

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 27th day of September Two Thousand And Eighteen

PRESENT:

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

O.A./310/1277/2018

R. Chinnasamy,
Telecom Mechanic (Retd.)
Staff No. 197901177,
O/o. SDE (G), Surampatti,
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-17.12.2008/2015-17/54 dated 24.03.2018 (Annexure-A1) of the 3rd 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.1,24,097/- (Rupees One Lakh Twenty Four Thousand and Ninety 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 30.06.2016 while working as Telecom Mechanic, a Group 'C' post, in the office of the SDE (G), BSNL, Surampatti, Erode. After his retirement, the 2nd respondent issued a memo dated 26.07.2016 (Annexure-A2) stating that sanction of the 1st respondent was thereby conveyed for payment of Rs. 4,70,680/- towards 100% leave encashment to the applicant. The said Memo disclosed that a sum of Rs. 1,24,097/- had been deducted therefrom on the ground of 'Over Payment'. It is stated 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 are liable to refund the said amount to the applicant. The applicant made a representation dated 05.03.2018 (Anexure-A3) to the 1st

respondent requesting refund of the said amount of Rs. 1,24,097/-.

However, the 3rd respondent has 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 applicant's case had been rejected through a non-speaking order on the ground 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 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 excess increment 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 rejected 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 not in accordance with 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 to one, if such relief is based on

law/rules as interpreted by the Court. Accordingly the impugned communication dated 24.03.2018 is set aside and the respondents are directed to i.e. 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 a receipt of copy of this order.

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

(R. RAMANUJAM)
MEMBER(A)

asvs.

27.09.2018