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No.:AIBSNLEA/CHQ/DRHR/2018

Dated 11.06.2018

To,

Smt. Sujata Ray,
Director (HR),
BSNL Board,
New Delhi – 110001

Subject: Implementation of Hon'ble Supreme Court judgment dated 14.12.2017 in the matter of fixation of seniority of TES Group "B" officers in BSNL on the basis of Rule 206 – Our submissions regarding.

Respected Madam,

We are thankful for directing OSD to hold a meeting with AIBSNLEA for taking the views of AIBSNLEA on implementation of Rule-206 for deciding the seniority of TES Group Officers in BSNL consequent upon the Hon'ble Supreme Court judgment dated 14.12.2017.

In this connection OSD to Director (HR) conducted a meeting with the representatives of AIBSNLEA in the presence of Jt. GM (Pers.), DGM (Pers.-II) on dated 06.06.2018 to discuss the modalities of implementation in view of the aforesaid judgment dated 14.12.2017 of Hon'ble Supreme Court wherein it observed that the Pers. Cell of BSNL Corporate Office is misinterpreting the judgment of Hon'ble Supreme Court and proposing the reversion of the TES Group "B" officers promoted on the basis of the Rule-1966 irrespective of them being serving or retired. Hon'ble Supreme Court while considering the recommendations of the Expert Committee Headed by Hon'ble Shri Justice K. Ramamoorthy, Retired Judge of the High Court of Madras as Chairman and Mr. D.P. Sharma, Former Secretary to Ministry of Law and Justice and Former Vice Chairman, CAT, Principal Bench New Delhi as the Member. The Expert Committee has recommended that:

1. *The seniority lists submitted by BSNL in compliance with the judgment of the Hon'ble Court dated 21.01.2015 is in accordance therewith.*

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2. *The benefits claimed by 155 BSNL officers as mentioned in Annexure A & B may be accepted and this Hon'ble Court be pleased to direct BSNL to grant all benefit including promotion with effect from the date when the junior was promoted with all monetary benefits and service status as mentioned in the Annexure D herein to the 155 BSNL officers and all officers similarly situated.*
3. *This Hon'ble Court may grant the benefits to the 349 MTNL officers as mentioned in Annexure C herein and this Hon'ble Court be pleased to direct MTNL to grant all benefit including promotion with effect from the date when the junior was promoted with all monetary benefits and service status as mentioned in the Annexure E herein to the 349 MTNL officers and all officers similarly situated.*
4. *The rights of the 147 LDCE officers would require consideration by this Hon'ble Court in the concerned SLPs and the objections of BSNL, the 45 DQE officers, the 270 officers and the 512 officers may kindly be considered while considering the concerned SLPs.*
5. *The case of 45 officers whose seniority has now been fixed has to be satisfied with the benefit they get on that basis.6. The case of 270 officers may be considered by the department in accordance with the seniority lists and BSNL may be directed to grant all the monetary and service status benefits consequent on their seniority being fixed.*
7. *The case of 12 officers who were benefited by 2001 seniority lists is to be governed by the present seniority list and they are not entitled to any benefits.*
8. *In the case of 60 officers who had passed DQE examination in 2003, they are not entitled to any benefits.*
9. *This Hon'ble Court may consider the position that on the basis of the seniority lists now submitted by the BSNL and also the officers working in MTNL who were originally under the control of DoT and all officers similarly situated may be granted the consequential monetary and service benefits.*
10. *DoT/BSNL/MTNL may be directed to consider the case of all officers similarly situated like the 155 officers for BSNL and 349 MTNL officers irrespective of the fact whether they had made any representation before the Committee or not and grant them all the benefits mentioned in sub-paragraph 1 and2 of paragraph no.214.*
11. *BSNL may be directed to consider the case of all the officers who have made representations before us including Mr. Ashok Kumar Kaushik and K.S. Sengodan who not only made representations but also made submissions before us.*

Hon'ble Supreme Court in its judgment dated 14.12.2017 has further mentioned in Para-7 and 8 that-

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- “7. We do not consider it necessary to pass **any further order on above recommendations except** that 14 persons who are said to have been given promotions – 3 persons in the BSNL and 11 persons in the MTNL contrary to the law laid down by this Court in (1997) 10 SCC 226(Supra) may not be now disturbed. Their promotions and seniority may be considered personal to them without their being treated as class or a precedent for future. The judgment of this Court in (2015) 12 SCC 360 (Supra) will be treated as final between the parties on the principle of seniority.
8. We, however, make it clear that no arrears will be payable in terms of the impugned judgment. Consequential benefits of pay fixation including the pensionary benefits, if any, will be payable in terms of the impugned judgment only w.e.f. from 01.01.2018 and not for the past.”

It seems that while proposing reversion of the of the TES Group “B” officers promoted on the basis of the Rule-1966 irrespective of them being serving or retired the Pers. Cell is denouncing the judgment delivered by the Hon’ble Supreme Court. This act of the Pers. Cell is totally unjustified, incorrect and uncalled for.

In view of that we request you that Hon’ble Supreme Court judgment considering the expert committee recommendations should be implemented in its true spirit to avoid further litigations.

With kind regards,

Yours sincerely
Sd/-
(Prahlad Rai)
General Secretary

Copy for kind information and necessary action to:

1. The GM (Pers.), BSNL Corporate Office, New Delhi – 110001
2. The OSD to Director (HR), BSNL Board, New Delhi - 110001