

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA 517/2019

Dated Tuesday, the 4th day of June, 2019

PRESENT

Hon'ble Mr.R.Ramanujam, Administrative Member

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

....Applicant

By Advocate M/s. 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.Priyakumar

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

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

""To call for the records pertaining to the impugned order in E.33/PS/TM/2013-19/34 dated at TR the 01.10.2018 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 unutilised 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. When the matter was called on 09.04.2019, learned counsel for the applicant produced a copy of the order of this Tribunal dated 03.07.2018 in OA 813/2018 and submitted that the order had been complied with by the respondents in the case of the applicant therein and accordingly, the recovery initiated against him was waived. He sought a similar order in favour of the applicant alleging that the applicant was similarly placed.

3. Mr.R.Priya Kumar took notice on behalf of the respondents and sought time to file a short reply. However, when the matter was called on 30.04.2019, the respondents were unrepresented. Today one S.K.Manishwar appears in the case on behalf of Mr.R.Priya Kumar and

submits that the respondents had no objection to a similar order being passed in this case relying on the judicial precedent cited.

4. On perusal, it is seen that this Tribunal had passed an order in the aforesaid OA on the following lines:

"6. It is submitted by the learned counsel for the applicant that recoveries made from similarly placed persons around the same time had been refunded by the respondents in the light of the judgement of the Hon'ble Apex court in the said Rafiq Masih (White Washer) case. The applicant would be satisfied if the respondents are directed to process his claim for refund in the light of the said Judgement.

7. If it is true that similarly placed persons from whom recoveries had been made, had been refunded the recovered amount in the light of the Judgement of the Hon'ble Apex Court, the applicant could not be discriminated against. Accordingly, the respondents are directed to examine the said allegation and if true process his claim for refund within two months from the date of receipt of a copy of this order."

5. In view of the submission by counsel on both sides, this OA is disposed of with a direction to the respondents to examine the claim of the applicant that the order in favour of the applicant in the aforesaid OA had been implemented and that the applicant herein is similarly placed and pass a reasoned and speaking order regarding the applicant's claim on the same lines, if the applicant is similarly placed. OA is disposed of.

(R.RAMANUJAM)
Member (A)
04.06.2019

M.T.