UNITED FORUM OF BSNL EXECUTIVES ASSOCIATIONS

COMPRISING (AIBSNLEA, AIGETOA & AITEEA)
CHQ, New Delhi

No: UF/CMD/16-17/ **Dated the 20th of January, 2017**

To,
Smt. Arundhati Panda ji
The Chairperson,
(Committee to examine the Pay Parity for Executives recruited after 01.01.2007)

Subject: Representation before the Committee made to examine pay parity of Executives recruited after 01.01.2007 vide circular no. 1-17/2016-PAT (BSNL) dated 10.01.2017-Regarding.

Respected Madam;

Greetings,
With deep regards for your esteemed self, United Forum of BSNL Executive Associations comprising AIBSNLEA, AITEEA & AIGETOA thanks your kind endeavor to provide opportunity of representing the Pay Parity of Executives recruited after 01.01.2007.This issue could be well understood under following category:

1. **What is the issue of Pay Parity?**

This issue is concerned with JTOs of 2007 and 2008 batches who were recruited (in year 2009 & 2010), appointed and worked on pre revised scale of 9850-14600 (E1A) till January 2012. **Salary Slip of January'2012 is attached here.** In pre revised scale the initial basic (Basic at DOA) for JTOs of 2005 batch (whether appointed before or after 01.01.2007), JTOs of 2007 batch and JTOs of 2008 batch was Rs. 9850/. There was only a difference of 2 increments between JTOs of 2005 batch (appointed in year 2007) and JTOs of 2007 batch (appointed in year 2009). As the implementation of 2nd PRC was due with effect from 01.01.2007, DPE had issued an Office Memorandum for merging 50% Dearness Allowance (DA) in Basic pay, known as Dearness Pay (DP) till revised scale comes in effect. BSNL also implemented this merger of 50 % DA in basic. **These JTOs of 2007 and 2008 batch were also getting salary with this DP till January 2012,** in pre revised scale of 9850-14600/. But after implementation of 2nd PRC retrospectively from 01.01.2007 initial basic of JTOs of 2007 & 2008 batches were fixed at Rs. 19020 in revised scale. Whereas initial basic of JTOs of 2005 batch was fixed at Rs.22820/. Therefore suddenly after revision, the difference in **number of increments between JTOs of 2005 batch and JTOs of 2007 batch rises from 2 to 8 and the same for JTOs of 2005 batch and JTOs of 2008 batch rises from 3**

to 9.As conspicuous Rs. 22820/- is 20% higher than Rs. 19020/-& therefore those recruited after 1.1.2007 has been pushed *back to* one step below to the existing PRC &in totality this led to these Executives a total loss of at least Rs. 10,000/-(approx.)per month since last six to seven years.

2. Why should the basic of JTO batches of 2007 & 2008 be fixed at Rs. 22,820/?

Under following references, we can understand genuineness of demand of JTO batches of 2007 & 2008:

1) **Reference-1: Note sheet number F.No.7-4/2010-SEA (pt-1) through which non-executives, promoted to JAOs after 07.05.2010 were given the option to choose revised scale from the date of promotion:**It is **clearlywritten in point 6 that recommendation** is made **due to the points mentioned in 5 (a) to 5 (f) of the above mentioned note sheet,**please find and compare the same points forJTOs of 2007 & 2008 batches.

a) This point says that Rs.9850/ of (9850-14500) after fitment goes to Rs.22820/ in the revised scale of 16400-40500/.**Management is considering** 9850/ for **those non executives who had nothing to do with this 9850/,** because of being promoted as executive after 07.05.2010 **but ignoring this 9850/ for those who worked till January 2012 on this 9850-14600/,** since their appointment in year 2009 and 2010.

b) This point says that, However after clarification dated 18/05/2011, the pay of such JAOs got reduced by Rs.2600/. **Management is considering a loss which has arisen due to wrong fixationfor JAOs** but for JTOs of 2007 & 2008 batch, **ignoring the loss of Rs. 4238/ per month after pay revision with respect to a valid &correct pay in pre revised scale.**Here one thing is notable that the basic of these non-executives had alreadybeen multiplied by **2.31** on 01.01.2007.

*DA on 01.01.2006 was 258.6 % in pre revised scale

Initial Basic on January 2010	Basic After 6 increment on January 2016	DA on January 2016	Effective DA in pre revised scale on January 2016	Effective Basic on January 2016	DA on January 2016	Salary (Basic+ DA) on January 2016
9850/ In pre revised	9850+1500 (250x6)= 11350/	258.6 %	258.6-50= 208.6%	11350x1.5= 17025/	35515/	52540/
19020/ in revised	22720/	112.4%	112.4%	22720/	25537/	48257/
Loss with respect to pre revised on January 2016						52540/ -48257/ = 4238/

c) In this point committee observed that there **has been no such restriction** of any date **either in 2nd PRC for Executive** dated 05/03/2009 and **clarification dated 31/03/2010** or in the recommendation of **wage revision committee for non-executives**. The same is being said by us that there is no such restriction of any date for JTOs of 2007 & 2008 batches, because **nowhere written the word minimum** in any of the pay revision order for executives, issued by DPE, DOT or even BSNL.

d) In this point it has been said that this **one time dispensation has been given to another set of employee** who were promoted to the grade of Assistant Manager and joined after 07.05.2010. Means the **counting of one time dispensation has increased further one.**

2) **<u>Reference-2</u>: Relevance of only to minimum of revised scale to post revision appointed employee (under FR-22) in Central Public Sector Enterprises and 6th CPC :**

Madam, **in Central government, the scale of the post can be changed only through the Pay Commission**. Thus Pay commission is well aware about the cadre and **their scale**. So they categorically mention about the entry basic. If it is only the minimum of the revised scale, Pay Commission clearly mention it. In 6th CPC they specifically mentioned the **Entry Pay which was not the minimum of revised scale** but more than the minimum of the revised scale. In 7th CPC also the entry basic of the employee appointed after 01.01.2016 is mentioned clearly.

But **in CPSEs the commission does not decide the scale of the post.** They just give the replacement of the scales in revised scale. The best example is our BSNL itself. Earlier the JTO was in E1A, provisionally in E1 and gone to DOT for replacement to E2. Even as per JTO RR 2015 it is E1. All these happened without notice to 2nd PRC. **So one who is not aware about the scale of the post, how can they decide the entry basic of the post?** That is why they can't devise it and leave it up to the concern CPSEs. **Moreover BSNL too does not stick to minimum of revised scale under FR22 and has exercised his authority to fix the basic suitably**. JTOs of 2005 batch appointed after 01.01.2007 were fixed at initial basic of Rs.22820/. Further BSNL has given 5 advance increments on E1 to JTOs of 2007 and 2008 batches JTO. Even the one time dispensation couldn't be given to Non-executives promoted to JAO after 07/05/2010/ if this FR-22 was mandatory. BSNL had earlier even issued an order vide No.1-37/2010-PAT (BSNL) order dated 18/05/2011 and clarified that the option for fixation of pay in revised pay should be for those who were promoted to executives between 01/01/2007 and up to 07/05/2010 . **This order is attached here.**

Thus it can be seen that the **6th CPC itself could not stick to "minimum of the revised scale"** then how can BSNL be? BSNL has to quash its own order in case of non-executives promoted to JAOs

after 07/05/2010 and had to issue one time dispensation order. **6th CPC pay revision table is attached here.**

3) **Reference-3: 2nd PRC report and 7th CPC :**

2nd PRC recommended 5 different sets (revised scale and fitment) namely A+, A, B, C, D. Fitment for A+ type CPSE was recommended to 30 % and for D type CPSE 3 %. Based on this variable fitment, E1 scale for A+ type CPSE was recommended to 20700-33800 and E1 scale for D type CPSE 16400-27000. The similar recommendation was for E2, E3, E4 etc. **It means the Honorable Justice M. Jagganath Rao and the commission kept the relation between pre and post revision appointed employee and the pay revision was in the same manner for pre and post revision appointed employee.**Means when the quantum of fitment is higher the minimum of the revised scale is higher and vice versa.

But DPE selected A+ type fitment (30%) and D type scale and left the option of lower fitment 10% & 20% to concerned CPSE. DPE deliberately choose "D' type scale (corresponding to lowest level fitment), because a CPSE can give more than the minimum of a scale where fitment is more than 10% (i.e20% or 30%)to maintain the parity. But once a scale corresponding to higher level fitment was chosen, it could not be possible to give lower amount of fitment because an employee can't be fixed at less than the minimum of revised scale. Keeping these things in to consideration DPE did not issue any guidelines to fix only at minimum of revised scale.

In an RTI reply where information sought was : If DPE has issued any guidelines with respect to 2nd PRC to appoint a direct recruited Executives after 01.01.2007 on minimum of the revised scale only, DPE replied : Wage Cell, DPE has not issued guidelines for appointment of direct recruited executives in this respect. **DPE reply is attached here.**Even DOT in its reply says that DOT has no role in fixation of pay. **DOT reply is attached here.**

In 7th CPC the entry basic for post 2016 employee is exactly equal to the entry pay of 6th CPC multiplied by multiplication factor. There is not a difference of even single rupee between pre and post revision employee. A senior gets more salary only because of increments earned by them. Pay revision does not mean for only existing employee. **7th CPC revision table is attached here.**

4)**Reference 4:Honorable Supreme Court Judgment dated 01.05.1985 in P. Savita vs. Union of India and other Judgments of Honorable Supreme Court and High Court.**

On page 5 of this judgment, it is written crystal clear: *"That is, for the same work and same functions, the appellants would get less pay than the other group of Senior Draughtsman. The explanation is that this division is based on seniority. This cannot be accepted as sufficient to meet the requirements of law.* ***By seniority, a Senior Draughtsman will get higher pay with the increments that he earns proportionate to the number of years he is in service."***

Here Honorable**Supreme Court didn't enquire that whether one section was appointed before pay revision or after pay revision** to justify the difference in increments more than the number of years in service. But in our case, difference in increments between JTOs of 2005 batch and JTOs of 2007 batch is 8; despite the difference in number of years are only 2. (**One thing is noticeable that before revision this difference was really of 2 increments only.**)

There is another crystal clear guidelines/law **laid down by Honorable Supreme Court** in D.S.Nakaravs UOI and widely known to us. It is: **classification permissible under Article 14** must satisfy two conditions, namely, (i) it must be founded on an intelligible differentia which distinguishes persons or things that are grouped together from others left out of the group, and (ii) the differentia must have a rational relation to the object sought to be achieved by the measure in question". **Is there any intelligible differentia between JTOs of 2007/8 batch and JTO of 2005 batch which has a rational relation?** JTOs of 2005, 2007 and 2008 batch have been recruited through **same Recruitment Rule** JTO RR-2001 and performing same duty.

Para no. 18 of the judgment by **honorable Calcutta high court in Mr. Ibrahim Mollah and other vs Union of India and others is also reproduced here.***"It is needless to mention that the main purpose of pay revision is generally to make upward revision of pay of employees necessitated by a host of reasons, such as, fall in rupee value, the rising cost of maintenance of livelihood, circumstantial demand for larger pay packets for meeting the changing pattern of general life style bringing many hitherto luxury items in the fold of the necessaries of life as an inevitable incident of the advancing time of the present day world dominated by science, technology and sophistication".***Therefore in present case, pay fixation is completely against the spirit of pay revision because if pay were not revised the petitioners would get more by Rs.4238/ compared to existing salary.**Honorable Supreme Court Judgments and Honorable Calcutta high court judgment are attached here.

Therefore in the light of above facts& findings, it is requested kindly to take the personal cognizance of the said anomaly & arrange to resolve the issue to fix the pay of JTO batches of 2007 & 2008from DOA at Rs.22820/, fulfilling the very purpose of 2nd PRC.

Anticipating positive response from your esteemed self.

With Warm Regards,

Yours Sincerely,

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Enclosures: As Above

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