



**ALL INDIA
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No. AIBSNLEA/CHQ/HR /2019

Dated: 30.09.2019

To,

**Shri Sheetla Prasad,
Director (CM/HR),
New Delhi -110001.**

Subject: Views of AIBSNLEA (Prime Litigant in the Court Case) in respect of Hon'ble High Court New Delhi Writ Petition No: WP(C) 9237/2018 and CM No. 35671/2018, for the scheduled meeting to be held on 30.09.2019 in respect of Grant of Additional Increment under EPP- Reg.

Ref. No: BSNL CO- Pers. Section letter No: 61-03/2017-Pers.Legal dated 26.09.2019.

Respected Sir,

In pursuance to Pers. Section, BSNL CO letter cited under reference, we the AIBSNLEA, Prime Litigant, hereby submit our views for the scheduled meeting to be held on 30.09.2019 at BSNL Corporate Office, Janpath, New Delhi that-

The additional Increment in the same scale on functional promotion under EPP was granted after the approval of DoT and the part of EPP.

DoT vide its letter dated 05.07.2017 had withdrawn this one part of EPP after 17 years. Against this action of DoT, AIBSNLEA immediately filed an OA in the Hon'ble PB CAT New Delhi for quashing the above order dated 05.07.2017 of DoT. Accordingly, Hon'ble PB CAT after some hearings quashed the said order dated 05.07.2017.

Even after that, DoT continued to reduce the Pension of the BSNL retired executives. Against this action of DoT, AIBSNLEA filed a Contempt Petition in the Hon'ble PB CAT New Delhi.

Thereafter DoT stopped reducing the Pension / revising the Pay fixation by obtaining an under taking from the retiring executives, DoT has filed Writ Petition in the Hon'ble High Court of Delhi wherein AIBSNLEA has filed a caveat.

The case was heard on 12.09.2019 and Hon'ble High Court Delhi directed DoT and BSNL to sit together & take a decision in this regard before 30th September, 2019. Pursuant to the orders of the Hon'ble High Court Delhi, BSNL Management invited GS, AIBSNLEA for the meeting to be held on 30.09.2019 at 1130 hrs in BSNL Corporate Office, New Delhi in the capacity of the Prime Litigant in this case. We further submitted that:-

Contd.....

1. AIBSNLEA applicant of OA No. 2649/2017, MA No. 2791/2017 and MA No. 3225/2017 has obtained the favourable judgement from the PB CAT New Delhi on 21.12.2017 by quashing and set aside the impugned order of DoT dated 05.07.2017 regarding rescinding/ withdrawal of additional Increment.
2. This objection was raised by the P&T Audit with regard to the grant of additional increment under EPP germinate from their comparison of EPP with MACP meant for Central Govt. Employees. MACP is applicable to C.G. employees has nothing to do with absorbed employees of BSNL.
3. The special Incentive had offered to erstwhile DOT Employees for encouraging them to get absorbed in BSNL (at the time of absorption).
4. If such incentives are withdrawn at a later stage i.e. after 17 years, it would amount to **Breach of Trust & Cheating.**
5. The EPP was recommended by the BSNL Board and approved by the DOT after constitution of a committee chaired by Shri Bhawe ji, the then AS(T) and on the basis of the recommendations of that Committee, the same was implemented by BSNL after the approval of Secretary, DoT.
6. The EPP framed by BSNL & approved by DOT, does not borrow anything from MACP (Modified Assured Career Progression) either directly or indirectly. The allegation that EPP was contrary to the provision of MACP is fallacious and misleading.
7. The rescinding/ withdrawal of the said action is taken vide letter dated 05.07.2017 without any authority and also without affording any opportunity to the absorbed employees in contradiction of the protection guaranteed to them under provision to Article 311(2) of the Constitution and without giving any notice to the absorbed employees has been taken by DoT after 17 years and this against the Natural Justice also.
8. Rule 37-A does not mention about the applicability of FRSR on the absorbed employees in CPSU. FRSR are not applicable to CPSEs in all intends and purpose. The FR 22(1)(a)(i) is borrowed in EPP for doing Pay fixation on promotion but there is no mention about applicability of FR in EPP in BSNL.
9. The question of any additional liability on the Govt. on the retirement of BSNL absorbed employees does not arise since BSNL is already paying the Pension Contribution at the maximum of the Pay Scales in respect of each absorbed employee as per FR 116.

In view of the foregoing, the DOT letter dated 05.07.2017 is not at all legally as well as ethically justified at a later stage. **Its retention would create trust deficit between the BSNL employees and the Central Govt./DoT which is also unwarranted.**

In respect of AIBSNLEA claim, BSNL Management in it's letter dated 03.08.2017 has also urged the Central Govt. not to rescind the Para I-II (v) of Executive Promotion Policy (EPP).

Hence, we would therefore, request your good self to kindly consider our views in the meeting to be held on today i.e. 30.09.2019 between representative officers of DoT & BSNL and render justice by withdrawing the impugned order of DoT dated 05.07.2017 since the issue is not resolved for a pretty long time.

With kind regards,

Yours Sincerely,
-sd-
(S.Sivakumar)
General Secretary

Copy for information and necessary action to:-

1.Shri Arun Kumar, PGM (Pers.) BSNL CO, New Delhi