

CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

ORIGINAL APPLICATION NO. 291/257/2015

Order Reserved on: 09.04.2018

DATE OF ORDER: 13.04.2018

CORAM

HON'BLE MR. SURESH KUMAR MONGA, JUDICIAL MEMBER

1. Damodar Lal Verma son of late Shri Ram Lal Verma, aged about 61 years, resident of Opposite Jaipur Chungi Naka, Bajrang Colony, Deoli, District Tonk and retired on 31/07/2014 from the post of Senior Divisional Engineer, Bharat Sanchar Nigam Limited, Deoli, District Tonk.

(Deceased)

- 1/1. Smt. Kamla wife of late Shri Damodar Lal Verma, aged about 56 years, resident of Opposite Jaipur Chungi Naka, Bajrang Colony, Deoli, District Tonk.

....Applicant

Mr. C.B. Sharma, counsel for applicant.

VERSUS

1. Union of India through its Secretary, Department of Telecommunication, Ministry of Communication & Information Technology, Sanchar Bhawan, New Delhi.
2. Bharat Sanchar Nigam Limited through its Chairman cum Managing Director, Corporate Office, Bharat Sanchar Bhawan, Harish Chandra Mathur Lane, Jan Path, New Delhi – 110001.
3. Controller of Communication Accounts, Rajasthan Telecom Circle, Jhalana Dungari, Jaipur – 302004.
4. Chief General Manager, Rajasthan Telecom Circle, Bharat Sanchar Nigam Limited, Sardar Patel Marg, C-Scheme, Jaipur.
5. General Manager, Telecom District, Bharat Sanchar Nigam Limited, Tonk.

....Respondents

Mr. R.P. Singh, proxy counsel for
Mr. Neeraj Batra, counsel for respondent nos. 2, 4 & 5.
None present for respondent nos. 1 & 3.

ORDER

The pleaded case of the applicant herein is that he was substantive employee of Department of Telecommunication and he could not be absorbed in Bharat Sanchar Nigam Limited because of pendency of a criminal case registered against him by Anti Corruption Department. After attaining the age of superannuation, he retired on 31.07.2017 and upto the date of his retirement, he remained on deputation with the Bharat Sanchar Nigam Limited. Since, after his retirement, his retiral benefits were not released, therefore, he submitted representations dated 18.10.2014 and 20.10.2014 requesting therein to release his retiral benefits. It has further been averred that during his service tenor, he used to purchase diesel as per the directions of respondent no. 5 and the amount was being paid to respective petroleum dealers. After his retirement, a petroleum dealer, vide its letter dated 31.10.2014 requested the department for making payment of Rs. 53,218/- for the diesel purchased on credit basis. After receipt of said letter, the respondent no. 5 vide letter dated 21.11.2014 called for the correct facts from the applicant and the said letter was duly replied by the applicant on 24.11.2014 wherein the total description with regard to purchase of diesel and the balance payable to the petroleum dealer was described. The applicant kept on reminding the respondents for release of his retiral benefits. However, while releasing the payment of leave encashment vide sanction memo dated 06.12.2014 (Annexure A/1), a recovery of Rs. 1,10,002/- was shown to be affected on account of overpayment due to pay re-fixation, electricity bill penalty and withheld amount of diesel matter. It has further

been pleaded that the amount of gratuity, leave encashment and provisional pension was due to be paid in the month of August, 2014 and the same was delayed and, therefore, the applicant also becomes entitled for interest over the delayed payments. Aggrieved by the order of recovery out of the amount of leave encashment and denial of interest over the delayed payments of retiral benefits, the applicant has invoked the jurisdiction of this Tribunal under Section 19 of the Administrative Tribunals Act, 1985.

2. The respondents/BSNL by way of filing a joint reply have joined the defence and opposed the claim of the applicant. It has been averred that the amount of Rs. 1,10,002/- was not recovered from the amount of applicant's leave encashment. The sanction memo dated 06.12.2014 was revised on 08.04.2015 and a sum of Rs. 52,585/- was recovered on account of electricity bill penalty and diesel matter. It has further been pleaded that no prior approval was taken by the applicant from the competent authority for purchase of diesel from M/s Moti Petroleum, Deoli. Diesel was purchased by the applicant without requirement and without prior permission of competent authority. Moreover, he did not intimate the respondents about purchase of diesel and even did not submit the diesel bills for settlement before his retirement. As soon as the petroleum dealer came to know about the factum of the applicant's retirement, he asked Sub Divisional Engineer, Deoli on 31.10.2014 for payments. Sub Divisional Engineer, Deoli submitted those bills to Telecom District Manager, Tonk for payment after obtaining information and certification from the applicant for purchase of diesel from M/s Moti Petroleum, Deoli.

After due formalities, Telecom District Manager, Tonk processed those bills for payment due to reputation of Bharat Sanchar Nigam Limited. It has further been averred that the respondent no. 5 was continuously in contact with respondent no. 3 for settlement of pension case and made all the compliances from time to time as per DoT requirement and, therefore, no interest is payable over the delayed payments. With these assertions, the respondents have prayed for dismissal of the O.A.

3. Heard learned counsel for the parties.

4. Shri C.B. Sharma, learned counsel for the applicant contended that the desired information was supplied to the respondents by the applicant about purchase of diesel from M/s Moti Petroleum, Deoli and accordingly after making verification about the purchase of diesel, the payments were made by BSNL to said petroleum dealer. The fact with regard to purchase of diesel for the use of BSNL has not been disputed and, therefore, no recovery on this account can be affected from the applicant. So far as the recovery of Rs. 6,047/- towards electricity bill penalty is concerned, neither any show cause notice was given nor any opportunity was afforded to him and, therefore, the said recovery also cannot be sustained. Learned counsel further argued that the payment of retiral benefits has unnecessarily been delayed and, therefore, the applicant is entitled to get interest over the delayed payments. Learned counsel relied upon a Division Bench judgment of the Hon'ble High Court of Rajasthan at Jaipur Bench, in the case of **Dr. Lok Nath Sharma vs. Union of India & Ors.** (D.B. Civil Writ Petition No. 1352/2014) decided on 18.04.2015.

5. Per contra, Shri R.P. Singh, learned counsel appearing as proxy for Shri Neeraj Batra, learned counsel for the respondents nos. 2, 4 & 5 contended that the applicant had purchased diesel from M/s Moti Petroleum Deoli without approval of competent authority and, therefore, the respondents are well within their rights to affect the recovery of said amount. He further argued that there was no lapse on the part of the respondents in releasing the payments of retiral benefits of the applicant and, therefore, no interest can be paid.

6. Considered the rival contentions of learned counsel for the parties and perused the record.

7. Undisputed case of the parties is that while issuing the Memo dated 06.12.2014 (Annexure A/1), sanctioning an amount of Rs. 6,48,000/- towards leave encashment, a recovery of Rs. 1,10,002/- was ordered to be affected from the applicant. The said order was later on revised on 13.04.2015 (Annexure A/12) and a recovery of Rs. 52,585/- was made out of the amount of leave encashment and provisional pension / arrears of pension payable to the applicant. It has come up on record that on 31.10.2014, M/s Moti Petroleum, Deoli, from whom the respondents/BSNL used to purchase diesel for their use, requested them to make the balance payment. After receipt of said letter, the respondent no. 5 issued a letter to the applicant and sought his explanation about the purchase of diesel from the said petroleum dealer. The applicant submitted his explanation vide letter dated 24.11.2014 and gave each and every detail about the purchase of diesel from the said petroleum dealer. It was also pointed out by him that the Logbook of Engine –

Alternator being maintained in telephone exchanges carries the entries with regard to consumption of diesel purchased by him from M/s Moti Petroleum, Deoli. After receipt of explanation from the applicant, the payments were made to the petroleum dealer by the respondents/BSNL. The fact with regard to purchase of diesel for the official use has not been disputed. Since the payment has been made by the respondents/BSNL to petroleum dealer after making verifications, therefore, the recovery of Rs. 46,538/- from the applicant cannot be termed to be justified.

8. So far as the recovery of an amount of Rs. 6047/- on account of electricity bill penalty is concerned, the same also cannot be held to be justified because the applicant was not even afforded an opportunity of hearing to give his explanation with regard to said amount of penalty. The respondents have failed to follow the bare minimum principles of natural justice in this regard, and therefore, the action in this regard also cannot be sustained.

9. I also find substance in the plea of the learned counsel for the applicant with regard to payment of interest over the delay in releasing the amount of applicant's retiral benefits. A perusal of letter dated 23.02.2015 (Annexure A/10) and a letter dated 19.03.2015 (Annexure A/11) issued by the Office of the Controller of Communication Accounts, Rajasthan Telecom Circle, Jaipur divulges that the delay in finalization of pension case of the applicant was being caused at the instance of BSNL and despite letter dated 04.07.2014 and reminders dated 06.01.2015 & 23.02.2015, the requisite information was not

supplied by the Assistant General Manager (Admn./HR), BSNL in the office of Telecom District Manager, Tonk and the same remained awaited even upto 19.03.2015. Though a specific note in the letters dated 23.02.2015 and 19.03.2015 was given that delay in finalization of pension case would be sole responsibility of BSNL but still the matter was not finalized. In this view of the matter, I find that the delay in releasing the retiral benefits to the applicant is attributable to BSNL and the applicant cannot be held to be contributory to said action. The applicant retired on 31.07.2014 and he became entitled to retiral dues in the month of August, 2014. The respondents have failed to bring on record any cogent reason for causing delay in releasing his retiral benefits, therefore, the applicant becomes entitled to interest over the delayed payments.

10. In the conspectus of discussions made in the foregoing paras, the instant Original Application is allowed. The recovery/deduction of an amount of Rs. 52,585/- as ordered vide revised sanction/authority dated 13.04.2015 (Annexure A/12) is hereby quashed. The respondents are directed to refund the said amount of Rs. 52,585/- to the applicant and also make a payment of interest @ 9% per annum over the delayed payments of his retiral benefits within a period of two months from the date of receipt of a copy of this order. However, there shall be no order as to costs.

(SURESH KUMAR MONGA)
JUDICIAL MEMBER