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No.AIBSNLEA/Dir(Fin)/2016

Date 14.3.2016

To

Smt. Sujata Ray,
Director (Finance),
BSNL Board,
New Delhi-110 001

Subject: Extension of benefits of Past Service and extension of Option benefits to Internal Officials (TTAs) selected against DR. JTO Quota who have applied through proper channel – Case of 2007 & 2008 Batch – reg.

References:

- 1) AIBSNLEA, TN Circle Letter No. General/PGM (F)/TN Circle/2013-14/49 dated at Chennai the 09th February, 2015.
- 2) BSNL CO Lr. No. 4-85/2003-SEA(Pt-II) dated 04-03-2008.
- 3) BSNL CO Lr. No.5-31/2001-Pers.IV dated 23-06-2010.
- 4) BSNL CO Lr. No. 400-164/2012-Pers-I dated 16-11-2012.
- 5) BSNL CO Lr. No. 400-164/2012-Pers-I dated 12-12-2013.
- 6) BSNL CO Lr. No. 1-29/2010-PAT(BSNL) dated 19-03-2013.
- 7) BSNL CO Lr. No. 5-21/2014/Estt-IV dated 11-11-2014.
- 8) TN Circle Lr. No. TAC/Spl. Cell/67-33/DR. JTO/Part II/2010-14/5 dated @Chennai the 19-06-2014.
- 9) BSNL CO Lr. No. 1-07/2012-PAT(BSNL) dated 28-03-2012.
- 10) BSNLCO.LR.No.7-4/2010-SEA-BSNL(Pt-I)Dated24.07.2015
- 11) BSNL CO.LR.NO: No. 1 -37/2010-PAT(BSNL) Dated 18-05-2011.
- 12) AIBSNLEA/CHQ/CMD/2010-11 dated 19/09/2011
- 13) AIBSNLEA/CHQ/GM (ESTT)/2010-11 dated 23/09/2011
- 14) AIBSNLEA/CHQ/DIR(HR)2012 dated 20/01/2012
- 15) AIBSNLEA/CHQ/DIR(HR)/2012 dated 01/05/2012
- 16) AIBSNLEA/CHQ/ND/2015-16/78 22.8.2015

Respected Madam,

We would like to draw your kind attention on the above subject and request you to consider the case on merits so that Past Service benefits and option benefits may be extended and pay may be fixed to JTO Internal candidates of Tamilnadu Circle selected through Dr.JTO quota in 2007 & 2008.

FR 21(l)(a)(i) benefits have not been extended to JTO Internal candidates of Tamilnadu Circle selected through Dr.JTO Quota-2007 appointed on 17.8.2009 (i.e. before the cutoff date of option – 7.5.2010)& JTO Internal candidates of selected through Dr.JTO Quota -2008 appointed on

12.9.2010. We request the Administration to extend the benefits of past service by treating the selection against Dr.JTO quota as a Promotion and their option for pay revision from the date of their promotion since 30% fitment available as per CO. ND. Lr. dt 7.5.2010 and clarification orders dt.18.5.2011 &11.11.2014. On the basis of the request of AIBSNLEA, TN Circle Administration clarification was sought from CO/ND vide Lr.dt.17.3.2015.(Copy of the Letter enclosed) But the case is pending with GM(Establishment), Corporate Office, New Delhi for the past 11 months. Hence we request that the clarification may be issued so as to extend the Past Service benefits and option benefits and Fixation of Pay to JTO Internal candidates selected through Dr.JTO quota 2007&2008.

However we wish to throw some more light on the issue based on some more relevant orders on the subject.

Para (1) of BSNL Corporate Office letter No. 4-85/2003-SEA(Pt-II) dated 04-03-2008 cited above reference (2) [the subject matter of the letter is pay fixation in respect of JAO (external candidates) appointed in BSNL from other departments as fresh candidate against Direct Recruitment Quota] reads as follows:-

"Of late, this office had received various letters from Circles / individual officials regarding the methodology to be adopted for pay fixation in respect of external candidates appointed as JAO in BSNL as fresh candidate against Direct Recruitment quota. In this connection, it is brought to your kind notice that methodology to be adopted for fixation was spelt out in the para (XI) of Terms and conditions for appointment of external candidates, as JAO in BSNL circulated vide OM No.4-85/2003-SEA BSNL dated 05.11.2004. However, since this office is receiving a lot of correspondence on the issue suggesting various methodologies, the issue was examined in detail in consultation with PAT Branch and Finance Branch and it is clarified that methodology given in GOI (29) under FR 22 is applicable for fixation of pay of external candidates of other Departments appointed as JAO in BSNL, as fresh candidate against Direct Recruitment quota." (Model pay fixation is available in the letter)

As per BSNL Corporate Office Lr. No. 400-164/2012-Pers.I dated 12.12.2013 [cited above reference at (5)] the benefits are being extended to external candidates who have been recruited as DR. DGM based on the clarification issued in respect of "Internal Officials selected against DR. JTO quota who have applied *through proper channel* issued vide BSNL Corporate office Lr. No.5-31/2001-Pers.IV dated 23rd June 2010 [Cited above reference (3)].

The clarification order issued by BSNL Corporate office Vide Lr. No.400-164/2012-Pers.I dated 16th Nov 2012 [cited above reference (4)] 'Representations from direct DGMs regarding matters of Pay / Promotion / Pension etc., was superseded by the issue of BSNL Corporate office Lr. No.400-164/2012 – Pers.I dated 12.12.2013[cited above reference (5)].

Further Sub Para (i) (ii) of Para (3) of BSNL Corporate Office letter No. 400-164/2012 Pers-I dated 12-12-2013 [cited above reference at (5)] reads as follows.

- (i) Continuance of Pension Scheme under Rule -37A of CCS(Pension) Rules 1972,GPF,Leave,etc while they continue to serve in BSNL.
- (ii) Protection of last Pay drawn in the previous grade before being appointed as Dr. DGM. The last pay thus drawn shall be protected on their appointment in DGM grade in E-5 scale.

The Service benefits of these executives may be settled in terms of the above position. (With a view on a similar clarification issued earlier by BSNL CO vide No. 5-31/2001-Pers-IV dated 23-06-2010.)

(Note: This clarification will supersede anything contrary in the earlier BSNL CO's letter No. 400-164/2012-Pers-I dated 16-11-2012 as also the offer of appointment of these executives) [cited above reference at (4)]

Hence in the light of the above it is amply clear that pay drawn by external candidates have been protected vide BSNL Corporate Office Lr No. BSNL CO Lr. No. 400-164/2012-Pers-I dated 12-12-2013 [cited above reference (5)] quoting BSNL CO Lr. No.5-31/2001-Pers.IV dated 23-06-2010 [cited above reference at (3)] where as the same was denied to Internal Officials selected against DR. JTO Quota who have applied "Through Proper Channel" where as the subject matter of the above cited BSNL Corporate Office letter dated 23-06-2010 cited above at reference (3) is "Extension of benefits to the internal officials (BSNL recruited or absorbed) who have been selected against DR. JTO Quota and have applied "Through Proper Channel".

Further FR 27 –vests competent authorities with the power to fix the pay of a Government servant at a stage higher than admissible under the provision of FR 22 by granting Premature Increments.

The utility of this rule lies in its applicability to cases of fixation of Pay where the application of normal rules gives rise to extreme hardship or difficulties. The main rule governing fixation of pay on promotion or on initial appointment to a post is FR 22(I). The Competent Authorities may, in their discretion, fix the pay of a Government Servant at a stage higher than that permissible, under FR 22(I) by invoking the powers under FR 27. There are, however, certain limitations to the use of their discretion; for example, it is a long established convention that FR 27 should not be resorted to in any case in order to give a higher initial pay than the recommended by the UPSC. The powers to disregard the provision of FR22(I) must be exercised with discrimination. Recourse should not be taken to FR 27 so often to reduce FR 22(I) to a mere nullity

The powers under FR 27 shall not be used to grant premature increments in the following cases:-

- (i) As reward for meritorious work;
- (ii) in disregard of the advice given by the Ministry of Finance in any individual case of fixation of pay;
- (iii) in disregard of the normal rules governing fixation of pay except in cases of hardship or where the circumstances are unusual; or
- (iv) to take into account the monetary equivalent of certain perquisites allowed, special pay drawn, or Deputation Allowance granted in a previous post, for the purpose of fixing the initial pay on appointment to another post where such monetary benefits are not admissible.

These orders do not affect the use of FR 27 where specifically allowed under special Government orders already in existence.

Condone of resignation for the purpose of fixation of pay- The Government of India have decided that in cases where Government Servant apply for posts in the same or other departments *through proper channel* and on selection, they are asked to resign the previous posts for administrative reasons, the benefit of past service may, if otherwise admissible under rules, be given for purposes of fixation of pay in the new post treating the resignation as a 'technical formality'. This benefit is admissible also to Government servants who applied for posts in same or other Departments before joining Government service and on the account the application was not routed through proper channel. The pay in such case may be fixed under FR 27.

Wrong fixation under FR27- Once fixation was done by Competent Authority in exercise of the discretion vested in it under FR 27 that authority was not competent under the law to reduce initial pay originally fixed even when such pay was based on some data which subsequently turned to be incorrect. [GIO (14), FR 27]

Para 2 of BSNL corporate office letter dated 19-03-2013 cited above reference (6) reads as follows "The benefit of the above orders (i.e 03-01-2012, 19-03-2012 and 20-12-2012) is applicable from the date of joining the service in case of DR. executive and from the date of promotion in case of departmental candidates. Thus all the executives who belong to the JTO batches of 2007 & 2008 recruitment years and JAO DR. and Departmental specified in the above mentioned orders are eligible to get the aforesaid benefit irrespective of the fact that they resigned or took VRS before the issue of said orders."

The 2007 & 2008 JTOS' recruitment comprises of DR.JTOs recruited from the open market and the internal Officials (TTAs) selected against DR. JTO Quota. Hence departmental candidates as mentioned in the BSNL Corporate Office letter dated 19-03-2013 refers to the Internal Officials (TTAs) recruited against DR.JTO Quota as Departmental Outsiders. Further it is clearly mentioned that all the Executives who belong to the JTO batches of 2007 & 2008 recruitment years and JAOs DR (2010 Batch) and Departmental specified in the above mentioned orders are eligible to get the aforesaid benefit.

Para 2 and 3 of BSNL Corporate Office letter dated 11-11-2014 cited above reference (7) reads as follows " It is informed that clarification regarding benefits of past service for fixation of pay in the post of DR. JTO has already been issued vide point no '4' of this office letter no. 5-31/2001-Pers-IV dated 23.06.2010.

However the matter has been examined in consultation with EF branch of this office and it is clarified that para'4' of the above clarification will be applicable to internal officials selected against DR. JTO quota of 2007 and 2008 batch also, provided they have applied through proper channel."

The clarifications/decisions conveyed vide Para (4) of BSNL Corporate Office letter dated 23-06-2010 cited above reference (3), the subject matter of which is 'Extension of benefits to the internal officials(BSNL recruited or absorbed) who have been selected against DR.JTO quota and have applied through proper channel', in the competitive examinations conducted by BSNL in the years 2001 onwards reads as follows:

Sr. No.	Issue	Clarification/Decision
4	Resignation from previous cadre may not be required and benefit of past service be given for fixation of pay in JTO post and for carry forward of leave	The officials appointed as DR. JTO are entitled for benefits of past service, if otherwise admissible under rules, for fixation of pay in the post of DR JTO, treating the resignation as a technical formality. The pay is fixed under FR 27. The leave will also carried forward.

Hence in the light of the above the case of Internal Officials recruited against DR.JTO Quota of 2007 and 2008 batch who have applied through proper channel are entitled for the following benefits which was hitherto denied on account of the BSNL Corporate Office order dated 28-03-2012 [cited above reference (9)], since it is nullified vide BSNL Corporate Office orders dated 19-03-2013 [cited above reference (6)] conveyed vide BSNL Corporate Office letter dated 11-11-2013 and BSNL Corporate Office order dated 11-11-2014 [cited above reference (7)].

IN RESPECT OF 2007 BATCH:

Since they have been appointed on 17-08-2009 (i.e. between 01-01-2007 to 07-05- 2010) they are entitled for exercising option to have their pay fixed as per para 3.6 of BSNL Corporate Office Lr. NO: 1 -37/2010-PAT(BSNL) Dated 18-05-2011 cited above reference (11). In fact all these Internal Officials opted for fixation of pay on their Date of Promotion and it was denied as per BSNL Corporate Office order dated 28-03-2012. (Now it is nullified) As per calculations, their Pay will be fixed at Rs.21620/- (68.8% IDA Merger) and at Rs. 22820/- (78.2% IDA Merger). If they opted for pay fixation from the date of their promotion they will continue to draw the pre-revised IDA pay of the existing cadre upto the date of promotion and on the date of promotion their pay will be fixed initially from the pre-revised IDA pay of the existing scale to the pre-revised E-1A IDA Pay scale of Rs. 9850-14600 and then refixed to the corresponding Revised E-1 IDA Pay Scale of Rs.16400-40500 and the pay arrears will be regulated accordingly.

IN RESPECT OF 2008 BATCH.

Since they have been appointed on 12-09-2010(ie. on or after 07-05-2010), as per BSNL CO. LR. NO: 7-4/2010-SEA-BSNL (Pt-I) Dated 24.07.2015 they may be allowed to exercise the option for fixation of pay in the revised pay from the date of promotion ie w.e.f 12-09-2010 as in the case of

JAOs (Deptl)(40% quota) of 2010 Batch, as one time dispensation. Further they may be allowed to exercise fresh option or allowed to change the earlier option as per letter dated 24-07-2015.

Hence it is requested to Fix the pay of the 2007 BATCH of the internal officials selected against DRJTO quota by extending the benefits of past services by treating the selection against DRJTO quota as promotion and their option for pay revision from the date of promotion i.e. 30 % fitment as per the option facility available vide para 3.6 of BSNL Corporate office letter No: 1-16/2010-PAT (BSNL) dated 7.5.2010, clarified vide BSNL Corporate Office order dated 18-05-2011(with consequential monetary benefits, since they have been appointed before 07-05-2010, the date on which the Non-Executive Pay scales were notified).

In the case of 2008 BATCH of Internal Officials selected against DR.JTO quota, since they have been appointed on or after 07-05-2010, they may be allowed to exercise fresh option or allowed to change their earlier option for fixation of pay in the revised pay from the date of promotion as in the case of JAOs (Deptl) (40% quota) of 2010 Batch, as one time dispensation.

Hence it is requested to settle the issue immediately which was kept pending for years together and these officials are getting frustrated since their issue is being dragged unnecessarily.

With kind regards

Yours sincerely,

Sd/-
(PRAHLAD RAI)
General Secretary

Copy to: The GM (Estt), BSNL C.O, New Delhi-110001