

CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO.250 OF 2018

DATE OF DECISION : APRIL 13th, 2018

CORAM : HON'BLE SHRI ARVIND J. ROHEE, MEMBER (JUDICIAL)

Haribhau S/o Rambhau Bharate,
 Age : 61, Occ – Nil,
 R/o Near Surya Lawans, Canol Road,
 Shahunagar, Bid, Dist. Beed,
 Maharashtra 431 122. **Applicant**
 (By Advocate Shri Mohsin Khan)

VERSUS

1. The Union of India, Through
 Bharat Sanchar Nigam Ltd.,
 Through Chairman & Managing Director,
 Bharat Sanchar Bhawan, H C Mathur,
 Lane Janpath, New Delhi 110 001.
2. The Chief General Manager, BSNL,
 Telecom Maharashtra Circle, Admn Bldg.
 Juhu Road Santacruz (W) Mumbai 400 054.
3. The Deputy General Manager, BSNL,
 Beed 431 122. **Respondents**

ORDER (ORAL)

Today, when the matter is taken up for Admission, heard Shri Mohsin Khan, learned Advocate for the applicant. I have carefully perused the case record.

2. The applicant retired as Divisional Engineer while working under respondent No.3. He stood retired on superannuation on 30.11.2015. However, prior to that a disciplinary proceeding was instituted against him on 15.09.2014 on certain charges, which is stated to be still pending.
3. In this OA, the applicant has come up with the

limited prayer for grant of leave encashment and direction to the respondents to release it. The following reliefs are sought :-

“8.A) This original application may kindly be allowed.

B) This Hon'ble Tribunal may be pleased to call for record and after going through its propriety and legality be pleased to direct the respondent to pay leave encashment to the present applicant along with penal interest at the rate of 10% from the date of his retirement to the date of actual payments of leave encashment and also other pensionary benefits which are withhold.

C) To pass any other just and appropriate orders this Hon'ble Tribunal may deem fit, proper and necessary in the facts and circumstances of the case.

D) The cost of this original application please be provided.”

4. It is pointed out by the learned Advocate for the applicant that the applicant submitted representations dated 16.03.2016, 23.02.2015, 09.08.2017 for release of the pensionary benefits. However, no action has been taken by the respondents. It is also stated that provisional pension is, however, sanctioned to him and he is getting it. Considering the nature of the charge and since the applicant already retired, the respondents at the most can withhold his gratuity and computation of the pension as per Rules. However, there is no provision to withhold the leave encashment, which is the statutory right of the applicant to claim 300

days, which is restricted to Earned Leave.

5. In view of the above, the respondent No.3 is directed to release amount of leave encashment standing to the credit of the applicant within a period of four weeks with interest at the rate of 6% per annum on the said amount from date of retirement since no action was taken by the respondents, in spite of repeated representations of the applicant in this behalf.

6. The OA stands disposed of with the aforesaid direction at the admission stage without issuing notice to the respondents.

7. Registry is directed to forward copy of this order to both the parties at the earliest for taking necessary steps in the matter.

*Place : Mumbai
Date : 13th April, 2018*

*(Arvind J. Rohee)
Member (Judicial)*

*kmg**