

**CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH**

**Original Application No. 450 of 2016**

**This the 22<sup>nd</sup> day of February, 2018**

**C O R A M :**

**HON'BLE DR K B SURESH, JUDICIAL MEMBER**

**HON'BLE SHRI K N SHRIVASTAVA, ADMINISTRATIVE MEMBER**

Shri Manghan,  
Son of Shri Tanumal Kodwani,  
Age about 61 years,  
Ex. Sr. TOA of the respondents,  
Residing at "D" Ward, H.No.119,  
Nr. Singhi Dharmashala,  
Kubernagar, Ahmedabad – 382346.

... Applicant

By Advocate Shri M S Trivedi

V/s

- 1 The Chief General Manager,  
O/o. CGM, Bharat Sanchar Nigam Limited,  
Gujarat Telecom Circle,  
Khanpur,  
Ahmedabad – 380 001.
- 2 The Accounts Officer (A&P),  
O/o. A.O., C/o. AGM, BSNL,  
Gujarat Telecom Circle,  
4<sup>th</sup> Floor, Telephone Bhavan,  
C.G.Road, Ahmedabad – 380 006.
- 3 The Assistant Controller of Communication Accounts,  
O/o. Asstt. Controller of Commn. Accts,  
Gujarat Telecom Region,  
7<sup>th</sup> Floor, P&T Administrative Building,  
Khanpur, Ahmedabad – 380 001. ... Respondents

By Advocate Ms R R Patel – R 1 & 2  
Ms Prachi Upadhyay – R-3.

O R D E R (ORAL)

Per Hon'ble Dr K B Suresh, Member(J)

1 Heard.

2 The matter lies in a very short compass.

3 The applicant apparently retired on 31.01.2016 and in tune with the usual practice had given an undertaking that if any amount is “**Due**” from him, it can be recovered.

4 Apparently in May 99 following a training course, the applicant was granted an advance increment even though his normal increment would have fallen due in September 99 and not in May 99. Probably at that time an adjustment could have been done but it was not done. There was no question of repayment of that at that time.

5 Thereafter on 31.3.2004 the applicant was placed in a different scale of Rs.7800-11175. At that point of time also no undertaking was given by him that if there is a mistake, the excess amount paid will be refunded.

6 Now the Pay and Accounts Officer found a mistake at that point of time in 1999 to the effect that a wrong benefit might have been made, even though for reason to be explained later, we need not go into that. Assuming that a wrong payment had been made at that point of time, can a wrong benefit given at that point of time be relied upon to be a subject matter of an undertaking given at the time of retirement after 17 years? The law relating to limitation is equally applicable to the government as well as general public. There is no special immunity to the

government in the application of limitation of law. Therefore, even if there has been a wrong payment at that point of time, it is covered by the Apex Court judgment in Rafiq Masih's case. There is no juncture between the alleged infraction and the present undertaking given at the time of retirement. This undertaking is not valid at all and has no juncture to the issue. Therefore, there cannot be any recovery. The amount recovered from the applicant has to be paid back within one month to the applicant without interest, if paid after one month with 15% interest as rightly held by the Hon'ble High Court of Karnataka.

7 The learned counsel for the respondents points out that a clarification may be given on the fixation. There is nothing wrong in the pay being re-fixed provided notice is issued to the party and after hearing the party can pass an order with prospective effect. That can be done.

8 OA is allowed. No costs.

(K N Shrivastava)  
Member(A)

(Dr. K B Suresh)  
Member(J)

abp

