IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17270 of 2013

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1. The Controller of Communication Accounts Office of CCA, Bihar Telecom Circle, 2nd Floor, CTO, Annexe Building, Patna.
2. The Union of India, Through The Secretary, Ministry of Telecommunication, Govt. of India, Dept. of Telecommunication, 914, Sanchar Bhawan, Ashoka Road, New Delhi - 100014
3. The Member (Services), Ministry of Telecommunication, Govt. of India, Dept. of Telecommunication, 914, Sanchar Bhawan, Ashoka Road, New Delhi - 100014
4. The Chief Accounts Officer (CA), Bihar Telecom Circle, Sanchar Bhawan, Budh Marg, Patna - 800001

.... Petitioner/s

Versus

1. Sri D.N. Choudhary, Son of Late Ghanakantha Choudhary Resident of 403, Kamla Rekha Shree Apartment, Rai Ram Briksha Path, Nehru Nagar, Patna - 3
2. The Chairman-Cum-Managing Director, BSNL, Corporate Office, BSNL, Janpath, New Delhi
3. The Chief General Manager, Telecom, Bihar Circle, BSNL, Patna (Bihar)

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Raj Kamal, Advocate
For the Respondent/s : Mr. M.P. Dixit, Advocate

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CORAM: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH
and
HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE NAVANITI PRASAD SINGH)
Date: 01-05-2015

The Controller of Communication Accounts is the writ petitioner, being aggrieved by the order of the Central Administrative Tribunal, Patna Bench the sole respondent was the petitioner/applicant before the Tribunal. Upon his superannuation, certain deductions were sought to be made from his retiral dues on account of alleged wrong fixation of pay during his service tenure. The sole respondent moved the Tribunal and the Tribunal held that

Bharat Sanchar Nigam Limited could not realize any amount after retirement from retiral dues.

Learned counsel for the petitioners here submits that in pursuance to Rule 71 of CCS (Pension) Rules, 1972 any Government dues, including dues as a consequence of wrong pay fixation, can be recovered from retiral dues. On the other hand, Sri M.P. Dixit, learned counsel for the sole respondent before us and the applicant before the Tribunal contends with reference to Rule 59 (b)(iii) of the said Rules that any such wrong fixation of which cognizance can be taken must be within 24 months of superannuation. He further relies on the judgment of the Hon'ble Apex Court in the case of ***Chandi Prasad Uniyal and Others Versus State of Uttarakhand and Others*** since reported in 2012 (8) SCC 417 and in particular paragraph-15 thereof wherein it has clearly been observed that no recovery shall be permissible where an employee is about to retire or has retired. He further relies on the recent judgment of the Appellate Court in the case of ***State of Punjab and Others etc. Versus Rafiq Masih (White Washer) etc.***

Having heard learned counsel for the parties and considered the matter whereof the view that the writ application, accordingly, merit no consideration.

Without the aid of judicial pronouncement, if we refer to Rule 59, it clearly puts an embargo of 24 months from the date of retirement. Therefore, any mistake, which was occurring from the date prior to that period, cannot be rectified or made a cause of recovery. In the present case, the sole respondent superannuated in the year 2012 and the mistake, alleged to have been committed, was of the year 2003, i.e. beyond rectification.

Thus, we unable to persuade ourselves to interfere with the order of the Tribunal. Accordingly, this writ application stands dismissed.

(Navaniti Prasad Singh, J.)

(Rajendra Kumar Mishra, J.)

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