

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA NO.792/2016

Order reserved on 05.05.2017
Order pronounced on 12.05.2017

HON'BLE DR BRAHM AVTAR AGRAWAL, MEMBER (J)

Navneet Rai Rishi,
Aged about 60 years,
S/o Late Shri Yashpal Rishi,
Ex. Sr. Telecom Office
Assistant (General) (Since Retired),
O/o the General Manager,
Bhartiya Sanchar Nigam Limited,
Leela Bhawan, Patiala (Punjab)-147001,
Permanent R/o H.No.1120,
S.S.T. Nagar, Patiala (Punjab)-147001,
Presently R/o C/o Sh. Raghupati Lal Sharma,
WZ-106/14, Rajori Garden Extension,
New Delhi.

...Applicant

(By Advocate: Mr. V.K. Sharma)

VERSUS

1. Union of India through
the Secretary,
Govt. of India,
Ministry of Communication,
Deptt. of Telecommunication,
Sanchar Bhawan,
20 Ashok Marg,
New Delhi.
2. The Chairman & Managing Director,
B.S.N.L., Corporate Office,
Sanchar Bhawan,
Harish Chandra Mathur Lane,
Janpath, New Delhi-110001.
3. The Director General,
Department of Telecommunication,
Sanchar Bhawan,
20 Ashok Marg, New Delhi.

4. The Director,
Department of Telecommunication,
O/o the Controller of Communication Accounts,
Punjab Telecom Circle,
Chandigarh-160019.
5. The General Manager,
Telecom, Distt. B.S.N.L.,
Leela Bhawan,
Patiala (Punjab)-147001. ...Respondents

(By Advocate: Mr. G.D. Sharma and Mr. Pradeep Mathur)

:ORDER:

The applicant, who retired as Sr. Telecom Office Assistant (General) in Bharat Sanchar Nigam Ltd. on 31.07.2015, has filed the instant OA claiming refund of an amount of Rs.1,27,471/- deposited by him (vide Annexures A-4 and A-5), which was the amount of excess payment to him due to erroneous pay-fixation at the time of grant of one time-bound promotion to him in the year 2000, i.e., Rs.5,150/- instead of Rs.5,000/- w.e.f. 01.06.2000, noticed while processing his case for pension (vide Annexure A-3). The letter dated 19.08.2015 (Annexure A-3) written by the Accounts Officer (Pension), O/o Controller of Communication Accounts, Punjab Telecom Circle, Chandigarh and addressed to the SDE (HRD), O/o GMTD, BSNL, Patiala, a copy whereof endorsed to the applicant, reads as under:

"Subject: Pension case of Sh. Navneet Rai Rishi Ex Sr TOA who retired on 31.07.2015.

Ref:- 1>Your No Pen-Q-1786/Navneet Rai Rishi/Sr
TOA/(P)/PA/16 Dated 07.08.2015

With reference to your letter under reference regarding the above cited subject it is stated that on perusal of the service book it has been noticed that at the time of time bound promotion wef 01.06.2000 in the scale of 5000-8000, the pay of the official has been irregularly fixed at the stage of 5150/- instead of 5000/-. Hence the Service Book is returned in original and you are requested to look into the matter and furnish amount/recovery particulars of overpaid salary without any further delay."

1.2 The applicant volunteered to deposit the aforesaid amount through his letters dated 09.09.2015 and 14.09.2015 (vide Annexures R-2 and R-4).

1.3 It is significant to note that the applicant has not challenged the aforesaid letter dated 19.08.2015 (Annexure A-3).

1.4 It is stated in the relief clause that the amount was "illegitimately recovered from his retiral dues", which is factually incorrect.

2. I have heard the learned counsel for the parties, perused the pleadings and the rulings cited at the Bar, and given my thoughtful consideration to the matter.

3. It has been contended by the learned counsel for the applicant that he was not issued any show cause notice before the demand of the amount of excess payment. However, as noted above, a copy of the letter dated 19.08.2015 (Annexure A-3) was endorsed to the applicant and he was thus fully in the

know of the development. The applicant then himself wrote to the Accounts Officer to be allowed to deposit the amount. No prejudice can be said to have been caused to the applicant by non-issuance of any formal SCN.

4. This is also not a case of any hardship having been caused to the applicant by an order of recovery. In fact, there is no order of recovery. The applicant has no legal right to retain any amount of excess payment. The contention made by the learned counsel for the applicant that he was coerced into depositing the amount is unsubstantiated.

5. The judgment of the Hon'ble Supreme Court in **State of Punjab and Ors. Vs. Rafiq Masih (Whitewasher) and Ors.** [(2015) 4 SCC 334], which, for equity, prohibits, in certain situations, recovery from employees, where payments have mistakenly been made by employer, in excess of their entitlement, is inapplicable to the present case. Further, in **High Court of Punjab and Haryana and Ors. Vs. Jagdev Singh** [(2016) 14 SCC 267] (Annexure R-6), the Hon'ble Supreme Court held that the principle of non-recovery from retired employees would not apply in the case of an employee put on notice at the time of payment that any excess payment would be required to be refunded.

6. In the light of the above, I am of the view that the OA is devoid of merits. The same is, therefore, dismissed. No order as to costs.

(DR BRAHM AVTAR AGRAWAL)
MEMBER (J)

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