

03/01/2013

O A No. 516/2009

Mr. P.N. Jatti, Counsel for applicant.  
Mr. T.P. Sharma, Counsel for respondents nos. 1, 5 & 6.  
None present for other respondents.

Heard.

O.A. is disposed of by a separate order on the separate sheets for the reasons recorded therein.

*K.S. Rathore*  
[Justice K.S. Rathore]  
Member (J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH

Jaipur, this the 3<sup>rd</sup> day of January, 2013

ORIGINAL APPLICATION No. 516/2009

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)

Hanuman Prasad Sharma  
s/o late Shri Ram Chandra Tiwari,  
aged about 69 years  
r/o Ward No.14, Tiwari Mohalla,  
Reengus, District Sikar,  
Presently retired as  
Junior Accounts Officer  
from BSNL.

.. Applicant

(By Advocate : Shri P.N.Jatti)

Versus

1. Union of India  
through the Secretary to the Govt. of India,  
Department of Telecom,  
Ministry of Communication,  
New Delhi.
2. Chairman and Managing Director,  
Bharat Sanchar Nigam Limited,  
Bara-Khamba Road,  
New Delhi
3. The Controller,  
Office of the Controller Communication Accounts,  
Jhalana Doongari,  
Jaipur

4. The Controller of Communication of Accounts,  
Ambala Cantt.
5. Post Master,  
Head Post Office,  
Shri Madhopur District,  
Sikar.
6. Director of Accounts,  
Postal of Accounts,  
Postal Jhalana Doongari,  
Jaipur-4.

.....Respondents

(By Advocate : Shri Tej Prakash Sharma for resp. 1,5 & 6)

### ORDER (ORAL)

Brief facts of the case are that the applicant, ex-Junior Accounts Officer of TDM Rewari (now GMTD Rewari) retired on attaining the age of superannuation w.e.f. 30.11.2000 (A/N). At the time of retirement, the applicant was drawing pay scale of Rs. 5500-9000 as per CCS (Revised Pay) Rules, 1997 and accordingly pension of Rs. 3772/- per month was authorised to him w.e.f. 1.12.2000. In addition to pension, he was eligible for dearness relief on pension as per CDA pattern.

2. Subsequently, the applicant opted for absorption in BSNL w.e.f. 1.10.2000. On acceptance of his option by the competent authority, presidential order was issued for absorption in BSNL and



his pay was fixed and drawn in IDA pay scale w.e.f. 1.10.2000 by the GMTD, Rewari and case was forwarded to office of CCA, Ambala for authorization of pension under Rule 37-A of CCS (Pension) Rules, 1972 as per pay drawn in IDA Scale.

3. Accordingly, pension of the applicant was revised from 3772/- to 4242/- per month w.e.f. 1.10.2000 and there was an increase of Rs. 470/- per month in the basic pension of the applicant on revision. A note was recorded in the revised PPO for the pension disbursing authority for adjustment of the difference of dearness relief from the arrears to be paid on the basis of revised payment order. The applicant opted drawl of pension from Ringus Post Office under Srimadhopur Head Post Office in Rajasthan Circle.

4. The present OA is directed against the impugned order dated 17.11.2008 (Ann.A/1) which was issued with the intention to recover excess amount, calculated as Rs. 31,264/- by the pension disbursing authority, on account of difference of dearness relief on pension. The applicant has submitted that it is not fault of the applicant and referred the judgment of the Punjab and Haryana High Court in the case of Jai Prakash vs. State of Haryana and ors. reported in 2008 (6) SLR 619 wherein




the Division Bench of the Hon'ble High Court held –Recovery- Excess Payment- Petitioner on attaining the age of superannuation has retired from the post of SS Master- On account of some error, he was granted ACP as well as one extra increment- A show cause notice was issued to him on 20.6.2006 and accordingly, his pay was refixed and recovery was ordered – No recovery can be effected in the absence of any misrepresentation or fraud on the part of the concerned employee in obtaining the beneficial orders- Respondents are directed to refrain effecting any recovery from the petitioner.

5. It is not disputed that the applicant has not withdrawn the revised pensionary benefits and, therefore, recovery has not been made effective till date. At this stage, the learned counsel appearing for the applicant submits that the respondents should be restrained to recover any amount from the pension of the applicant, but the respondents can adjust the excess amount from the arrears to be paid on the basis of the revised payment order and same stand is taken by the official respondents that they are not effecting any recovery and want to adjust the difference of dearness relief from the arrears to be paid on the basis of revised payment order.



6. Having considered the rival submissions of the parties and more particularly the submissions of the applicant, the respondents are directed not to recover any amount pursuant to the impugned order dated 17.11.2008 (Ann.A/1) but they are at liberty to adjust the excess amount from the arrears to be paid on the basis of revised payment order. The respondents are further directed to release revised pensionary benefits to the applicant immediately and the applicant is expected to cooperate with the respondents in doing the needful for getting revised pensionary benefits.

7. With these observations, the OA stands disposed of with no order as to costs.

  
(JUSTICE K.S.RATHORE)  
Judl. Member

R/