

**ALL INDIA
BHARAT SANCHAR NIGAM LIMITED
EXECUTIVES' ASSOCIATION**

**Central Headquarters
New Delhi-110001**

President
S. Sivakumar
M. : 9486102121
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General Secretary
Prahlad Rai
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Financial Secretary
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M. : 9868188748
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No. AIBSNLEA/CHQ/Director (HR) /2018

Dated 19.11.2018

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

Subject Generalization of the Fixation of Pay under FR-22(1) (a) (i) to the Officials, who were screening Test passed & were officiating in the grade of JTO, to all circles instead of limiting to some circles alone -reg.

Reference 1) No. AIBSNLEA/CHQ/Director (HR) /2018 dated 03.10 2018
2) BSNL,CO, ND Lr. No. 3-8/2010-Estt-IV (Pt), dated 15/11/2018
3) BSNL,CO, ND Lr No: 3-8 /2010 Est IV dated 16/04/2014
4) BSNL,CO, ND Lr No: 3-8 /2010 Est IV dated 02/11/2018

Respected Madam,

We would like to draw your kind attention on the above subject. BSNL CO vide above cited ref(2) requested some of the CGMs of Circles to fix the pay of the Ex-officiating JTOs under FR 22 1 (a) (i) from the date the officials become eligible for pay fixation i.e., with effect from 31/12/2006 as per the instructions contained in the BSNL CO Letter cited under ref (3)

In this regard we wish to submit that the BSNL CO instructions vide the above cited letter under Ref (2) were issued to CGMs of six Circles only. ie, AP , MH , Telangana ,MP , TN and WB Telecom Circles. AIBSNLEA already requested vide letter cited under ref (1) to extend the FR 22 1 (a) (i) pay fixation benefits to all the erstwhile officiating JTOs with effect from 31/12/2016 in the pre revised pay scale of Rs.9850-250-14600 without reverting to the substantive cadre.

In view of the foregoing, generalized order for the method of pay fixation may be notified to all the Circles without ambiguity.

Substantive Pay as on 31.12.2006 in the TTA Pay Scale of : Rs.8300
Rs.7100-200-10100

a) Officiating Pay as on 31.12.2006/ 1.1.2007 in JTO Pay Scale of : Rs.10100
Rs.9850-250-14600(Pre Revised Scale)

b) D.A as on 1.1.2007 @ 78.2%

Rs. 7898

c) Fitment @30% on (a+b)

Rs. 5400

d) Total emoluments

Rs.23400

Revised Scale of Pay corresponding to the Pre-revised Pay
Scale as on 1.1.2007 Rs.16400-40500

Basic Pay fixed in the Revised Pay Scale as on 1.1.2007

Rs.23400/-


We would therefore request your good self to kindly intervene in this matter and cause to issue necessary instructions to generalize the order dated 02/11/2018 and 16/04/2014 for all circles

Encl: As above.

With Kind regards

Yours Sincerely,

(S.Sivakumar)
President


(Prahalad Rai)
General Secretary

Copy to: Sr.GM (Estt) - for kind information and necessary action.



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No. AIBSNLEA/CHQ/Director (HR) /2018

Dated 03.10.2018

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

Subject Fixation of Pay under FR-22(1) (a) (i) to the Officials, who were screening Test passed & were officiating in the grade of JTO-reg.

Reference 1) AGM (Estt-IV), ND Lr.No. 3-32/2013/Estt-IV, dated 22nd Dec-2015
2) AGM (Estt-IV), ND Lr. No. 3-8/2010-Estt-IV (Pt), dated 18th Sep, 2018
3) AGM (Personnel-V), ND, Lr.No. 1-50/2008-PAT (BSNL), dated 5th Mar 2009
4) AGM (Estt-IV), ND Lr.No. 3-8/2010/Estt-IV, dated 26th December, 2016
5) Director, DOT, ND Lr.No. 1-4(36)/98-PAT, dated 21-12-98

Respected Madam,

We would like draw your kind attention on the above subject. The pay of the Ex-officiating JTOs was fixed by the Dept. according to rule FR35 instead of **FR 22 1 (a) (i)** since 2005. After a legal battle at CAT, Ernakulum and PCAT New Delhi, BSNL Corporate office has issued a clarification vide Ref (1) stating that pay is to fixed in the scale of **9850-250-14600** for the years 2005 and 2006 and thereafter on 1-1-2007 it is to be re- fixed in the scale of **16400-40500**.

After a favorable judgment of FR 22 1 (a) (i) in Hon'ble Kerala High Court and dismissal of SLP filed by the Corporate office in the Hon'ble Supreme Court against the Hon'ble Kerala High Court's Judgment, AGM (Estt-IV), ND issued a letter vide reference (2), directing the SSAs to follow the instructions contained in above cited Ref (1) for the fixation of pay for the said officers.

The following points may kindly be considered for Implementation of Hon'ble Kerala High Court Judgment in true spirit.

1) The Hon'ble CAT, Ernakulum clearly states "the respondents cannot deny them the fixation benefit under F.R.22(1)(a)(i) in the scale of pay applicable to the post

of Junior Telecom Officer, on the ground that they have not cleared the three phases of training. The temporary nature of the posts or the non-regularization of the posts etc. are matters irrelevant as far as fixation of pay is concerned."

This means, the officiating JTOs are to be treated as Regular as far as fixation of pay is concerned and the scale of Rs.9850-250-14600 is to be implemented from the date they are eligible for pay fixation and it is to be continued till their Regularization with pay protection.

1) When the revision of scales of pay of Board level and below Board level Executives of BSNL w.e.f. 01-01-2007 took place, AGM (Personnel-V), ND clearly mentioned vide ref (3) above viz.,

a) "In respect of Executives in E1A and E2A scales, their pay may be fixed in the revised E-1 & E-2 IDA scales of Rs. 16400-40500 and Rs.20600-46500 respectively and these revised scales may also be used wherever specifying the pay scales is un-avoidable (e.g. for pension contribution, fresh appointment etc.), till the time new scales are notified". Hence there is no need of re-fixing the scale on 1-1-2007 as it is meant for fresh appointees (The Officiating JTOs are to be treated as Regular as far as fixation of pay is concerned.)

b) In addition to that The Director DOT, New Delhi vide ref. 5 clarified about counting of past officiating spells of service on local Officiating basis towards the increment in scale of pay of the promotional post as follows

"Whenever an officer has officiated in the higher post for short spell in the same/identical scale of pay, all such periods of officiating shall count for increment in the officiating post as per the provisions of FR 26 (a) read with the provision under FR 22 (1)." Therefore in the case where the officiating promotion was given to the officer/official who fulfils the prescribed conditions provides for in the Recruitment Rules, the period of the officiating spell during which the official/officer was drawing pay in the same scale of pay of the promoted post shall count towards the increment in the time scale of the higher post.

All the officiating spells are to be counted for drawing increments without counting the small breaks which were done for administrative reasons and pay protection in the year 2014 (for LDCE officiating JTOs) and in the year 2015/2016 (for officiating JTOs who were regularized by amending the 2014 JTO RRs) is to be implemented.

c) Pay fixation on Promotion: One notional increment equal to the increment being drawn by the executive in the pay scale, before such promotion would be granted and pay fixed in the promoted pay scale and rounded off to the next multiple of Rs. 10

But as per the instructions contained letter cited under ref (1), the pay of officiating JTC brought down to pay scale of 16400-40500 and giving one notional increment which mean again giving promotion on 1-1-2007 which is contradictory to the CAT, Ernakulu Judgment saying "the officiating JTOs are to be treated as Regular as far as fixation of p is concerned". This notional increment is meant for the promotes after 1-1-2007 and not

B. S. Srinivasan



01-01-2007. Moreover AIBSNLEA filed Contempt petition against the CO/ND order dated 22.12.2015 cited under ref (1) in Hon'ble PB CAT, New Delhi.

The method of pay fixation shown in the above cited ref (1) may be modified as Follows.

Substantive Pay as on 31.12.2006 in the TTA Pay Scale of : Rs. 8300

Rs.7100-200-10100

a) Officiating Pay as on 31.12.2006/ 1.1.2007 in JTO Pay Scale of Rs.9850-250-14600(Pre Revised Scale)	Rs 10100
b) D.A as on 1.1.2007 @ 68.8%	Rs. 6949
c) Fitment @30% on (a+b)	Rs. 5115
d) Total emoluments	Rs 22164

(Revised Scale of Pay corresponding to the Pre-revised Pay Scale as on 1.1.2007 is Rs.16400-40500)

Basic Pay fixed in the Revised Pay Scale as on 1.1.2007 Rs. 22170/

Vide reference 4 above, AGM (Estt-IV), ND has given direction for "Fixation of pay under FR 22 (1) a (i) instead of FR-35 in r/o the officiating JTOs in the -Annexure enclosed, on Officiating Promotion as JTO from the date they are eligible for pay fixation". The above pay fixation is subject to the outcome of the fourteen WPs arising out of TA No84 to 97/2008 pending before the Hon'ble High Court of Kerala at Ernakulam. **Thus the pay fixation is to be w.e.f., the date of Officiating promotion and this is not to be break up on 1-1-2007**

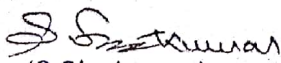
The long legal battle of 10 years for the genuine Pay fixation under FR 22(1)(a) (i) has not been resolved till date even after involvement of Hon'ble Supreme Court, which demotivates the JTOs from carrying day to day duties. The beneficiaries are very less in numbers.

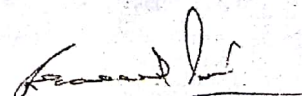
We would therefore request your good self to kindly intervene in this matter and cause to issue necessary instructions to the Officers concerned to modify the order dated 18.9.2018 cited under ref(1) for true implementation of the Hon'ble Kerala High Court Judgment and render justice.

With Kind regards

Encl: As above.

Yours Sincerely,


(S.Sivakumar)
President


(Prahald Rai)
General Secretary

Copy to: Sr.GM (Estt) - for kind information and necessary action

URGENT
COURT CASE

Reminder-1



Bharat Sanchar Nigam Limited
(A Government of India Enterprise)

Corporate Office
Establishment-IV Section

5TH Floor
Bharat Sanchar Bhawan
Jan path, New Delhi-110001
Website: www.bsnl.co.in

No.3-8/2010/Estt-IV

Dated 15th, Nov 2018

To
CGM's

A.P, MH, Telegana, MP, Tamil Nadu, WB Telecom Circles,
Bharat Sanchar Nigam Limited

Subject: Information regarding implementation of the order dated 26.08.2010 in
OA No.1282/2010 -reg.

Ref 1: Letter no.3-8/2010/Pers IV dated 30.04.2013.(Available on Intranet)

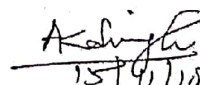
Ref 2: Letter no.3-8/2010/Pers -IV dated 1.01.2014 .(Available on Intranet)

Ref3: Letter no 3-8/2010/Estt-IV dated 16.04.2014.(Available on Intranet)

I am directed to refer to this office letter no. 3-8/2010/Estt-IV dated 02.11.2018 (available on BSNL Intranet) , where in it was requested to furnish the information on whether arrears had been paid to theses applicants (i.e officiating JTOs , whose pay had been fixed under FR22(1)(a)(i) from the date the applicants become eligible for pay fixation) w.e.f 31.12.2006 as per instructions issued by BSNL CO letter , dated 16.04.2014 (mentioned under Ref3 letter).

Till now this office has not received any communication from your office in this matter. Since **CMJ** BSNL has been made contemnor in this case , non receipt of the information has been viewed seriously by Competent Authority. .

You are therefore requested to intimate this office whether arrears had been paid to these applicants by your circle or not at the earliest latest by 19.11.2018 on (agmestt4@gmail.com), so as to enable this office to avoid any awkward position before Hon'ble PCAT New Delhik. The Contempt Petition on this matter before PCAT ,New Delhi will be heard on 30.11.2018.


(A.K. Singh)

Deputy General Manager (Estt-II)
Ph. 23734152 & Fax: 23734051



BHARAT SANCHAR NIGAM LIMITED

(A Government of India Enterprise)

MOST URGENT
COURT CASE

Corporate Office
Personnel-IV Section

5th Floor. Bharat Sanchar Bhawan, Janpath
New Delhi-110001

Website: www.bsnl.co.in

No. 3-8/2010/Estt-IV

Dated: 16th April, 2014

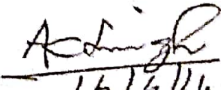
To
All Heads of Telecom Circle/Districts,
Chief General Manager, NTR,
Bharat Sanchar Nigam Limited.

Subject: Clarification regarding implementation of judgment in OA No.1282/2010 filed by BSNL Officers Association Vs CMD BSNL & Others in CAT Principal Bench, New Delhi -reg.

Ref : This office letter no.3-8/2010/Pers-IV dated 01.01.2013

This has reference to this office order no.3-8/2010/Pers-IV dated 01.01.2014, wherein it was intimated to fix the pay of the applicants in the above OA under FR22 (1) (a) (i) from the date the applicants become eligible for pay fixation. In compliance of the order passed by the Hon'ble PCAT, New Delhi in the Contempt Petition No.515 in OA No.1282, dated 13.03.2014, the members of the applicants association be paid arrears from the date the applicants become eligible for pay fixation under FR22(1)(a)(i).

This issues with the approval of the competent authority.


16/4/14
(A.K.SINGH)

Assistant General Manager (Estt-IV)
Ph. 23734152 & Fax: 23734051

**URGENT
COURT CASE**



Bharat Sanchar Nigam Limited
(A Government of India Enterprise)

**Corporate Office
Establishment-IV Section**

**5TH Floor
Bharat Sanchar Bhawan
Jan path, New Delhi-110001
Website: www.bsnl.co.in**

No.3-8/2010/Estt-IV

Dated 02nd, Nov 2018

To
CGM's
A.P, MH, Telegana, MP, Tamil Nadu, WB Telecom Circles,
Bharat Sanchar Nigam Limited

**Subject: Information regarding implementation of the order dated 26.08.2010 in
OA No.1282/2010 -reg.**

- Ref 1: Letter no.3-8/2010/Pers IV dated 30.04.2013.(Available on Intranet)
Ref 2: Letter no.3-8/2010/Pers -IV dated 1.01.2014 (Available on Intranet)
Ref3: Letter no 3-8/2010/Estt-IV dated 16.04.2014.(Available on Intranet)

This office has received contempt petition no.572/2016 in OA No. 1282/2010 of Hon'ble PCAT New Delhi filed by BSNL Officers Association & others Vs BSNL & others regarding disobedience of order dated 26.08.2010 passed by the Hon'ble CAT New Delhi by which direction were given to fix the pay of officiating JTOs as per FR22(1)(a)(i).

In this regard with above references, this office had issued instructions to fix the pay of officiating JTOs under the provisions of FR22(1)(a)(i) initially from the date of order & subsequently from the date the applicants become eligible for pay fixation with arrears to be paid from the date the applicants become eligible for pay fixation under FR 22(1)(a)(i)

BSNLOA has filed contempt petition before Hon'ble PCAT, New Delhi with grievance that "No arrears had been given to these applicants w.e.f 31.12.2006".

The Ld. Tribunal has directed to BSNL to file proof/affidavit to show that the present applicants have been treated on par with applicants who got the same benefits.

Primal Kumar