

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/00652/2018

Dated Friday the 24th day of August Two Thousand Eighteen

PRESENT

HON'BLE MR. R. RAMANUJAM, Member (A)

P.Subbiah,
S/o. Ponnaiah,
T.M. (Retd),
Anna Nagar, Sevaloor (PO),
Ponnamaravathy (Tk),
Pudukkottai District 622402.

....Applicant

By Advocate Mr. S. Nagarajan

Vs

1.Union of India rep by the,
Principal Controller of
Communication Accounts,
Tamil Nadu Circle, Egmore,
Chennai 600008.

2.The Principal General Manager,
O/o the Principal General Manager,
Bharat Sanchar Nigam Limited,
Trichy 620001

....Respondents

By Advocate Mr. R. Priya Kumar

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member(A))

Heard. The applicant has filed this OA under section 19 of the Administrative Tribunals Act, 1985 seeking the following relief :

" To calling for the records pertaining to the impugned order in E. 33/PS/TM/2013-18/30 dated at TR, the 22.02.2018 on the file of the second respondent herein in so far as the order of recovery of sum of Rs. 1,28,042/- from the payment of cash equivalent of leave salary in respect of unutilized portion of Earned leave at credit is concerned and to quash the same and consequently direct the respondents to refund the recovered sum of Rs. 1,28,042/- from the payment of cash equivalent of leave salary in respect of unutilized portion of earned leave at credit on his retirement on superannuation, to the applicant herein with 12% interest thereon till the date of refund of the amount and thus render justice. "

2. It is submitted that the applicant was aggrieved by the recovery of Rs. 1,28,042/- from the payment of cash equivalent of leave salary in respect of unutilised earned leave at credit following his retirement on 31.07.2013. He filed OA 1957/2017 before this Tribunal which was disposed of by an order dt. 21.12.2017 directing the respondents to inform the applicant about the nature of the recovery as also the justification thereof through a speaking order within a period of four weeks thereafter. However, the respondents instead of passing a speaking order, merely sent a communication to the applicant dt. 22.02.2018 giving a break-up of an alleged overpayment made to him which was recovered from the encashment of leave salary paid to the applicant. A revised pay fixation memo was also attached which is hardly a substitute for a speaking order. It is not understood how the

applicant's pay and allowances came to be revised and how the applicant was responsible for overpayment, if any.

3. Learned counsel for the applicant would further submit that while the order of this Tribunal has not been fully complied with, it is also evident that the respondents had failed to consider the applicant's case under the OM of DoPT dt. 02.03.2016 which was issued in terms of the law laid down by the Hon'ble Apex Court in *State of Punjab and ors. Vs. Rafiq Masih (Whitewasher) etc.* Learned counsel for applicant alleges that in the case of 10 other similarly placed persons, the recovery was waived in terms of the aforesaid OM.

4. Learned counsel appearing for the respondents would submit that the respondents wished to file a reply for which time may be granted.

5. I have considered the case. It is not in dispute that the applicant had already approached this Tribunal earlier and obtained clear directions to the respondents to pass a speaking order regarding not only the nature of recovery but also the justification thereof. If the only order passed by the respondents is Annexure A4 communication dt. 22.02.2018, it would be evident that the order of this Tribunal had not been complied with.

6. In view of the above, this OA is disposed of by granting two weeks' time for the respondents to pass a reasoned and speaking order

explaining the nature of the recovery as well as the justification as also the information whether the matter was considered in terms of the aforesaid DoPT OM dt. 02.03.2016 and if not, the reasons therefor.

7. OA is disposed of. No costs.

(R. Ramanujam)
Member(A)
24.08.2018

SKSI