

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

O.A.No.1555/2018

Dated Tuesday, the 12th day of February, 2019

PRESENT

Hon'ble Mr.R.Ramanujam, Administrative Member

P.K. Ruckmani

No. 12/1958, D 3 Rohini Sadhanam

Near Eye Hospital

Chevidipet, Gudalur

Nilgiris District – 643 212.

... Applicant

By Advocate M/s K. Sanjay

Vs

1. Union of India

Ministry of Communication and

Information Technology

Department of Telecommunications

Rep. by its General Manager

O/o. Principal Controller of Communication

Accounts, Tamil Nadu Circle

No. 60, Ethiraj Salai

Chennai – 600 008.

2. Union of India

Department of Posts

The Postmaster Grade III

Udhagamandalam

Head Office 643 001.

3. Union of India

Department of Telecommunications

Rep. by its Deputy Controller of

Communication Accounts

O/o. The Principal Controller of

Communication Accounts, Tamil Nadu Circle

Chennai – 2.

... Respondents

By Advocate Mr. Su. Srinivasan

(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 call for the records on the file of the 2nd respondent in proceedings Ac/PEN/DLG, dated 22.11.2017 and quash the same and consequently direct the respondents to repay the recovered amount to the applicant and pass such further or other orders.”

2. It is submitted that the applicant is a family pensioner. She has been receiving family pension since her husband's death on 16.10.2008. The respondents raised a demand of Rs.7,90,878 against the applicant as alleged excess payment of family pension on account of erroneous calculation of dearness relief. Such error had not arisen on account of any misrepresentation by the applicant and as such the applicant was entitled to the benefit of the law laid down by the Hon'ble Apex Court in *State Of Punjab & Ors vs Rafiq Masih (White Washer) dated 18 December, 2014 in CIVIL APPEAL No. 11527 of 2014 & Batch.* as accepted by the DOPT in OM F.No. 18/03/20 1 5-Estt. (Pay-I) dated 02.03.2016, it is contended.

3. An interim relief of stay of recovery was granted by this Tribunal by an order dated 22.11.2018 till the next date of hearing which had, however, been extended for want of reply by the respondents.

4. On perusal of the impugned order, there is no evidence of the issue of recovery having been dealt with as per the law laid down by the Hon'ble Apex Court in the aforesaid case and as accepted by the DOPT in its OM dated 02.03.2016. Accordingly, I deem it fit to dispose of this OA with a direction to the respondents to consider the matter in the light of the OM dated 02.03.2016 of the DOPT and pass a reasoned and speaking order within a period of two months from the date of receipt of a copy of this order. The interim stay granted shall continue till then.

**(R.RAMANUJAM)
MEMBER (A)
12.02.2019**

M.T.