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No. AIBSNLEA/CHQ/CMD /2019

Dated: 11.09.2019

To,

**Shri P.K. Purwar,
CMD, BSNL,
New Delhi -110 001**

Subject: Fixation of Pay under FR-22(I)(a)(1) to the Ex. Officiating JTOs – Reg.

- Reference:
- 1) No. AIBSNLEA/CHQ/Director (HR) /2018 dated 19/11/2018
 - 2) BSNL, CO, ND Lr. No. 3-8/2010-Estt-IV (Pt), dated 02/11/2018
 - 3) BSNL, CO, ND Lr No: 3-8 /2010 Est IV dated 16/04/2014
 - 4) BSNL, CO, ND Lr No: 3-8 /2010 Est IV dated 15/11/2018
 - 5) AGM (Estt-IV), BSNL Co.Lr.no.3-32/2013/Estt-IV Dated 22.12.2015.
 - 6) Judgement pronounced by the Hon'ble CAT, Ernakulam on 15.7.2009 vide TA.Nos.84 to 97 of 2008.
 - 7) Judgement pronounced by the Hon'ble High Court, Kerala on 15.9.2017 vide WP.7723, 8077, 23015 and connected cases.
 - 8) CCS(RP) Rules- 2008- Gazette Notification dated 28.08.2018.
 - 9) JTO – RR- 2014, Schedule (Page No 4).

Respected Sir,

We would like to draw your kind attention on the above cited subject. BSNL Corporate Office vide letter under ref. (2) above requested some of the CGMs to fix the pay of the Ex-officiating JTOs under FR 22(1)(a)(i) from the date the officials become eligible for pay fixation i.e. with effect from August 2005 as per the instructions contained in the BSNL CO letter cited under ref (3).

In this regard, we wish to submit that BSNL CO issued instructions to CGMs of Six Circles only i.e. AP, MH, TS, MP, TN & WB Telecom Circles vide letter under ref (2) above. AIBSNLEA already requested vide letter cited under ref (1) to extend FR- 22(1)(a)(i) pay fixation benefits to all the erstwhile officiating JTOs with effect from August 2005 in the pre revised pay scale of Rs.9850-250-14600 without reverting to the substantive cadre.

BSNL Corporate Office issued guidelines vide ref (5) stating that the Officiating JTOs may be reverted from the post of officiating JTO from retrospective date and at the time of revision of Pay w.e.f 1.1.2007, their Pay may be fixed in the Substantive Grade (i.e.TTA) and be fixed in the capacity of Officiating JTO as per existing provision of Pay fixation by grant of 3% of Basic Pay in the Substantive Grade. But in pursuance of the JTO RR- 2014 ref.(9) vide Schedule (Page no.4), these Screening Test qualified and JTO Phase-I trained officiating JTOs were absorbed in BSNL and they were continuously officiated in JTO Cadre from August 2005 onwards and no reversion was made on 1.1.2007 and they have sent for

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Phase-I training without reversion. Hence the reversion of these Officiating JTOs from retrospective date is not in order as per the existing rules and against the "Natural Justice".

I) In addition to that, the Pay of the Officiating JTO has been fixed [as per FR-22(I)(a)(1)] as per the Model Calculation issued vide above cited ref (5) as on 1.1.2007 is enumerated below after reverting to substantive (TTA) cadre on 1.1.2007

Basic Pay fixed in TTA cadre as on 1.1.2007 = $8300 \times 1.782 \times 1.3 = \text{Rs.19230}$ (Rs.13600-25420)

Officiating Pay fixed on 1.1.2007 in JTO cadre with 3% increment = **Rs.19810** (16400-40500)

II) As per FR.35 the Officiating Pay will be fixed as on 1.1.2007 will be **Rs.19230+Rs.2000= Rs.21230.**

III) As per CCS (RP) Rules the Pay of the Officiating JTO has been fixed without reversion to the Substantive Grade (TTA) as on 1.1.2007 is **Rs.23400/-** as detailed below:

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

- | | |
|--|----------|
| a) Officiating Pay as on 31.12.2006/ 1.1.2007 in JTO Pay Scale | Rs.10100 |
| Rs.9850-250-14600 (Pre Revised Scale) | |
| b) D.A as on 1.1.2007 @ 78.2% | Rs. 7898 |
| c) Fitment @30% on (a+b) | Rs. 5400 |
| d) Total emoluments | Rs.23400 |

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

Basic Pay fixed in the Revised Pay Scale as on 1.1.2007 Rs.23400/-

As per FR-22(I)(a)(1), any Officiating spells followed by regular Promotion will be counted for increments and the Pay should be fixed accordingly. In pursuance of CCS (Revised Pay) Rules, the Official who are officiating in the Higher Scale is having the option to retain in the existing scale in respect of a post held by him in an officiating capacity on a regular basis for the purpose of regulation of pay

Extract of CCS (Revised Pay) Rules- 2008 w.e.f. 1.1.2006 – Gazette Notification issued by the Ministry of Finance on 28th August'2018 (Page-33 Sl.No.5 Drawl of Pay in the Revised Pay structure)- Ref.(8)

Explanation 3: Where a Govt. Servant exercises the option under the provisions to this rule to retain the existing scale in respect of a post held by him in an officiating capacity on a regular basis for the purpose of regulation of pay in that scale under Fundamental Rule 22, or any other rule or order applicable to that post, his substantive pay which he would have drawn had he retained the existing scale in respect of the permanent post on which he holds a lien or would have held a lien had his lien not been suspended or the pay of the officiating post which has occurred the character of substantive pay in accordance with any order for the time being in force, whichever is higher.

Honourable CAT, Ernakulum vide ref (6) , pronounced Judgement which was also upheld by the Hon'ble Kerala High Court vide ref (7) (SLP filed by BSNL in this regard in the Hon'ble Apex Court was also dismissed) that "to continue to pay to the applicants (Ex-

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Officiating JTOs) Pay and Allowances due to them in the Scale of Pay of JTO i.e., Rs.9850-250-14600 as per FR-22(I)(a)(1) instead of FR.35 and the respondents(BSNL) was also directed not to recover the Pay and Allowances already paid to the applicants in the Scale of Pay of JTO ie., Rs.9850-250-14600". **But even after 15 Years of Legal Battle, the Establishment Section of BSNL Corporate Office has issued instructions arbitrarily to reduce the Pay of the Officiating JTOs even less than the FR.35 Fixation and challenging the Judicial Orders in a biased and a tricky manner as enumerated above which is against Natural justice and it is a clear anomaly and it creates frustration and resentment among the erstwhile Officiating JTOs.**

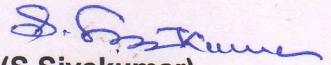
Sir, In view of the foregoing, we would therefore, request your good self to kindly intervene in the matter and cause to issue necessary instructions to the officer concerned to:

With draw the BSNL Corporate Office order No.AGM(Estt-IV) No.3-32/2013/Estt-IV Dated 22.12.2015 which is in contravention to the Judgment and order of Honourable CAT, Ernakulum and Hon'ble Kerala High Court and to avoid further litigation and Contempt Petition from the affected persons.

With Kind regards

Encl: As above.

Yours Sincerely,


(S.Sivakumar)
General Secretary

Copy for favour of kind information and necessary action to.

1. Shri. Sheetla Prasad, Director (CM/HR), BSNL Board, New Delhi – 110001
2. Shri. S.K. Gupta, Director (Finance), BSNL Board, New Delhi – 110001.
3. Shri Saurav Tyagi, Sr.GM (Estt), BSNL CO, New Delhi – 110001.