

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6763 OF 2017

- 1 The Chairman & Managing Director,
Mahanagar Telephone Nigam Ltd, 12th
Floor, Jeevan Bharati Towers,
Connaught Place, New Delhi -110001
- 2 The Executive Engineer
Mahanagar Telephone Nigam Ltd.,
15th Floor, Telecom House, V. S. Marg,
Prabhadevi, Mumbai 400 028.
Through the Sr. Manager Legal H.Q.
of MTNL, Mumbai, Mr. Satish
Damodar Kalbende, Age 49 yrs.

...Petitioners

Versus

- 1 Shri. S. C. Shrivastava, Retired Chief
Engineer (BW), MTNL, Mumbai,
residing at 704/E, Grace CHS
Ltd., Vasant Oskar, LBS Road, Mulund
(West), Mumbai 400 080.
- 2 Union of India
Through The Secretary, Department of
Telecommunications, 20 Ashoka
Road, New Delhi 110 001.

...Respondents

Mr. Sandeep V. Marne, for the Petitioners.

Mr. Ramesh Ramamurthy, a/w Mr. Saikumar Ramamurthy,
for the Respondents.

**CORAM: B. R. GAVAI &
N. J. JAMADAR, JJ**

DATED: 8th March, 2019

ORAL JUDGMENT :- (Per B. R. Gavai, J.)

1. Rule.

2. Rule made returnable forthwith. By consent of the
Counsels for the parties heard finally.

3. The petition challenges the order passed by the learned Tribunal dated 4th December, 2015, vide which the learned Tribunal has allowed the original application filed by Respondents – employee and granted interest to the Petitioner for the particular amount.

4. The perusal of the impugned order would reveal that the recovery which was effected by the Petitioner was illegally recovered and thereby the said amount was refunded. The perusal of the record would reveal that the Petitioners were informed to rectify their mistake and illegal recovery within the short period. Since the deduction itself was illegal, the learned Tribunal has granted interest for short period during which the Petitioner was deprived of the said amount.

5. The interference by this Court while exercising its jurisdiction under Article 226 of Constitution of India for examining the correctness of the order of the Tribunal is very limited. Unless the view is found to be perverse, it will not be permissible for this Court to interfere with the matter. We do not find any perversity in the impugned order. The decision taken by the learned Tribunal is on the basis of the view taken by the Division Bench of this Court and by its

Predecessor in earlier Original Application. The view taken is in tune with the principle of judicial propriety.

6. The perusal of the impugned order would reveal that the learned Tribunal has justifiably exercised its jurisdiction. No interference is warranted in the impugned order. We find that the present petition itself filed by the Petitioner which is a state within the meaning of Article 12 of Constitution of India is a totally frivolous litigation and deserves to be thrown out by the Union of India so as to the unwanted litigation, therefore, place on record our displeasure for filing such unpleasant petition and hope that hereafter the Petitioner will avoid filing such petition.

7. The Petition is, therefore, rejected. In the circumstances, there shall be no order as to costs.

8. Rule made absolute in aforesaid terms.

[N. J. JAMADAR, J.]

[B. R. GAVAI, J.]