

DISTRICT : KOLKATA

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

W.P. No. 24253 (W) of 2016

In the matter of :

All India Graduate Engineers Telecom
Officers Association & Ors.

.... Petitioners

-Versus-

Bharat Sanchar Nigam Limited & Ors.

.... Respondents

AFFIDAVIT IN OPPOSITION ON BEHALF OF THE RESPONDENTS

I, Shyamal Sinha, son of ^{Moham} Mohan Lal Sinha, aged about 53 years, by faith -
Hindu, by occupation - Service, working for gain at ^{Asst} Assistant General
Manager (HR/Admn.), Office of Chief General Manager, CTD, Kolkata do
hereby solemnly affirm and say as follows:-

1. That I am deponent herein as such I am aware of the facts and
circumstances of the present case and I have also been empowered on
behalf of the other respondents to swear /verify/ sign this present affidavit.

Received
on 25/11/2016

2. That I have been served with a copy of the writ application under Article 226 of the Constitution of India (hereinafter referred to as the 'said application') and I have gone through the same and understood the meaning , content and purport thereof.

3. That I have been advised to deal with the relevant paragraphs which are necessary for adjudication of the case and any submission which are contrary to records are deemed to be denied and disputed by me. That save and except the statements and/or allegations made in the said application which are specifically admitted by me herein, I deny & dispute the rest.

4. That the said application is speculative purported, harassing and hopelessly barred by the laws of limitation, waiver and acquiescence and therefore not tenable in the eye of law.

5. That without waiving any of the aforesaid contentions but fully relying on the same, I now state the matter as hereunder.

A. The matter is submitted as follows:

There are two categories of Employees viz Non-Executives and Executives. Non-Executives are represented by the recognized Union and Executives are represented by the recognized Association. This classification is based on the difference of their issues substantially e.g.

Wage revision of the executives of Public Sector Undertaking (herein after called PSU) is based on the recommendations of Pay Revision Committee and issued by Department of Public Enterprise (DPE), Govt of India, whereas for non-executives it is done by way of negotiated wage settlement between the PSU Management and the recognized representative Unions. There are two different promotion policies for executives and non-executives viz Executive Promotion Policies (EPP) and Non-Executive Promotion Policy (NEPP).

Rule 26 of BSNL CONDUCT, DISCIPLINE AND APPEAL RULES (BSNL CDA Rules) deals with Classification of services. The services of the employees of the Company are classified as follows: -

(i) Executive (ii) Non-executive. Rule 27 and 28 also conforms this classification with reference to their constitution and posts.

Photo copy of the relevant portion of BSNL, CDA Rules are annexed hereto and marked with letter "R/1".

This is the reasonable basis of classification of the employees and a so membership verification (herein after called MV) is done separately for these two categories as per two different sets of Rules. The Unions of Non-Executives comprise both categories of employees i.e. BSNL absorbees of DoT and directly recruited by BSNL. There are about 1.6 lakhs Non-Executives (comprising both absorbed and BSNL recruited categories) which constitute major employees' strength of BSNL.

However, in case of Unions of Non-Executives also, BSNL Recognition Rules have provision of only one group without any distinction between absorbees and BSNL recruits non-Executives. There are 0.44 lakh (approx) executives in BSNL including absorbees in and recruited by BSNL.

- b. In order that a writ of mandamus may be issued to an authority to do something, it must be shown that the aggrieved party had a legal right under the statute to enforce its performance or the statute imposes a legal duty on that authority.
- c. It is submitted that the petitioner has not mentioned any statutory provision which is in force and which confers on the petitioner association a right to be recognised by the employer or imposes a corresponding obligation on the employer i.e. BSNL to grant such recognition.
- d. It is legally settled that the freedom of association guaranteed by Article 19(1)(c) does not carry with it a guaranteed and concomitant right to recognition of the association. The petitioner has right to form an association under the constitution and it has already been formed. Grant of recognition to Associations is an administrative action because no central legislation exists having provisions for recognition. Trade Union Act does not make any provision for recognition of Association/Union.

Rights and legal rights of the petitioner has been specifically mentioned except the question of Article-14 (under points of law- para III) raised by the petitioner, the submission being made below will show that the question of distinct group of employees recruited by BSNL does not in any way attract Article 14.

- f. The main grievance of the petitioner is against the Notification containing Bharat Sanchar Nigam Limited (Recognition of Executives' Association) Rules, 2014 [BSNL(REA) Rules 2014 in short] (Annexure-P6). All other orders challenged by the petitioners are in accordance with this Notification. Membership Verification (hereinafter MV) for Recognition of Majority Executive Association is conducted in accordance with these BSNL(REA) Rules 2014.

As per these Rules there is a provision for only one representative association of executives which gets majority votes in the membership verification subject to a minimum of 35% membership of total votes of the working executives in BSNL [Rule 3(1)]. Further, any participating association other than majority representative association, which gets second majority votes and not less than 15% votes of the total working executives in BSNL, will be given the status of a 'Support' association [Rule 3(2)]. The periodicity of recognition period of the representative Association will be for a period of THREE years [Rule 6].

representative association of executives which gets majority votes in the membership verification. In the present process of membership verification all 10 no of associations other than the petitioner, which are eligible to participate have membership open to all executives. They were declared eligible to participate in the present recognition process because they have given the undertaking to comply with BSNL (PEA) Rules 2014. It shows that they don't have any objection. Many of the BSNL recruited Executives are members of all these 10 other Associations which represent both absorbed Executives and BSNL recruited Executives. These associations have been taking up the issues of all the executives including the executives recruited by BSNL. To put it differently it is not that the petitioner is the only association representing BSNL recruited executives. Many BSNL recruited executives want them to be represented through other associations. One recognised association taking up the issues of all the executives in a holistic manner is necessary for deciding the issues expeditiously. Giving recognition to many associations will defeat the purpose of recognition. In a big organisation like BSNL having multiple associations, recognition of one from among them having maximum members does not attract Art-14. This point has further been explained in subsequent paras.

1. The main grievance of the petitioner is to make it a distinct group of employees because as per petitioner they differ in many ways including recruitment method, qualifications job security, future security and

retirement benefits with respect of absorbed executives. The petitioner contends that the absorbed executives have different terms and conditions as compared to the BSNL recruited executives with regard to superannuation benefits like Pension, EPF/GPF, Gratuity Funds etc. This ground for distant group is not justified and discussed further in para 5 to 10 below.

2. Respondent submits that as stated above in Para A(a), there are two categories of Employees viz Non-Executives and Executives. The recognised Unions of Non-Executives represent both categories of employees i.e. BSNL absorbees of DoT and recruited by BSNL. Non-Executive Employees about 1.6 lakhs in number also comprise of both absorbed and BSNL recruited categories, which constitute major employees strength of BSNL. In case of Unions of Non-executives also BSNL Recognition Rules (known as BSNL Recognition of Non-Executives Unions and Representation in the Councils Rules) have provision of only one group and there is no distinction between absorbees and BSNL recruits non executives. Comparatively the strength of executives in BSNL including absorbees in and executives recruited by BSNL is very small i.e. only 0.44 lakh (approx).

Seven(7) rounds of Membership Verification for recognition of majority unions of non executives have already taken place without any demand for distinct group. The recognised union represents all the non-executives i.e. of BSNL both absorbed as well as recruited by BSNL. Hence grant of recognition to one association having maximum

representation of the executives without making further classification, does not infringe the fundamental rights granted under the Constitution of India Art. 14 or 19(1)(c).

4. The contention of the petitioner that BSNL Recruited JTOs and JAOs, who are subsequently promoted to the rank of SDE, DE etc. are a distinct category of employees is neither correct nor tenable. A JTO or an SDE or a DE, whether he is a BSNL recruit or an absorbee executive belongs to the same category of employees. No doubt, some of their service conditions like pension may differ in nature, but it is not correct to argue that they are in conflict with each other. Rather it is other way about. The reality is that at times more associations create "conflicting situation" impeding the resolution of many issues. In fact, both the BSNL recruits and absorbed officers belong to the same category and are not distinct groups. The petitioner association is referring to Department of Personnel and Training (herein after DOPT) circular dated 05.11.93 (Annex. P. 4) under which various ministries and departments have been empowered to decide the distinct category of employees. In this regard the contention of the petitioner mentioned in Annexure P-9 that for recognition of association, Department of Public Enterprise (herein after DPE), Govt of India has not issued any guidelines is incorrect and misleading. DPE vide letter dated Oct 26, 1995 [Annexure R2] has issued broad guidelines for this purpose. Annexure P4 and P5 i.e. DOPT Circulars submitted by the petitioner are applicable to Govt Servants to whom Central Civil Services (Conduct

Rules) apply. Perusal of these Rules shows that there is no mandate to PSUs to follow them. BSNL being a PSU is guided by the guidelines issued by DPE Govt of India and has separate Conduct, Discipline and Appeal Rules 2006 (hereinafter CDA Rules) for its employees, that also framed as per DPE guidelines. Similarly it issued BSNL Recognition of Executive Association Rules based on the said DPE Guidelines. DOPT instructions are regarding check-off system. In check off system, employees are asked to state in writing that they are willing to have union membership deducted from their salary. The check-off system helps management to know how many members each association has whereby enabling the management to make an assessment of the relative strength of Unions/Associations for the purpose of recognition. In organisation like BSNL Secret Ballot was felt to be more suitable method. Membership verification by secret ballot, enables employees to exercise their option secretly, without fear or favour.

Photo copy of the said letter dated October 26, 1995 is annexed hereto and marked with letter "R/2"

BSNL has come into existence by way of conversion of operative part of Dept. of Telecom. Since a large number of Associations had come up in respondent no. 1 company, it was imperative to have an association representing majority of the employees with which the management could interact and resolve their issues and grievances. With this in view, a committee of 5 senior level officers was constituted to frame BSNL's own Recognition Rules vide letter No. BSNL/31-2/SR/2009 dated 12.02.2009. However, before making its recommendations, the

said Committee invited the views and comments of all the Associations including petitioner no. 1 Association. After making elaborate deliberations on all the issues and keeping in mind the Government's guidelines / instructions/best practices and also taking note of the inputs received from various associations including petitioner no. 1 association, the Committee submitted its recommendations in the form of draft Recognition Rules, which were subsequently notified with the approval of BSNL Board. As such before issue of notification dated 06.01.14, i.e. BSNL Recognition Rules (Annex. P6), the views and comments of the petitioner no. 1 association have already been taken into account.

5. The committee had deliberated in detail on the issue of number of representative associations in BSNL in Para-B(1) of its recommendation. It was felt that though a huge diversity exists within the organization on account of cadres & their spread. Acceptance of more than one association, as representative association would inherently be detrimental for homogeneous & seamless establishment of prospective processes within the 'organization. In the present competitive environment, no organization can survive if the homogeneity aspect is not properly advocated and consciously encouraged to present the organization as a unified entity to the inside as well as outside world. In view of this the committee recommends of only one representative association of executives in BSNL. It is informed that both absorbed and BSNL recruited employees have same service conditions i.e. a) Pay

ages and pay revision, b) Promotion policies, c) Leave rules, d) disciplinary rules, e) Transfer policies etc. In a large organisation like BSNL there are many cadres, streams etc with different types of issues and that do not justify formation of distinct groups.

Photo copy of the extract of recommendation of the Committee constituted for framing rules and regulations, circulated vide letter No. BSNL 31-2/SR/2009 dated 11.11.09 is annexed hereto and marked "R/3A".

8. Only major difference between absorbed and BSNL recruited Executives is that pension of employees of DoT absorbed in BSNL is provided by Govt. Of India under 37-A of CCS Pension Rules and whereas for BSNL recruited executives it is based on DPE guidelines. Gratuity and leave encashment are one and the same for both categories of employees i.e. absorbed in and recruited by BSNL. BSNL Management is in the process of making separate pension policy for BSNL recruits. Based on the recommendations of BSNL Board in May 2016, the Administrative Ministry has approved the pension scheme and further formalities like formation of trust and clearance from Income Tax authorities etc is being carried out.

Photo copy of the letter of pension approval by DoT dated 23.05.2016 is annexed hereto and marked with letter "R/3B".

9. So there is no merit in the demand of making distinct group at all.

Accepting the demand will lead to conflict of interest among these associations. The very purpose of recognition of major representative Association will be defeated as the management will not be able to take decisions on very important issue like restructuring of the Organisation, rationalisation of number of posts cadre-wise, recruitment of Management Cadre etc. In the highly competitive environment, BSNL is working in, restructuring of the organisation is very important. With plenty of associations and their diverse opinion, all the important initiatives in HR could not be implemented. It is not only HR issues, on business issues also Management generally have prior consultation with the Associations to have a consensus within the organisation.

8. Apart from above facts, it is mentioned that BSNL a leading telecommunication service providers and working in a highly competitive environment. Creating consensus among such large no of associations (11 associations including the petitioner) on HR issues and Business matters needs lot of effort on the part of the management. At times there is no consensus among different associations having totally opposite stand on various matters. Therefore recognition of the representative association is not only extremely important but urgent also in view of the cut-throat competition BSNL is facing and rising expectations of Govt of India for completion of various national and USO projects, Govt largely depends on BSNL how efficiently BSNL completes these projects. Frequent agitation notice /protest on HR issues is likely to delay the progress of these critical national projects in which BSNL is involved. Thus any delay in the

verification process will not be in the Public Interest. Further other Associations participating in the Member Verification have requested the management to ensure that the verification is held in accordance with the notification.

Photo copy of such request letters are annexed hereto and marked as annexure "R/4" collectively.

3. The request for interim order may not be allowed as the same is going to cause great administrative inconvenience to BSNL affecting its business as explained above. The Restructuring of BSNL is at cross roads and this requires to be discussed with recognized Unions/Associations. It is mentioned that during the MV process, further transfer/posting of Executives have been put on hold so that voter list is not affected. The business of the company may affect adversely if there is delay in the completion of MV as Executives are also to some extent engaged in this process. Therefore, it requires to be concluded in a time bound manner.
11. The writ petition is suffering from another major legal infirmity of non-joinder of necessary Parties. All the other associations who are enthusiastically waiting for MV are not made necessary parties in the writ petition. Hence it is also submitted that before taking any review of the rules, wherever necessary, all other major Associations representing BSNL executives should be necessarily made as parties.

11. About multiplicity of Associations, the committee of senior officers constituted to frame BSNL's own Recognition Rules under para-A and para B (5) (6) had recorded its views/ recommendations as hereunder:

"It is to be noted that there exists a major difference between the nature of unions and associations. While unions represent workmen who are generally low paid and are more vulnerable to exploitation, the associations represent executives who are better paid, and better educated/informed. The members of these associations are normally considered facilitators for the management in its decision making and implementation processes. Also the executives have normally better access to the management putting them in a better position to echo and protect their interests. As these are not normally available to the non-executives, the government has made provisions through various acts/legislations like Industrial Dispute act and Trade Union Act to protect their interests. These acts provide certain tools like collective bargaining, negotiations and right to agitate in certain manner which are not available to executives, considering the executives to be advantageously placed. Therefore the absence of right of negotiation etc. to the executive associations has to be seen in the background of these facts."

"As far as the size of the executive bodies in the associations is concerned, the Committee felt the strong need to appreciate that we must explore and establish the near optimal representation, in terms of number of office bearers, in the system. It was estimated

that as per the present structure, there are around 400 units in BSNL where an association can have its executive body. Presuming that each of the executive body will have 15 office bearers, a single association would end up having around 6000 office bearers. These numbers would multiply drastically, in case of multiplicity of such associations. Though the office bearers are not supposed to be full time functionaries of their respective associations, the ground reality is not very promising.

At present Associations deals with the issues of all Executives absorbed in BSNL or recruited by BSNL. Making distinct group will put huge burden on BSNL apart from it, a big part of the Executives will be engaged in association activities.

Therefore, it is submitted that in case the demand of the petitioner is agreed to, more such similar demands for distinct groups and separate representation from other associations and then unions from different cadres like Finance, Telecom, Civil, CSS, Casual Labours cannot be ruled out.

In view of the above, the matter does not attract the constitutional provisions of either Article-14 or 16 at all. Grant of recognition to one association having a maximum representation of the executives is an administrative action and it does not infringe the fundamental rights guaranteed under Art. 14 or 19(1)(c) of the Constitution of India

B. 1. As regards the territorial jurisdiction; Petitioner No.1 is an

Association of BSNL having its Registered Office at the address at Flat No. A-302, Life Style Residency, Plot No. GF 41-42, Sector-65, Faridabad, Haryana.

Photo copy of the letter head as AIGE to A is annexed hereto and marked with letter "**R/5**".

As per the provisions of BSNL(REA) Rules 2014 under para 7(1) organizational structure of the Associations in BSNL shall be at three tiers operating at All India Level, i.e. CHQ body with head quarter at New Delhi (co-terminus with BSNL C.O.); Circle level body (co-terminus with the Circle HQ) and District/SSA level body.

2. Petitioner no 2 is an office bearer (AGS) of the petitioner no 1 association AIGETOA. Headquarter of the association shall be at Delhi as per the Rules. The petitioner no. 1 is an Association of graduate engineers registered with the office of District Registrar, Firms and Societies, Rewari in Haryana State. This Association is headed by a General Secretary, who is stationed at New Delhi. The cause of action has arisen in New Delhi due to the issuance of a the Notification dated 6th January, 2014. by the Respondent No. 1 i.e. GM SR BSNL Corporate Office at Delhi whose registered office and Corporate office is at New Delhi. For all practical purposes, on policy matters affecting the employees at large, the

issues are taken up by the General Secretary with the Corporate office. The present petition has been filed by the petitioners nos. 2 and 3, who are the Assistant General Secretary and Circle Secretary of the petitioner no. 1 Association and both are stationed at Kolkata in WB Circle. The petitioner no.2 is one of the five AGSs, whose functions and duties are to assist the General Secretary, as per the constitution of petitioner no. 1 association. Further, petitioner no. 3 is the Circle Secretary in West Bengal Circle of petitioner no. 1 Association and his duties are to manage the affairs of the association in the WB Circle only.

3. As such, when the cause of action has arisen in New Delhi and the General Secretary of petitioner no.1 association is stationed at New Delhi, obviously the present petition has been filed at Kolkata with some ulterior motive. The petitioners no.2 and 3 have no locus-standi to file this petition and the petition is liable to be rejected on this ground itself. The petitioner is unauthorisedly trying to interrupt the Membership Verification process by frequently issuing the strike notice inspite of the advice by Management every time-In the present notice dated 20.10.16 and 24.10.16 & 31.10.16 copy of which are annexed hereto and marked with letter "R/6" collectively.

4. The petitioner has also taken up the case of an individual which he is not supposed to do as per Para 14(5), (6) of the REA Rules 2014(referred to in Annexure P6). It is pertinent to mention that the petitioner is adopting such methods again and again inspite of the fact they are been advised repeatedly by the respondents,

copy of the advised letters dated 03.12.2015 is annexed hereto and marked with letter "R/7" .

5. The Executives are part of the Management. Because of their professional and social standing they are generally better paid and have better terms and conditions of employment including better pay and allowances. They are not covered by the Industrial Disputes Act, 1947 because of the aforesaid reasons. Being part of the Management, they are associated with decision taking process at different levels. Notwithstanding this common perception about the Associations, in BSNL inter-association-rivalry has given rise to unjustified hunger strikes, mass casual leaves for securing their demand and thus creating some embarrassing problems for the management requiring serious consideration and hence there is an urgent need of having a single recognized association. Perusal of recent advice given to the Association by letter dated 11.11.2016 is annexed hereto and marked with letter "R/8" will indicate that they have called MASS CASUAL LEAVE and have least respect to the Rules framed by BSNL. Now the petitioner has filed the application in Allahabad High Court and Cuttack CAT also.

C. The petition has been filed by the petitioner now only to complicate whole membership verification process when it is in final stage and after such an inordinate delay whereas the remedy was available to him long before as explained below:

1. A committee was formed on 08.07.2013 to frame Bharat Sanchar Nigam Limited (Recognition of Executives' Association) Rules, 2014. BSNL framed draft Notification of Recognition Rules and requested General Secretaries of all Executive Associations of BSNL to supplement their inputs, if any and also personal appearance for any suggestion. Various Associations including Petitioner Annexure R-2, in the present case submitted their inputs before the committee. Thus Rules were made after considering the suggestion of all interested parties.

2. Thereafter, BSNL Recognition Rules BSNL (REA) Rules 2014 got approved by the competent authority i.e. BSNL Board and was notified on 06.01.2014.

3. Based on the Recognition Rules, 2014 Notification for MV for Recognition of Majority Association was issued 16.06.2014. However, the process of MV was withheld due to a court case filed by one of the Association at Karnataka High Court. It is pertinent to mention that consequent to notification of BSNL (REA) 2014, Petitioner didn't avail any judicial remedy at that time. The Court Case at Hon'ble Karnataka High Court was finally disposed of and Notification for fresh MV was issued on 25.05 2016. The MV process is in advance stage and all preparations for its smooth conduct on 16.11.2016 now revised to 07.12.2016 have been going on in full swing which involves lot of preparations e.g. all the necessary items for election like ballot

papers, indelible ink etc has been procured, ballot boxes arranged, postal ballot papers being issued, transfer and relieving of Executives have been put on hold for more than five months for allowing them to exercise their right to vote. Once election process has commenced, the Association having a grievance against the Recognition Rules may be allowed to pursue his remedy in accordance with the provisions of law only after the elections, otherwise the respondents will never be able to complete this process and will be put to irreparable loss and injury whereas no rights of the Petitioner are infringed as alleged by the Petitioner.

4. It is informed that the Petitioner applied for participation in the MV with a conditional undertaking (Annexure P12) seeking separate representation for employees recruited by BSNL. It was informed to the Petitioner vide letter BSNL/5-1/SR/2016 dated 28th July, 2016 to furnish the unconditional undertaking in order to be eligible to participate in the MV. However, the Petitioner didn't furnish unconditional undertaking resulting into rejection of its candidature from the participation in the MV vide letter no. BSNL/5-1/SR/2016 dated 05.08.2016. The acceptance of request amounts to separate membership verification for this distinct group abandoning this process and making separate Rules for its recognition. The petitioner was well aware of this requirement from 2013 when first the draft rules were circulated to him and then BSNL Recognition Rules (REA), 2014 got approved by the competent authority i.e. BSNL Board and was notified

same are strongly denied and disputed and it is stated that the petitioner has no cause of action to challenge the order of the respondents as impugned in the Writ petition. It is stated that the Petitioner No.1 is an Association of BSNL having its Registered Office at the address at Flat No. A-302, Life Style Residency, Plot No. GF 41-42, Sector-65, Faridabad, Haryana as per Annexure -"R/5". As per the provisions of BSNL(REA) Rules 2014 under para 7(1) organizational structure of the Associations in BSNL shall be at three tiers operating at All India Level, i.e. CHQ body with head quarter at New Delhi (co-terminus with BSNL C.O.); Circle level body (co-terminus with the Circle HQ) and District/SSA level body.

Petitioner no 2 is an office bearer (AGS) of the petitioner no 1 association AIGETOA. Headquarter of the association shall be at Delhi as per the Rules. The petitioner no. 1 is an Association of graduate engineers registered with the office of District Registrar, Firms and Societies, Rewari in Haryana State. This Association is headed by a General Secretary, who is stationed at New Delhi. The cause of action has arisen in New Delhi due to the issuance of a the Notification dated 6th January, 2014. by the Respondent No. 3 i.e. GM SR BSNL Corporate Office at Delhi whose registered office and Corporate office is at New Delhi. For all practical purposes, on policy matters affecting the employees at large, the issues are taken up by the General Secretary with the Corporate office. The present petition has been filed by the petitioners nos. 2 and 3, who are the Assistant General Secretary and Circle Secretary of the petitioner no. 1

Association and both are stationed at Kolkata in WB Circle. The petitioner no.2 is one of the five AGSs, whose functions and duties are to assist the General Secretary, as per the constitution of petitioner no. 1 association. Further, petitioner no. 3 is the Circle Secretary in West Bengal Circle of petitioner no. 1 Association and his duties are to manage the affairs of the association in the WB Circle only. As such, when the cause of action has arisen in New Delhi and the General Secretary of petitioner no.1 association is stationed at New Delhi, obviously the present petition has been filed in this Hon'ble Court with some ulterior motive. Thus the entire cause of action for the petition arose outside the jurisdiction of the Hon'ble High court, Kolkata.

7. With regard to the allegation made in Para 2 of the said application the same are strongly denied and dispute save and except what are matters of record. It is stated that the Association is having registered office at Faridabad (Haryana) and the notification dated 6th January 2014 has been issued by BSNL Corporate Office at Delhi. Therefore though the matter is outside the jurisdiction of the Hon'ble Court, the case has been filed with ulterior motive.

8. With regard to the allegation made in Para 3 of the said application the same are strongly denied and dispute save and except what are matters of record. It is stated that the petitioner has submitted misleading information, concealing the material facts. After BSNL(REA) Rules 2014 coming into force w.e.f. 06.01.2014, the provisions relevant to meetings are governed by these rules and are as follows:

- i. During the verification process- as per Rule 9(3) -
"During the verification process, the associations can seek formal meetings with the concerned administrative authorities exclusively and only related to the conduct of verification process."
- ii. After the verification process formal meeting is extended to the recognised representation Association as per Rule 10(3) as follows:

"Formal meetings with the concerned appropriate administrative authorities at associated level of function of the association once in a quarter. The maximum no. of representatives of the association is to be restricted to 5 only, at any such meeting/ occasion. The Association would be required to submit agenda for the proposed meeting at least one month in advance of the meeting."

9. With regard to the allegation made in Paras 5 and 6 of the said application the same are strongly denied and disputed. In view of the submission made under Para A (h) the plea of the petitioner is unjustified, unreasonable and cannot be accepted. Management is equally concerned to all the employees. An order has recently issued by the respondent for pension scheme of employees recruited by BSNL as discussed in Para A(h)(6) above. And the respondents are in the process of completing necessary formalities like formation of trust and clearance from Income Tax department.

10. With regard to allegations made in Para 7 of the said application,

the same are strongly denied and disputed since the petitioners plea of conflict of interests between Executives recruited by BSNL and DOT absorbed Executives justifying two separate associations is not reasonable and unacceptable in view of the submission made above under para A(h). It has also been clarified that the petitioner association is referring to DOPT circular dated 05.11.93 (Annex. P.4) under which various ministries and departments have been empowered to decide the distinct category of employees. The contention of the petitioner mentioned in Annexure P-8 that for recognition of association DPE Govt of India has not issued any guidelines is incorrect and misleading. Photo copy of DPE vide letter dated October 26, 1995 (Annexure - R/2) has issued broad guidelines for this purpose. Annexure P4 and P5 submitted by the petitioner are applicable to Govt Servants to whom Central Civil Services (Conduct Rules) apply. BSNL being the PSU is guided by the guidelines issued by DPE Govt of India and has separate CDA Rules for its employees as per DPE guidelines. Similarly it issued BSNL Recognition of Executive Association Rules based on the said DPE Guidelines. The instructions contained in DOPT guidelines are regarding check-off system. In check off system, employees are asked to state in writing that they are willing to have union membership deducted from their salary. The check-off system helps management to know how many members each association has whereby enabling the management to make an assessment of the relative strength of unions for the purpose of recognition. In organization like BSNL, Secret Ballot was felt to be more suitable method. Membership verification by secret ballot, enables employees to exercise their option secretly, without fear or favour. BSNL has come into existence by way of conversion of operative part of Dept. Of Telecom. Since a large number of Associations

have come up in respondent no. 1 company, it was imperative to have an Association representing majority of the employees with whom the management could interact and resolve their issues and grievances. In this in view, a committee of 5 senior level officers was constituted to frame BSNL's own Recognition Rules. However, before making any recommendations, the said Committee invited the views and comments of the Associations including petitioner no. 1 Association. After making elaborate deliberations on all the issues and keeping in mind the Government's guidelines / instructions/best practices and also taking care of the inputs received from various associations including petitioner no. 1 association, the Committee submitted its recommendations in the form of draft Recognition Rules, which were subsequently notified with the approval of BSNL Board. As such before issue of notification dated 06.01.14, the BSNL Recognition Rules (Annex. P6) the views and comments of the petitioner no. 1 association have already been taken into account. Further the terms used by the Petitioner "Direct Recruit" and "DoT absorbed promotee" are also objected. Actually it should be "Executives recruited by BSNL" and the "Executives recruited by DoT absorbed in BSNL". This is to avoid any confusion of superiority being created by the petitioner "Direct Recruit" over "Promotee" whereas both are governed by the same promotion policy. DOPT uses these terms for different purposes. Direct Recruits are selected by UPSC and promotes are selected at much lower level and after prescribed no of promotions to come to the same level. The petitioner should be directed by the Hon'ble Court to resubmit his statement using proper terms because in the whole statement petitioner has used these terms wrongly perhaps to mislead the Hon'ble Court.

11. With regard to the allegation made in Para 8 of the said application the same are strongly denied and dispute save and except what are matters of record. It is stated that the petitioner is referring to the guidelines applicable to Govt Servants. As mentioned in para-7 above, the petitioner is trying to mislead by quoting various provisions of CCS (RSA) rules which are applicable to Govt Servants. As mentioned above BSNL, being the PSU, is guided by the guidelines issued by DPE, Govt of India and has made its own Recognition Rules. In view of the submission made in Para A(h) above and para 7 above the contents of the para are denied. Petitioner is making wrong statements inspite of knowing fully well that it is trying to give misleading information to Hon'ble Court.

As regards the different service conditions it is reiterated that all the service conditions are one and the same for all the Executives in BSNL whether recruited by BSNL or absorbed from DoT. Main Service conditions are: a) Pay scales and pay revision, b) Promotion policies, c) Leave rules, d) Disciplinary rules, e) Transfer policies etc which are same for all.

Only difference is in pension. Pension is not decided by BSNL, it is decided by the Government policies/DPE guidelines only. In Government services also, there is no pension after 01-01-2004. In other words in government service also, pension scheme is different for the employees recruited prior to 01-01-2004 and after 01-01-2004. Gratuity and leave encashment are one and the same for all. BSNL is a very large organisation having different cadres and streams. No two cadres or streams will make complete homogeneous group having their different issues. Compared to Non-executives having large no of

cadres, the variety of issues in executives is less. Once the MV process completes, all pending issues in consultation with the majority association will be discussed and resolved. Hence, there is no ground or justification for separate Executives Associations for BSNL recruits only.

12. With regard to the allegation made in Para 9 of the said application the same are strongly denied and disputed save and except what are clearly borne on record. Necessity of having a single recognised association has been explained in Para A(h) and sub para 1 to 10 thereunder. It is reiterated that the BSNL REA rules-2014 were made in transparent manner and seeking views of all the stakeholders long back in Jan-2014 after due consideration of a Committee and then approved by BSNL Board. The Petitioner's statement that "such power is not unfettered and should be used judiciously" is baseless. Further the petitioner pretends as if his is the only association representing BSNL recruited executives. Many of the BSNL recruited Executives are members of all these 10 other Associations which represent both absorbed Executives and BSNL recruited Executives. These associations have been taking up the issues of all the executives including the executives recruited by BSNL. To put it differently it is not that the petitioner is the only association representing BSNL recruited executives. Many BSNL recruited executives want them to be represented through other associations and by making separate group they will not have this option. In view of the submission made in Para A(h) above it is not correct to argue that they are in conflict with each other. No doubt, some of their service conditions may differ in nature, but it cannot be said to be in "conflict". The petitioner has nowhere explained how the interests are in "complete conflict".

Rather it is other way about. The reality is that at times more associations create "conflicting situation". impeding the resolution of many issues. Any Association getting informal meetings cannot assume it to be exclusively representing a distinct group, when all others are also representing that group. Again the absorbed officers being wrongly called as "Promotee" by the petitioner is objected.

13. With regard to the allegation made in Para 10 of the said application the same are strongly denied and disputed save and except what are borne on record. It is not clear that the petitioner has sought the information under RTI in the context of Association. By seeking this information, it does not become the ground for distinct group. Such different groups exist in non-executives also. Classification made by BSNL of Executives and non Executives for the purpose of Association and Union is as per Rule 26, Rule 27 and 28 of BSNL CDA Rules deals with Classification of services, constitution and posts. Notification dated 6th January, 2014 containing BSNL (REA) Rules, 2014 was released after due consideration of various factors by a committee formed on 08.07.2013 for this purpose. BSNL framed draft Notification of Recognition Rules and requested General Secretaries of all Executive Associations of BSNL to supplement their inputs, if any and also personal appearance for any suggestion. Various Associations including Petitioner in the present case submitted their inputs before the committee. Thus Rules were made after considering the suggestion of all interested parties. Thereafter, BSNL Recognition Rules (RR), 2014 got approved by the competent authority i.e. BSNL Board and was notified on

06.01.2014. Regarding allowing separate service Association for group 'A' Association, committee of senior level officers constituted to frame BSNL's own Recognition Rules, observed that " The committee was of the opinion that ideally there should be an arrangement where all the Executives have opportunity of taking membership of any of the Executives' Associations. However, the fact that officer, who were Group 'A' in DOT/DTS/DTO and took absorption in BSNL, have had the facility of forming their own Association, as part of the terms and conditions of absorption [Annexure terms and conditions of absorption letter dated 04.10.2005]. The committee is constrained to make this exception for such absorbed officers."

14. With regard to the allegation made in Para 11 of the said application the same are denied and disputed save and except what are expressly borne on record. The submission of Petitioners basing their argument on the RTI information sought not in the context of this issue is totally irrelevant and unfounded. Classification for the purpose of Associations and Unions decided after a serious process and prolonged discussion with all stakeholders and approved by BSNL Board can not be changed simply by seeking some information under RTI not in this context. There are many type of classification from different aspects, but all those can not become the base for distinct group for the purpose of Association. Provision for separate Association for group A absorbed Executives was part of terms and conditions of absorption offered by Govt. of India as explained above. They are sacrosanct and ought to be left untouched. (Committee

observation in Note under para B-1) Therefore, they are not covered by these rules.

15. With regard to the allegation made in Para 12 of the said application the same are strongly denied and dispute since the Petitioner has distorted the information before the Hon'ble Court. Perusal of Annexure-P1 exposes the wrong and misleading statement made by the Petitioner i.e. "separate Association and granted informal recognition after in depth examination". Hon'ble Court may kindly direct to resubmit the statement by putting the facts straight and without distortion. Respondent is not reiterating its view on "conflict of interest" for the sake of brevity.

16. With regard to the allegation made in Para 13 of the said application the same are strongly denied and dispute save and except what are matters of record. It is stated that the Petitioner applied for participation in MV with a conditional undertaking (Annexure P12). It was informed to Petitioner vide letter BSNL/5-1/SR/2016 dated 28th July, 2016 to furnish the unconditional undertaking in order to be eligible to participate in the MV. However, the Petitioner didn't furnish unconditional undertaking resulting into rejection of its candidature from the participation in the MV vide letter no. BSNL/5-1/SR/2016 dated 05.08.2016. The statement of the petitioner in Annexure P9 is again a deliberate departure from the facts, knowing fully well that DPE has issued guidelines (Annexure R) for Recognition of Association and it has already been explained that CCS(RSA) Rules 1993 are not applicable to BSNL.

17. With regard to the allegation made in Para 14 of the said application the same are strongly denied and dispute save and except what are matters of record. Petitioner is again basing his argument on distinct Govt. of India Rules i.e. CCS(RSA) 1993. It is reiterated that Annexure P4 and P5 submitted by the petitioner are applicable to Govt. Servants to whom Central Civil Services (Conduct Rules) apply. Perusal of these Rules shows that there is no mandate to PSUs to follow them. BSNL being the PSU is guided by the guidelines issued by DPE Govt. of India and has separate CDA Rules for its employees as per DPE guidelines. Similarly it issued BSNL Recognition of Executive Association Rules based on the said DPE Guidelines. The instructions for Govt. of INDIA Departments (not for PSUs) are regarding check-off system. But BSNL has adopted secret ballot method in view of its merit over the check of system in the context of BSNL. So there is no question of infringing upon the CCS(RSA) Rules as alleged.

18. With regard to the statements made in Para 15 of the said application the same are strongly denied and disputed and it is stated that the said application has been filed by the petitioner at this belated stage only to derail the whole membership verification process when it is in final stage and after such an inordinate delay when the remedy was available to him long before since Jan-2014 as explained in Para C of the preliminary submission. By making repeated representations, Petitioner cannot keep the remedy of approaching Hon'ble Court alive for indefinite time. The delay is unjustified and the writ petition may not be allowed.

19. With regard to the allegation made in Para 16 of the said application the same are strongly denied and dispute save and except what are clearly borne on record. The Rules have been made after due consideration and seeking views of all the stakeholders. The number of BSNL Recruited Executives is about 12000 against the absorbed executive about 13000 But the number cannot be the criterion for classification. There are many cadres having much smaller number. Accepting separate distinct group will trigger many such demands and will affect the harmony and promote groupism in the organization. With many Associations, most of the Executives will become their office bearers and badly effect the efficiency of the organization as explained in Para No. h(10) above. Already there are 11 no of Associations and 21 no of Unions when there is only one group for all the Executives absorbed as well as BSNL Recruited.

20. With regard to the submissions and/or grounds made in paragraph 17 of the said writ petition it is submitted that the same are vague, baseless and not tenable in the eye of law and have no legs to stand and the same cannot warrant any interference from this Hon'ble Court.

21. With regard to the allegations made in paragraphs 18, 19, 20, 21, 22, 23 and 24 of the said application the same are denied and disputed by me and the writ petitioner is put to strict proof thereof.

22. In view of above, it is prayed that Hon'ble Court may be pleased

to dismiss the writ petition and may allow the respondents to complete this process otherwise the respondents will suffer irreparable loss and injury whereas no rights of the Petitioner are infringed as alleged by the Petitioner.

23. That the statements made in paragraph Nos. 1 to 19 are true to my knowledge and those contained in paragraph Nos. 20,21 & 22 are my respectful submission before this Hon'ble Court.

Prepared in my office.

Signature of the deponent

Sudipto Panda
Advocate

Clerk to Mr S Panda
Advocate

Solemnly affirmed before me

On this day of November, 2016

in the Court House at Calcutta.

COMMISSIONER.



BSNL CONDUCT, DISCIPLINE AND APPEAL RULES 2006

भारत संचार निगम लिमिटेड
(भारत सरकार का उद्यम)

Bharat Sanchar Nigam Limited
(A Govt. of India Enterprise)

**CORPORATE OFFICE
NEW DELHI**

(UPDATED UP TO 19-06-2014)

42
(1107)

R2

CONFIDENTIAL

S. Talwar
Joint Secretary,
Tel : 4360204

D.O.No.2(7)/95 - DPE(WC)

Government of India
Ministry of Industry
Deptt. of Public Enterprises
Block No.14, CGO Complex,
Lodi Road, New Delhi-110003.

October 26, 1995.

Dear Chief Executive,

It is inferred that NCOA has wide representation in the various PSUs and they would be in a position to influence the performance of the undertakings. If NCOA has the large-scale support of the officers of the public sector units and are in a position to play a role in the future prospects of the enterprises, it would be pragmatic to recognise the association.

2. In connection with the above DPE had issued a D.O. letter No.2(62)/70-BPE(GM-I) dated 25th October, 1971 according to which no association of officers of public enterprises should be recognised by the management unless all the following conditions are satisfied, namely:-

- a) the association is formed primarily with the object of promoting the common service interests of its members, promoting welfare scheme for the members, inculcating an esprit de corps or otherwise improving the morale and efficiency of the officer community;
- b) in seeking to achieve the aforesaid object, the association will not have the right to negotiate a settlement;
- c) membership of the association is open to all officers serving in the organisation, or to any well-defined class or section of officers serving in the organisation;
- d) the association is not formed on the basis of considerations of caste, creed, tribe or religious denomination, nor does it maintain any political fund or support or propagate the views of any political party or politician;

no person who is not an officer working in the same organisation is connected with the affairs of the association;

the executive body of the association is appointed from amongst the officers working in the organisation;

.....2/-

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the association does not do any act or assist or encourage the doing of an act which may create disaffection or dis-satisfaction amongst the employees of the organisation or undermines discipline or in any way lower the prestige or image of the organisation;

the association eschews completely the agitational approach, such as resorting to strikes or practices or conduct, which is likely to result in or results in cessation or substantial retardation of work, and also to coercion or physical duress;

the funds of the association consist exclusively of subscriptions from members and grants, if any made by the undertaking and are applied only for the furtherance of the objects of the association;

the association shall not publish any periodical magazine or bulletin without the prior approval of the management;

communications addressed by the association or by any office-bearer on its behalf to the management shall not contain any disrespectful or improper language;

representations addressed by the association should be in connection with matters which are of common concern to the members of the association and the association shall not espouse or support the cause of individuals.

You are requested to kindly give your considered view on recognition of the NCA, keeping in view their contributions in the matter of improving the performance of the enterprises on a general basis and their future plans and objectives in the light of the conditions specified above which the Association might or might not be fulfilling. We would further request that your views should be as far as possible unbiased and not with reference to whether any of your officers are in the executive committee of the Association but purely on merit. Your views are solicited in your capacity as Chairman and Managing Director of the Corporation.

With regards,

Yours sincerely,

S. Talwar
(S. Talwar)

the Chief Executives
the Central PSEs.



BHARAT SANCHAR NIGAM LTD.
BHARAT SANCHAR NIGAM LIMITED
(A GOVERNMENT OF INDIA ENTERPRISE)
SR CELL, Corporate Office
8th Floor, Bharat Sanchar Bhawan,
Harish Chander Mathur Lane,
Janpath, New Delhi-110 001

No. BSNL/31-2/SR/2009

Dated, the 11th November, 2009

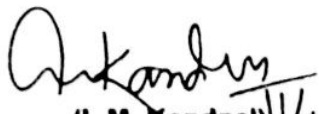
To

All General Secretaries of Executives' /Officers' Association in BSNL.

Sub: **Membership verification of Executives'/Officers' Association in BSNL.**

The extract of recommendations of the Committee constituted for framing rules & regulations governing conduct of membership verification of executive employees association in BSNL are forwarded herewith for offering your association's comments/views on it.

2. It is requested that comments/feedback of your association may be furnished latest by 25.11.2009.


(L.M. Kandpal) 11/11
AGM (SR-III), BSNL C.O.

Encl. As above

Copy for information to:

1. PPS CMD, BSNL.
2. PPS to Director(HR), BSNL Board.

No. 61-4/2016-SU
Government of India
Ministry of Communications & IT
Department of Telecommunications

Sanchar Bhawan, New Delhi-110001
Dated 29th September, 2016

To
The General Manager (Estt.)
Bharat Sanchar Nigam Limited
Bharat Sancahr Bhawan, Janpath
New Delhi-110001.

Subject: Implementation of superannuation pension scheme in respect
of directly recruited employees of BSNL - reg.

Madam,

Please refer to BSNL letter No. 1-05/2014-PAT (BSNL) dated 14.07.2016 forwarding a proposal for implementation of superannuation pension scheme in respect of directly recruited employees of BSNL.

2. The proposal has been examined in consultation with Finance Wing. The Department of Telecommunications concurs with the proposal of BSNL for extending a Superannuation Pension Scheme in respect of directly recruited employees of BSNL wherein BSNL as an employer would be contributing 3% of Basic Pay plus DA per month and would create a trust for management of the superannuation pension fund. Also, requisite approval/ clearance from various statutory bodies as well as Income Tax authorities would be obtained by BSNL before launch of the scheme. The scheme would be effective from the date of approval by the BSNL Board.

Yours faithfully,


29/9/16
(Pawan Gupta)
Director (PSU-I)
Tel. 2303 601

Shri Anupam Shrivastava,
CMD, BSNL, New Delhi.

Conduction of Membership verification on 16th November 2016—Reg

Respected Sir,

In continuation of our earlier letters, we would like to bring to your kind notice that the first membership verification has been renotified on 16th November 2016. The process was initiated two years back and during the intervening period citing the legal hurdles, Management did not conduct the membership verification. Even now some vested interests are trying to stall the ongoing membership verification process through various means, who are really not interested to face the verification. In this direction a court case is also pending at Kolkata High Court, but Hon High Court flatly refused to grant any interim stay after hearing the interim application.

It is really unfortunate that none of the important policy decisions related to HR are settled on the pretext of pending membership verification for the last three years citing the difference in the opinion among the executives Associations. There is strong resentment in our rank and file against non settlement of the HR issues and delay in completion of membership verification.

The vested interests are trying their best to see that the verification process should not take place at any cost. We request the management to take all possible steps to ensure that the verification is held in accordance with the notification. This Association met your good self and DIR HR on 30.09.2016 and both have assured that the membership verification will be held as per schedule and all necessary steps will be taken in this regard. We are equally concerned in resolving the pending HR issues and support the management in going ahead with the membership verification scheduled to be held on 16th November 2016. Once again we reiterate that there is no legal hurdle or any other issue for stalling or postponing the process of Membership verification at this juncture.

If the management fails to conduct the membership verification as notified, we are constrained to bring to your kind notice that we may have to resort to trade union action without any further notice.

(K. Sebastin)

- Copy to: 1. Smt Sujata T Ray, DIR(HR), BSNL for information and n/a please.
2. Shri A. M. Gupta, GM(SR), BSNL CO for information and n/a please.

President
Ajayman Banoth
9490144699

General Secretary
Ravi Shil Verma
8373967633

Finance Secretary
Yogendra Jharwal
9414000877

Telecom Officers Association
(An Association of DR Graduate Engineers - Account Officers of BSNL)

No. GS/AIGETOA/2016/16

All communication at E-mail - "gs@aigetoachq.org" only

To,

Dated 02.08.2016

GM (SR)
BSNL Corporate Office,
New Delhi

Subject: Recognition of majority representative association of serving executives
in BSNL-Reg.

Reference:

1. No. BSNL/9-1/SR/2016 dated 25/7/2016 of GM(SR), BSNL C.O. New Delhi
2. No. BSNL/5-1/SR/2016 dated 28.07.2016 of GM(SR), BSNL C.O. New Delhi
3. No-2/10/80-JCA of Department of Personnel & Training, Govt of India dt 31/01/1994
4. No-2/10/80-JCA of Department of Personnel & Training, Govt of India dt 5/11/1993

Dear Sir,

This is in reference to letter cited above under reference [1] for separate representation to the BSNL recruited executives in the Membership Verification Process. In continuity of our letter No GS/AIGETOA/2016/7 dated 12/7/2016, it is once again requested to consider our submission for separate recognition of the association of Direct Recruited Executives of BSNL in the light of prevailing guidelines of the Govt. of India and our fundamental right to form the association of distinct category of executives to represent their common rights, issues and grievance before the management.

Kindly refer to para-3 of letter No. BSNL/9-1/SR/2016 dated 25/7/2016 of GM(SR), BSNL C.O. New Delhi, wherein it has been quoted as "It is left to each ministry/Department to define distinct category, keeping in view the functional/administrative/organizational set up" in reference to the Department of Personnel and Training OM No 2/10/80-JCA dated 31st January'1994. The interpretation given by SR Cell in reference to Department of Personnel and Training OM No 2/10/80-JCA dt 31st Jan'1994 seems to be misleading and erroneous of the facts. The details are as under:

1. That the Department of Personnel and Training OM No 2/10/80-JCA dated 31st Jan'1994 is not meant to categorize the distinct category of executives in a department as claimed in para-3 of referred letter at [1] but deals with the procedure for verification of membership of Associations for the purpose of recognition under the Central Civil Services (Recognition of Service Associations) Rules, 1993.

Regn. No. : HR/019/2016/02138

Reqd. Office : Flat No. A-302. Life Style Residency. Plot no: GH 41-42. Sector-65. Faridbad. Harvana-121006



President
Laxman Banoth
9490144699

All India Graduate Engineer Telecom Officers Association
(An Association of DR Graduate Engineers / Account Officers of BSNL)

General Secretary
Ravi Shil Verma
8373967633

Finance Secretary
Yogendra Jharwal
9414000877

No. GS/AIGETOA/2016/25

All communication at E-mail - "gs@aigetoachq.org" only

To,

Dated 20.10.2016

Shri Anupam Shrivastava
Chairman and Managing Director
Bharat Sanchar Nigam Limited
Janpath, New Delhi

Subject: Notice for the agitational program against non-resolution of long pending basic issues of Direct Recruit Executives of BSNL-Regarding.

Reference: [1] 1-5/2012-Restg dated 07.10.2016 of GM (Restg/WS&I), BSNL HQ, New Delhi

[2] CHQ/UF/2016-17/01 dated 17.08.2016

[3] CHQ/UF/Exe. Asso./AIBSNLEA-AIGETAO/8 dated 27.04.2016

Respected Sir,

This is bring to your kind notice that the BSNL recruited executives are feeling dejected due to continuous neglect of their very basic issues pertaining to serving benefits, retirement benefits and logjams in career progression. We are aggrieved that the mandatory benefits pertaining to the BSNL recruits like replacement of non-standard pay scales of E1A and E2A with standard pay scales of E2-E3 for JTO-SDE equivalent, complete 30% Superannuation Benefits to the BSNL recruits have been made to hang on the pretext of **financial crunch** in the company while at the same time, BSNL has been extending the Perks, Allowances and **non-mandatory benefits including Freebies like PLI** to all the employees of the company. This gives us enough evidence that the talks of finance and affordability of the company is just being used as an excuse for not extending our legitimate rights.

We have been pursuing for extending the 2nd PRC benefits which pertained exclusively to the employees and executives directly recruited by BSNL after its inception on 01.10.2000 ever since BSNL management notified the presidential orders for implementing 2nd PRC recommendations. We regret to mention that management has failed to resolve them even after a passage of almost ten years. The commitments given to this association have been broken and our dreams have been shattered again and again by a series of non-fulfilled promises and apathy of the management towards its most precious lot **i.e. the BSNL Recruits**. Based on your assurances and commitments, we have kept ourselves devoted full time, keeping the interest of company on priority but all of us are feeling ourselves dejected and resentful by realizing the fact that the company has come in terms to **extend freebies and gifts like PLI** to all its employees from top to bottom but it is not having the money to fulfil the mandatory benefits of 2nd PRC to the BSNL recruited employees. Benefits pertaining to the employees governed by 6th CPC and 7th CPC have also been extended in totality but BSNL does not have the money to extend a secure social security Benefit to BSNL recruits.

Regn. No. : HR/019/2016/02138

Regd. Office : Flat No. A-302, Life Style Residency, Plot no: GH 41-42, Sector-65, Faridabad, Haryana-121006

Our social security is being compromised and families are being made to run pillar to post in the event of any casualty with BSNL recruits but the freebies/gifts are being extended to flourish the already secured life. The 3rd PRC due date is approaching fast while the 2nd PRC recommendations for the BSNL recruits are still pending for resolution due to continued negligence of our issues. From the letters issued by the management from time to time, it is quite apparent that management is very keen, concerned and eager to implement the 3rd PRC while the mandatory provisions of the 2nd PRC which pertains to BSNL recruits, even the mandatory provisions for extending social security benefits like 30 percent Superannuation Benefit find no mention and concern.

Due to the continued negligence towards our most important issue, we have been compelled to launch organizational action programs to seek the attention of BSNL HR team for the resolution of the long pending 30 Percent Superannuation Benefits pertaining to BSNL recruits.

DEMANDS:

30% Superannuation Benefits from 01.01.2007 and creation of Pension Fund w.e.f. 01.10.2000 for all BSNL recruited employees.

ORGANIZATIONAL ACTIONS & SCHEDULE:

One Day Mass Leave on 2nd Nov'2016.

The program shall be intensified further if management does not settle this genuine grievance of BSNL Recruited Executives.

We still believe that management will take cognizance of the genuine issue and will take necessary action in this regard to avoid the unrest. AIGETOA sincerely believes and is quite hopeful that the management will seize the opportunity to address the lost ground and ensure immediate settlement of our issues and will not force us to start intense organizational action programs like indefinite Dharna and work according to rule etc. In case, BSNL management do not take note of the resentment of the executives, responsibility of the industrial unrest shall lie on BSNL management.

Thanking You.

Sincerely Yours

[Ravi Shil Verma]
General Secretary

Copy to:

1. Director(HR) BSNL Board, New Delhi
2. Directors(CFA), BSNL Board, New Delhi
3. Director (CM), BSNL Board, New Delhi
4. Director (Enterprise), BSNL Board, New Delhi
5. Sr. GM (Pers), BSNL CO, New Delhi
6. GM (Estt), BSNL CO, New Delhi
7. GM (SR), BSNL HQ, New Delhi.
8. GM (Admin), BSNL CO, New Delhi

President
Anil K. Das
9433400201
anildas.calcutta@gmail.com
No: - CTD/AIGETOA/50

Association of DR Graduate Engineers / Account Officers of BSNL
Website: www.aigetoea.in

SMA-1008
24/10/16

Circle Secretary
Saikat Das
Mobile: +91-9432000019
E-mail: saikat1979@gmail.com

Date: - 24.10.2016

To
The CGM, CTD
Calcutta Telephones
Kolkata: - 700001

Sub: - Notice for agitation programme against non-resolution of long pending basic issues of Direct Recruit Executives of BSNL - Reg

Ref: - Letter No GS/AIGETOA/2016/25 dated 20.10.2016

Respected Sir,

With reference to the subject mentioned above and letter under reference, Direct Recruited Executives of Calcutta Telephones will observe the agitation program for protest against the inordinate delay in implementation of 30% superannuation benefit from 01.01.2007 and creation of pension fund from 01.10.2000 for all BSNL recruited employees.

DEMANDS:

30% superannuation benefits from 01.01.2007 and creation of pension fund from 01.10.2000 for all BSNL recruited employees.

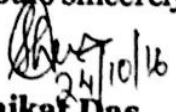
ORGANIZATIONAL ACTION & SCHEDULE:

One day Mass Leave on 2nd November 2016

The program shall be intensified further if management does not settle this genuine grievance of BSNL Recruited Executives. We still believe that management will take cognizance of the genuine issue and will take necessary action in this regard to avoid the unrest. AIGETOA sincerely believes and is quite hopeful that the management will seize the opportunity to address the lost ground and ensure immediate settlement of our issues and will not force us to start intense organizational action program like indefinite Dharna and work according to rule etc.

Thanking you

Yours sincerely


24/10/16

Saikat Das
Circle Secretary
AIGETOA-CTD

Copy to:

✓ GM (HR & Admin) CTD

Regd Office: Office No. 4 & 5, Near Sethi Hospital, Bawal Chowk, Rewari-123401 (Haryana) Email: chqaigetoa@gmail.com

20

RB

UNITED FORUM OF EXECUTIVES ASSOCIATIONS COMPRISING (AIBSNLEA & AIGETO),
CHQ, New Delhi

No: UF/CMD/RPS /16-17/2

Dated the 31st October 2016.

To,
Shri Anupam Shrivastava Ji
Chairman and Managing Director
Bharat Sanchar Nigam Limited
Janpath, New Delhi.

Subject: Delay in disposal of various cases slapped against Ex-General Secretary, AIGETOA Shri R.P. Shahu and victimization thereof and non-settlement of genuine grievances, Regarding.

Ref:

1. United Forum Letter no. UF/CMD/RPS/16-17 dated 07-10-2016
2. Your office letter no. BSNL/7-9/SR/2016 dated 27.10.2016

Respected Sir,

Reference is invited to SR Section letter under reference on the captioned subject. We are thankful to SR section that after twenty days they have come up with a reply to our submission which is nothing but a veiled threat given to the very existence of the associations in BSNL. All this while, we were thinking that management is duly considering this issue and is trying to dispose of the case on merit but it is indeed regret to mention that all this time, which management has taken, was to draft a threatening letter to the constituents of the forum in which they have denied the very existence of the issue itself.

First of all, we would like to inform that the cases which SR cell is referring to as an individual does not pertain to an individual but is a clear case of victimization of the chief executive of an institution called AIGETOA while pursuing the cases pertaining to the members. **General Secretary of any association is not an individual but he acts as the voice of thousands and thousands of the executives and any victimization of the top post is equivalent to the victimization of thousands and thousands of the executives.** We take strong objection to the verbatim used in the letter which directly or indirectly is trying to suppress the genuine voice of the executives and its representatives. **Calling the case of General Secretary, an individual case is one more step in that direction and will definitely disturb the mindset of the members of the association as well as this forum and hence it is indeed a matter of common interest.**

Further, it appears that before writing such letter in response to the forum's submission in the case of victimization Sh R. P. Shahu, the then, General Secretary of AIGETOA, HR unit has not even gone through the issues raised. Had they would have gone through the details of the issue raised, they should have been aware that the forum has never raised any individual issue to get favor and in future also it will never raise any individual issue to get any undue favor from authority.



BHARAT SANCHAR NIGAM LTD.

(A GOVERNMENT OF INDIA ENTERPRISE)
SR CELL, Corporate Office
8th Floor, Bharat Sanchar Bhawan,
Harish Chandra Mathur Lane,
Janpath, New Delhi-110 001

No. BSNL/7-3/SR/2015

APPEAL

Dated 03-12-2015

To

Shri Prahlad Rai
General Secretary,
AIBSNLEA

General Secretary,
AIGETOA

Sub: Notice for resuming the deferred organization actions to protest against the arbitrary recruitment of Management Trainees and non-settlement of long pending HR issues in BSNL-reg.

Ref: United Forum of BSNL Executives Association letter no. CHQ/UF/Exe. Asso./AIBSNLEA-AIGETOA/5dated 02nd December, 2015

Sir,

The issues raised in your above referred notice are already being discussed with your associations at various levels and details of progress made on these issues are regularly shared with you in your meetings with the management. Moreover, regarding MT recruitment, your concern has been brought to the notice of CMD and he will discuss the issue with Secretary(T) to resolve it. All possible efforts are being made by the management to address your demands, therefore, you are requested to desist from agitational approach and resolve these issues through mutual discussions.

2. As such in the overall interest of the company and to maintain industrial peace and harmony, on behalf of BSNL Management, I would request you to kindly withdraw your notice for the proposed agitational programme forthwith.

Yours faithfully,


(Shameem Akhtar)
Sr. GM (SR), BSNL C O

Copy to:

1. ES to CMD, BSNL
2. ESs to All Directors, BSNL Board.
3. All CGMs, BSNL
4. GM (Admn.), BSNL C.O. (copy of above notice enclosed pl.)



No. BSNL/7-9/SR/2016

To

Shri Prahlad Rai,
General Secretary,
AIBSNLEA

BHARAT SANCHAR NIGAM LIMITED
(A GOVERNMENT OF INDIA ENTERPRISE)
8R Cell, Corporate Office
8th Floor, Bharat Sanchar Bhawan,
Harish Chander Mathur Lane,
Janpath, New Delhi-110 001

Dated the 21st Nov. 2016.

Shri Ravi Shil Verma,
General Secretary,
AIGETOA.

Subject: Notice for Protest Action Programme for disposal of cases against Shri R. P. Shahu, ex-General Secretary, AIGETOA.

- Ref: i) United forum of BSNL executives' Associations of AIBSNLEA & AIGETOA letter No. UF/CMD/RPS/16-17 dated 07.10.2016.
ii) This office letter No. BSNL/7-9/ST/2015 dated 15.09.2016
iii) This office letter No. BSNL/7-9/ST/2015 dated 23.09.2016
iv) This office letter No. BSNL/5-1/SR/2016(pt) dated 26.09.2016.
v) This office letter No. BSNL/5-1/SR/2016(pt) dated 07.10.2016
v) This office letter No. BSNL/5-1/SR/2016(pt) dated 27.10.2016

Sir,

Please refer to your letter dated 31.10.2016 addressed to CMD, BSNL, wherein you have again taken up the individual's case of Shri R.P. Shahu. You have again given notice of Protest Action Program on 15th Nov, 23rd Nov and 30th Nov 2016 in your said letter.

2. It is worth mentioning that your Association had raised on earlier also occasion the same individual's case vide letter dated 07.10.2016 and your attention was invited to various provisions of BSNL(REA), Rules 2014 reiterating that the executive Association shall not send any representation or delegation except in connection with a matter which is of common interest to members of the Association. The Executive Association shall not espouse or support the cause of an individual executive/ officer relating to service matter. You are, therefore, again advised not to take up any individual's case, which amounts to violation of the provisions of BSNL (REA), Rules 2014.
3. Apart from it, your attention was also invited to the provision of BSNL CDA Rules that no employee should use any outside influence to bear upon any superior authority to further employee's interest in respect of matters pertaining to employment. According to the guidelines on this matter, it would be presumed that Shri R. P. Shahu is aware of such a representation and that it has been made at his instance and hence, he will be liable for action for violation of such provisions.
4. The provisions of BSNL (REA) Rules, 2014 as follows were also brought to your notice **"the association eschews completely the agitational approach such as resorting to strikes or practices or conduct, which are likely to result in or result in cessation or substantial retardation of work and also to coercion or physical duress"**. [para 11(3)]
5. Besides it is informed that the letter has been written from the United Forum of Executives Associations (AIBSNLEA & AIGETOA) whereas the previous letter was written by

EGA-387
17/11/16

Date: - 11.11.2016

To
The CGM
Calcutta Telephones
2nd floor Telephone Bhawan
Kolkata 700001

Sub: - Delay in disposal of various cases slapped against Ex-General Secretary, AIGETOA Shri R.P Shahu and victimization thereof and non settlement of genuine grievances, regarding.

Ref: - United forum letter No UF/CMD/RPS/16-17/2 dated 31.10.2016.

Respected Sir,

With reference to the above subject it is to inform you that, United forum of BSNL Executive Associations (AIBSNLEA-AIGETOA) have served notice to CMD BSNL, vide Letter No UF/CMD/RPS/16-17/2 dated 31.10.2016 for delay in disposal of various cases slapped against Ex-General Secretary, AIGETOA Shri R.P Shahu and victimisation thereof and non-settlement of genuine grievances. The members of the United forum of BSNL Executive Associations (AIBSNLEA-AIGETOA) of Calcutta Telephones are in support of the proposed agitation and follow CHQ.

The organisational program:-

1. 15th November 2016- Lunch hour Demonstration at all SSA/Circle/BSNL CO.
2. 23rd November 2016- One day dharana at SSA/Circle/BSNL CO.
3. Non-Cooperation along with Black Badges shall also be in effect from 23rd November 2016 till resolution of the issues and
4. 30th November 2016- One day dharana at BSNL CO. All Executives across the country will gather at BSNL CO.

Thanking you

Yours Sincerely *[Signature]*

[Signature]
Indip Chakraborty
(CP-AIBSNLEA, CTD)

[Signature]
Saikat Das
(CS-AIGETOA, CTD)

Copy to:

1. GM (HR & Admin) CTD

Enclor:

1. Letter No: UF/CMD/RPS/16-17/2 dated 31.10.2016.

Chief General Manager
Calcutta Telephones
Telephone Bhawan

Instructional guidelines issued by association may be served to these *[Signature]*
16/11/16