applicant will be satisfied if the applicant may be permitted to file detail representation against the impugned order to the competent authority and the competent authority of the respondents may be directed to decide the same in a time bound manner.



6. Learned counsel for the respondents submits that he has no objection if the Original Application is disposed of in above manner.

7. We have considered the matter and we are of the view that the natural justice will be met if the applicant is directed to make detail representation against the impugned order to the competent authority of the respondents and the competent authority is directed to decide the same in a time bound manner.

8. Resultantly, the applicant is directed to make detail representation within a period of one week from today to the competent authority of the respondents and the competent authority of the respondents is directed to decide the said representations within a period of six weeks after receiving the detail representation.

9. Needless to say that the respondents shall pass the reasoned and speaking order. Respondents shall also deal with all the contentions raised in the detail representation of the applicants.

10. In the meanwhile, no further recovery shall be affected.

11. With these observations, this Original Application is disposed of at admission stage itself.



(Naini Jayaseelan)
Administrative Member

(Ramesh Singh Thakur)
Judicial Member