

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

OA No.269/2018

This the 11th day of June, 2018

1. C.V. Unnikrishnan Nair
Son of Shri Krishnn Nair
Aged about 44 years
Residing at : C-23, Shividhara Apartment
Behind Hind Supermarket
Thaltej Shilaj Road, Thaltej
Ahmedabad 380 059.
2. Rajesh R. Pillai
Son of Shri Ramalingam Pillai
Aged about 43 years
Residing at : 12/2, Shivam Sector-3
Gandhinagar.382006.
3. Rajesh T.
Son of Shri T. Chandrasekharan
Aged about 40 years
Residing at : Bansi Avenue
Sun Pharma Road,
Alladara, Vadodara 390 012. Applicant

(Advocate : Shri A.L.Sharma)

1. Bharat Sanchar Nigam Limited
Notice to be served through
The Chairman and Managing Director
Bharat Sanchar Bhavan, Harishchandra Mathur Lane
Janpath, New Delhi 110 001.

2. The Chief General Manager
Bharat Sanchar Nigam Limited
Gujarat Circle, Telephone Bhavan
Near Navrangpura T.E.Building
Ellisbridge, Ahmedabad 380 006.
3. The Principal General Manager (Finance)
Office of the Chief General Manager Telecom
Ahmedabad 380 006.
4. The Sr. General Manager (Admn.)
Office of the Chief General Manager Telecom
Ahmedabad 380 006.
5. The Principal General Manager
Office of PGMTD, Nr. Water Tank, Karelibaug T.E.Building
Karelibaug, Vadodara 390 018..... Respondents
(Advocate : Ms. R.R.Patel)

OR D E R – ORAL

Per : Hon'ble Shri Jayesh V. Bhairavia, Member (J)

With the consent of the learned counsel for both the parties, the OA is taken up for final hearing.

2. In the instant case, the applicant is aggrieved by the order No.250-32/2014-Estt.III dated 04.12.2017 passed by the respondents with a view to implement the directions issued by the Hon'ble Supreme Courts and Hon'ble High Court. The respondents had decided to recover over payment paid to the

applicants. According to the Respondents, due to wrong fixation of pay of the applicants, over payment was paid to them and the same is required to be recovered in accordance with the judgment/order passed by the Hon'ble Supreme Court and Hon'ble High Court. The said decision of the respondents was communicated to the applicant vide order dated 16.4.2018. The respondents had decided to recover an amount of Rs. 3,71,147/- from the applicant No.1, amount of Rs.3,47,005/- from the applicant No.2. So far the applicant No.3 is concerned, there is no order of recovery/ refixation has been issued. Learned counsel for the applicant submits that after the receipt of the impugned order, the applicants have submitted a detailed representation dated 19.12.2017 through proper channel (Annexure A-15 refers) and subsequently on 24.4.2018 (Annexure A-21 refers) and request the respondent department that in their case, the pay fixation was rightly calculated and accordingly, they have received payments. They further submits that the direction issued by the Hon'ble Supreme Court as reflect in the order dated 04.12.2017 is not applicable in the case of the applicants and therefore, recovery process was illegally initiated against them. It is further submitted that at present without considering the representations of the applicants, the respondents

have already started recovery by deducting the amount of Rs.25,000/- per month from the salary of the applicants.

3. On behalf of the respondents, learned standing counsel, Ms. R.R.Patel submits that the decision of recovery of over payment appears to be appropriate. However, the respondent will consider the pending representation of the applicant.

4. Learned counsel Shri A.L.Sharma for the applicant further submits that the applicant will be satisfied, if appropriate direction be issued to the respondents for consideration of the pending representation of the applicants and take appropriate decision on it and intimate the same to the applicants, till then, they may not effect any recovery.

5. Considering the above submissions and examining the materials available on the record, I am of the view that the grievance of the applicant is required to be considered by the competent authority of the respondents. Accordingly, the respondents are directed to consider the pending representation of the applicant within three months from the date of receipt of a copy of this order in accordance with the existing rules and regulation. In the meantime, the recovery initiated by the

respondents against the applicants is kept in abeyance. It is further directed that the respondents will take appropriate decision by providing proper opportunity to the applicants and pass speaking order within the period of three months from the date of receipt of a copy of this order. It is further directed that after the respondents take a decision and if it goes against the interest of the applicant, the respondents may not implement it for further 15 days.

6. In the light of the above, the OA is disposed of. No order as to costs.

(J.V.Bhairavia)
Member (J)

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