

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 324 of 2011

FRIDAY, this the 27th day of July, 2012

CORAM:

**HON'BLE Mr.JUSTICE P.R.RAMAN, JUDICIAL MEMBER
HON'BLE Mr. K.GEORGE JOSEPH, ADMINISTRATIVE MEMBER**

S. Jayakumar,S/o. Sathyanandan,
Aged 52, Sub Divisional Engineer,
Call Centre & Trunks,
Central Telephone Exchange,
Thiruvananthapuram : 695 012 ... Applicant

(By Advocate Mr. M. Ramaswamy Pillai)

versus

1. The Chief General Manager,
Telecom, Bharat Sanchar Nigam Limited,
BSNL Bhavan, Uppalam Road,
Thiruvananthapuram : 695 012
2. The Assistant General Manager (GEN),
Office of the C.G.M.T, Circle Office : 695 012,
B.S.N.L., P.M.G., Trivandrum.
3. The Assistant General Manager (Admn.),
P.G.M.T, B.S.N.L, Thiruvananthapuram: 695 012
4. The Chief Accounts Officer,
Office of the P.G.M.T.D (BSNL Bhavan),
Uppalam Road, G.P.O.,
Trivandrum : 695 012
5. The D.G.M (TR),
B.S.N.L, Trivandrum : 695 012

... Respondents

(By Advocate Mr. Thomas Mathew Nellimoottil)

This application having been heard on 19.07.2012, the Tribunal on 27-07-12 delivered the following:

ORDER

HON'BLE MR. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

During the year 2010, an amount of Rs. 12323/- was recovered in lump sum on account of telephone arrears from the applicant, who is at present

1

working as Sub Divisional Engineer in Call Centre / Trunks, Trivandrum. Aggrieved, he has filed this O.A for the following reliefs:

- (i) Call for the records relating to the Annexures A-VIII & A-X and quash the same;
- (ii) Declare that the applicant is not liable to pay any amount of Rs. 12323/- which was recovered by the respondent is illegal and improper;
- (iii) appropriate direction be given to refund the said amount of Rs. 12323/- without any delay;
- (iv) Appropriate direction be issued to reconnect the telephone connection to the applicant which was disconnected on account of improper arrears, and the same same is recovered;
- (v) Grant such other relief as deem fit at the time of hearing and just and proper considering the facts and circumstances of the case including cost of this application.

2. The applicant contended that the respondents ought to have realised that the dues on account of the telephone from December, 2006, has been already recovered in lump sum and that they have again recovered an amount of Rs.12323/- without prior intimation to him which is illegal. He further submitted that the respondents ought to have restored the telephone connection since the full amount has been recovered from his salary and refund the amount of Rs. 12323/- to him.

3. The respondents in their reply statement submitted that the applicant failed to remit the dues of telephone bills till August, 2010 and as such, with the approval of the competent authority, an outstanding amount of Rs. 12323/- towards the usage of broadband facility was recovered in lump sum from the salary for September, 2010 of the applicant. The applicant was using

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broadband facility without making payment. The recovered amount is the charges for the data transfer facility the applicant had used. The respondents have given the applicant service telephone connection and broadband facility on the condition that he would pay the amount in excess of the eligible free limits. They have charged him for the usage beyond the free limits. His service telephone connection has been closed permanently for non-payment of dues.

4. In the rejoinder statement, the applicant submitted that the contentions raised in the reply statement are incorrect. The charges for the broadband service raised in the bills were already paid. The telephone connection was withdrawn with effect from 24.01.2008. In such a situation, the applicant cannot use the broadband service. The applicant has not ignored any periodic bills. He was not getting any bill, as stated in the reply statement. After disconnection of the telephone, there was no way to use any facility. Hence, the recovery of Rs. 12323/- was illegal. The applicant was using the telephone mainly for official purpose. The eligible free limits were not sufficient to attend to the official work entrusted to him.

5. We have heard Mr. M. Ramaswamy Pillai, learned counsel for the applicant and Mr. Thomas Mathew Nellimoottil, learned counsel for the respondents and perused the records.

6. The issue to be decided in this O.A is whether the applicant used the telephone connection for broadband service resulting in a bill of Rs. 12323/- after 24.01.2008 or not. It is a question of fact to be proved in a Civil Court.

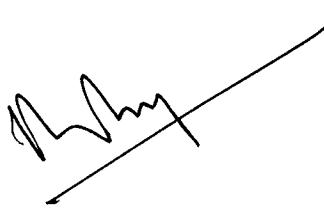
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Before us, there is no clear cut evidence forthcoming from the parties to decide the issue either way. With a view to end the litigation, it was suggested that the parties to the dispute may split the amount of Rs. 12323/- on a 50:50 basis. This was not seriously opposed by the parties. Hence, this O.A is disposed of with a direction to refund the applicant the 50% of Rs. 12323/- already recovered from him within a period of 2 months from the date of receipt of a copy of this order. The respondents are further directed to consider restoration of his telephone connection in the meantime. No order as to costs.

(Dated, the 27th July, 2012)



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER



JUSTICE P.R.RAMAN
JUDICIAL MEMBER

cvr.