

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

OA./20/567/2017
Dated:18/12/2018

BETWEEN:

Palem Ramachandran,
(HRMS No. while in service 198203718)
Retd. T.T., BSNL,
D.No.2-93/C, Nr. Gandhi Bomma Centre,
Kapu Bazar, Penuganchiprolu (M),
Gummadidurru (P.O.),
Krishna Dt. (A.P.)

..... Applicant

AND

1. The Union of India rep. by its
Secretary,
Department of Telecommunications,
Ministry of Communications and Information Technology,
20, Ashok Road, New Delhi.
2. Bharath Sanchar Nigam Limited,
Rep. by its Chairman cum Managing Director
Corporate Office,
Barakambha Road,
Stateman House, New Delhi – 1.
3. The Chief General Manager,
A.P. Telecom Circle,
Chuttugunta, Vijayawada.
4. Asst. General Manager (HR),
O/o. The Pr. General Manager,
BSNL, Telecom District,
Vijayawada.
5. The Accounts Officer (CA),
O/o. General Manager, VJ Telecom District,
Bharath Sanchar Nigam Limited,
Vijayawada – 520 004.

..... Respondents

Counsel for the Applicant : Mrs. S. Anuradha, Advocate
Counsel for the Respondents : Mrs. K. Rajitha, Sr. CGSC
Mrs. K. Sridevi for R2 to R5

CORAM

Hon'ble Mr. B.V. Sudhakar, Admin. Member

ORAL ORDER

{Per Hon'ble Mr. B.V. Sudhakar, Admin. Member}

Heard Ms. S. Anuratha, learned counsel for the applicant, Mrs. K. Sridevi, learned counsel for the Respondents for BSNL and Mrs. K. Rajitha, Sr. Central Government Standing Counsel for the Respondents.

2. The OA is filed for withholding of retiral benefits of the applicant
vide Letter No.E.1874/PEN/PRC/18629/198203718/4-2017/25 dated
26.05.2017.

3. The brief facts of the case are that the applicant retired from respondent organisation on 30.04.2014. Thereafter, he has not received retiral benefits on 25.06.2017 from the respondents. When represented the applicant was informed that a prosecution case is pending before Hon'ble JFCH JGP court vide CC No.256/2012. Therefore provisional retirement order dated 21.04.2017 was issued. Further as there is no vigilance clearance, DCRG, commuted value of pension and Encashment of leave salary had to be withheld. The applicant claims that they are private cases and that his terminal benefits should not be withheld. However, the

respondents have not resolved his grievance despite repeated request and

therefore, the OA has been filed.

4. The contentions of the applicant are that the retiral benefits cannot be withheld unless disciplinary proceedings are pending and that the action of the respondents is arbitrary and illegal. They are violative of Articles 14,16, and 21 of the Constitution .

5. The respondents resisted the contention of the applicant stating that the respondents have received court attachment on 08.08.2015 for an amount of Rs.1,88,754/-vide EP.No. 46/15 in OS.No.266/13 on the file of Hon'ble Sr. Civil Judge, Nandigama. The respondents have also informed that the judgment copy in CC. No.10/2013 dated 04.07.2017 was received in the office on 12.07.2017 through post, wherein it was found that A1 to A3 are found not guilty for the offence punishable U/sec.323, 324, 341, 506 r/w 34 of IPC and they are acquitted. Thereafter, provisional pension was issued to the applicant on 14.07.2017.

6. Another show cause notice was received by the accounts officer, BSNL Vijayawada from the Hon'ble Court VII Additional Senior Civil Judge, RR District to appear before the court on 27.07.2017 in EP No.79/2017 in OS No.222/2011 filed by Margadharsi Chit Funds Pvt. Ltd. The respondents further state that the applicant did not inform about the cases. BSNL is not being a party to the court cases nor the applicant has made complainant and others as a party in the present OA, the true facts cannot be ascertained and sought for vigilance clearance. For all the

reasons stated above, the 4th respondent has forwarded the letter dated 26.05.2017 with holding the payment of retirement benefits i.e. DCRG,

commuted value of pension and Encashment of leave salary to the applicant.

7. Learned counsel for the applicant claimed that respondents are not empowered to hold his retiral benefits on the ground of cases filed by private parties wherein BSNL not a party. Learned counsel for the respondents stated that the respondents have received directions from different courts as stated in the reply statement to appear in regard to recovery of certain amounts of the applicant. Therefore, they have to comply with the orders of the judicial authorities.

8. It is true from the records filed before the Tribunal the applicant is involved in the criminal case bearing the claim No.68/2012,91/2012,95/2012,96/2012, and 256/2012. Similarly, the applicant is also involved in Civil case in EP.No. 46/15 in OS.No.266/13. Consequently, the respondents under orders from the concerned court have withheld the retiral benefits. During the course of the arguments learned counsel for the applicant has submitted letter issued by the Sub Inspector dated 23.01.2018 addressing 4th respondent informing that the applicant in all the criminal cases was either acquitted or discharged.

9. Further the learned counsel for the applicant has submitted another letter written by the respondents to the Hon'ble VIII Additional Civil Judge, Ranga Reddy District vide letter dated 26.07.2017 bearing No. E.1874/Pen/PRC/18629/1982037/4-2017 in which the respondents took a

stand that DCRG and commuted value of pension are not attachable as per section 60 CPC. Nevertheless, this letter does not contain the signature or

designation of the authority. Learned counsel for the applicant when questioned about the same informed that it is a genuine letter and while photocopying certain details were missing. The respondents can verify its veracity and take it on record. Thus, from the letters submitted by the learned counsel for the applicant, it is seen that in the criminal cases applicant has been acquitted. In regard to DCRG Section 60 of CPC does not permit attachment of gratuity. Learned counsel for the applicant states that it would suffice if the respondents are directed to consider the material facts and decide the issue. Learned counsel for the respondents have stated that the respondents would have no objection for the same. Therefore, in view of the aforesaid, the respondents are directed to consider the letter of the Sub Inspector cited and also section 60 of CPC and take a decision in releasing terminal benefits sought by the applicant within 60 days from the date of receipt of the copy of this order, by issuing a speaking and reasoned order. With the above directions, the OA is disposed of. No order as to costs.

(B.V.SUDHAKAR)
ADMN. MEMBER

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