



ALL INDIA BHARAT SANCHAR NIGAM LIMITED EXECUTIVES' ASSOCIATION

Central Headquarters
New Delhi-110001

President
P. Venugopal
Mob:09443200177
E-mail:presidentaibsnlea@gmail.com

General Secretary
Prahlad Rai
Mob:9868278222
E-mail:gsaibsnlea@gmail.com

Financial Secretary
T.C. Jain
Mob:9868188748
E-mail:tcjain_1957@yahoo.co.in

Letter No. AIBSNELA/CHQ/CMD/2014-15

Dated 11.02.2015

To,

The Chairman cum Managing Director
Bharat Sanchar Nigam Limited
Corporate Office
3rd floor, Bharat Sanchar Bhawan
New Delhi-110 001

Sub: Regarding stepping up the pay of the members of the Applicant Association to the level of their Juniors

Sir,

The Applicant Association with respect submits as follows:-

1. That the Applicant is an Association of All India Executives of BSNL and is called All India BSNL Executive's Association having its office at CH-17.2.15 P & T Chemery Quarters, Atul Grove Road, New Delhi and its General Secretary is Shri Prahlad Rai who is approaching to Your Honour hereby ventilating their grievances before Your Honour.
2. That most of the members of the Applicant Association are employees of Telecommunication Department under the Ministry of Telecommunication, Government of India. Before merger all the Telecom Services were performed by the Telecommunication Department.
3. That in the year 2000 Government of India decided to corporatize all Telecom Services by constituting a government company known as Bharat Sanchar Nigam Limited (hereinafter referred to as 'BSNL'). The entire business of providing Telecom Services and Network Management was transferred to that company and all the executive and non-executive officers working under the Department of Telecommunication were given time to exercise their option as to continue in the Department of Telecommunication or to be transferred to BSNL.

4. That all the employees of the Department of Telecommunication and members of the Applicant Association opted to join BSNL and they came under BSNL and after transferring them in BSNL it started giving them IDA scales.
5. That on 18.1.2007 the Department of Telecommunication had issued an office memorandum regarding grant of time bound/post based promotion policy for group-B officers of BSNL. The main features of the said time bound policy were that the first up-gradation of IDA scale of individual executive would be due for consideration on completion of four years of service in the current IDA scale subject to the condition that the executive basic pay in the current IDA scale had crossed/touched the lowest of the higher IDA scale for which up-gradation to be considered or after completion of six years in current IDA scale. Clause 3.2 further contemplates that subsequent up-gradation of IDA scale to the next higher scale will be due on completion of five years of services in the current IDA scale. General principle was that on being found IDA scale up-gradation fixation of FR22(1)(a)(i) shall be allowed.
6. That as per the said policy people who are entitled to IDA scale up-gradation on completion of six years of service in the current IDA scale their time bound promotion under the policy came into effect.
7. That the BSNL had given time bound promotion to the members of the petitioner Association. But in the mean time due to falling of local vacancy some of the members were given ad hoc promotion and in the mean time after completion of requisite number of years the next up-gradation fell due and eligible persons were given subsequent promotion with increment resulting which those officer who were in adhoc services they suffered by not upgrading them consequent there anomaly had been created inasmuch as juniors started getting higher pay than the seniors. Similar is the case of the several members of the Applicant Association.
8. That some of the effected persons challenged the said illegal action of the Department in not stepping up the pay of the persons who are seniors to the juniors whereas the juniors were getting higher pay than the seniors by filing original petition before the Central Administrative Tribunal, Ernakulam Bench on the ground that their pay should have been protected and their pay ought to have been stepped up as of their juniors an anomalous situation had arisen. The said O.A. was heard by Central Administrative Tribunal, Ernakulam Bench and the Ld. Central Administrative Tribunal, Ernakulam Bench after considering all the facts

and circumstances and the anomalous situation created allowed the O.A. filed by the effected persons holding as follows:-

“The respondents are directed to step up the pay of the applicants to the level of pay of their juniors with effect from the date of arising of the anomaly of seniors drawing less pay than their juniors in respect of each of the applicants within a period of 3 months from the date of receipt of a copy of this order. However, this order will not stand in the way of the committee set up to deal with the issue under consideration in these O.As. giving a more beneficial recommendation for the applicants.”

A copy of the order is enclosed herewith.

9. That BSNL being aggrieved filed a writ petition in the Hon'ble High Court of Kerala and the Hon'ble High Court of Kerala by judgment and order dated 10th July, 2010 dismissed the writ petition O.P. (CAT) No.1576 of 2012 and the Hon'ble High Court of Kerala dismissed the writ petition with the following observations:-

“In that view of he matter, the Tribunal was justified in saying, there was no reasonableness or justification in the discrimination shown to the seniors so far as the pay of them. In the absence of any rule which would support the defence of the petitioners herein, we are afraid, we have to confirm the order of the Tribunal by rejecting these petitions.

Accordingly, these petitions are dismissed. So far as the implementation of the directions given by the Tribunal, we direct the Department to implement the same by stepping up the pay of the respondents/applicants within three months from the date of receipt of a copy of this judgment.”

A copy of the said judgment is enclosed herewith.

10. That against the said judgment of the Hon'ble High Court BSNL had filed S.L.P.(C) No.7716 of 2013 in the Hon'ble Supreme Court of India and the said S.L.P. after notice came up for hearing before the Hon'ble Supreme Court on 08.1.2015 and the Hon'ble Supreme Court dismissed the said S.L.P.

Copy of the order passed by the Hon'ble Supreme Court is enclosed herewith.

11. That the Applicant Association also filed an application for impleadment in the said S.L.P. No.7716 of 2013 with a request that several persons similarly situated like the Respondents in the above noted S.L.P. be also given same benefits. But the Hon'ble Supreme Court after allowing impleadment had not passed any orders

seeking similar relief for the members of the Applicant Association and gave liberty to approach the appropriate forum for their redressal.

12. That in order to avoid multiplicity of litigation the members of the Applicant Association who have been suffering same anomaly that their juniors are paid higher scales than them be also given benefits of the concurrent judgments of all the courts that seniors cannot be given less scales than their juniors. On the same analogy the Applicants submit that their cases be also considered and their pay be also stepped up to the juniors' pay in the light of the judgments passed by all the courts.

Early action on the representation shall be appreciated.

Thanking you,

Yours' faithfully,
-sd-
(PRAHLAD RAI)
General Secretary

Encl: As above.

Copy to:-

1. The Director (HR) BSNL Board, New Delhi
2. The ED (Finance) BSNL CO, New Delhi
3. The GM (SR) BSNL CO, New Delhi
4. The GM (Pers.) BSNL CO, New Delhi
5. The GM (Estt.) BSNL CO, New Delhi

To