

CENTRAL ADMINISTRATIVE TRIBUNAL  
MADRAS BENCH

Dated the Thursday 27<sup>th</sup> day of September Two Thousand And Eighteen

PRESENT:

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

O.A./310/1274/2018

A. Ignatius,  
Telecom Mechanic (Retd.),  
Staff No. 197901196,  
O/o. DE (External),  
Bharat Sanchar Nigam Limited,  
Erode.

.....Applicant

(By Advocate : M/s. A.R. Gokulnath)

VS.

1. The General Manager- Telecom,  
Bharat Sanchar Nigam Limited,  
Gandhiji Road,  
Erode- 638 001;

2. The Assistant General Manager (Admn.,)  
Office of the General Manager,  
Bharat Sanchar Nigam Limited,  
Gandhiji Road,  
Erode- 638 001;

3. The Senior Accounts Officer (Drawal),  
Office of the General Manager,  
Bharat Sanchar Nigam Limited,  
Gandhiji Road,  
Erode- 638 001.

... ..Respondents

(By Advocate: Mr. Priyakumar)

**ORAL ORDER**

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

Heard. This O.A has been filed by the applicant seeking the following reliefs:-

“to call for the records relating to the impugned order bearing No. F&A/AO(D)/CAT/INCRE/OP-17.12.2008/2015-17/56 dated 24.03.2018 (Annexure-A1) of the 3<sup>rd</sup> Respondent herein and quash the said impugned order in so far as it relates to refusal to refund over payment recovery and consequently direct the respondents to refund forthwith to the applicant the said recovered amount of Rs.1,19,227/- (Rupees One Lakh Nineteen Thousand Two Hundred Twenty Seven Only) together with due interest thereon to be fixed by this Tribunal.”

2. The case of the applicant is that he retired from service on 30.09.2015 while working as a Telecom Mechanic, a Group 'C' post, in the office of the DE (External), BSNL, Erode. After his retirement, the 2<sup>nd</sup> respondent issued a memo dated 15.10.2015 (Annexure-A2) stating that sanction of the 1<sup>st</sup> respondent was thereby conveyed for payment of Rs. 4,35,790/- towards 100% leave encashment to the applicant. The said Memo disclosed that a sum of Rs. 1,19,227/- had been deducted on the account of 'Increment Overpayment' and the said amount was liable to be recovered. It is alleged that such recovery of alleged over payment was totally contrary to law laid by the Hon'ble Supreme Court in the State of Punjab and Ors. vs. Rafiq Masih (White Washer) and, therefore, the respondents were liable to refund the said amount to the applicant. The applicant made a representation

dated 05.03.2018 (Anexure-A3) to the 1<sup>st</sup> respondent requesting for refund of the said amount of Rs. 1,19,227/-. However, the 3<sup>rd</sup> respondent passed the impugned final order dated 24.3.2018 (Annexure-A1) refusing consideration of refund of recovery. Hence this OA has been filed by the applicant seeking the aforesaid relief.

3. It is submitted that the claim of the applicant had been rejected through a non-speaking order merely stating that the applicant's pay and allowances had been correctly paid/regularized in accordance with existing rules and orders which envisaged the method of pay fixation in respect of the absorbed officials of BSNL who had been promoted prior to 01.10.2000 and regularized. The cases referred to in the applicant's representation had been settled as per the order of the Central Administrative Tribunal, Chennai only on individual case basis and accordingly his request for refund of the recovered amount could not be considered.

4. Mr. Priya Kumar, Ld. Standing Counsel takes notice on behalf of the respondents.

5. I have considered the plea. It is clear from the impugned order that the respondents have dismissed the applicant's claim for similar treatment as in the case of those who had obtained relief from the Tribunal only on the ground that he was not a party therein and those cases were settled on individual basis. Such rejection of claim is against the law laid down by the Hon'ble Apex Court in various cases. It is not expected that every similarly placed person should approach the competent court individually for a relief

already granted in favour of one, if such relief is based on law/rules as interpreted by the Court. Accordingly the Annexure A1 communication dated 24.3.2018 is set aside and the respondents are directed to consider the applicant's claim to be treated on par with similarly placed employees and pass a reasoned and speaking order within a period of three months from the date of receipt of copy of this order.

6. The OA is disposed of accordingly. No costs.

(R. RAMANUJAM)  
MEMBER(A)

asvs.

27.09.2018