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No: AIBSNLEA/CHQ/CMD/2007-08/

Dated: 29.02.2008

To:

**Shri Kuldeep Goyal,
Chairman-cum- Managing Director, BSNL
New Delhi-110001**

Sub: - Request for withdrawal of arbitrary and highly unconstitutional order no. ACP/AD (BW-II)/2007(Pt) dated 20.02.08 - Regarding Pay fixation of JTO(C) on 1st ACP.

Sir,

We would like to draw your kind attention towards the **arbitrary and highly unconstitutional order No. ACP/AD(BW-II)/2007(Pt)dated 20.02.08 -Regarding Pay fixation of JTO(C) on 1st ACP issued by Jt. DDG(BW-I) and seek immediate kind intervention for withdrawal of the same due to the following reasons.**

2. The 5th Central Pay Commission has clearly recommended in its recommendations that in any cadre an individual must have at least two functional promotions throughout his whole carrier span. The cadres in which there is acute stagnation due to shortage of posts for functional promotions and a person cannot be given timely promotion, he can be at least given financial benefit by giving functional scale of his next post in the existing hierarchy to avoid his mental harassment and loss of his work efficiency due to demoralization. For this purpose the Govt. of India had drafted ACP scheme and was issued for implementation vide order **No.35034/1/97-Estt(D) dated August 9, 1999.**

3. The financial up gradation under ACP scheme is to be allowed under the hierarchy existing as on 9-8-1999 or at the time one become eligible which ever is later. If a new hierarchy has come into force, financial up gradation may be allowed only in the re-structured hierarchy. (Clarification no.55 issued vide DOPT order **No.35034/1/97-Estt.(D)(Vol.IV) Dated 18-7-2001.**

4. The benefits of ACP scheme is to be allowed as per the hierarchy existing as on the date the employee becomes eligible for financial upgradation under ACP Scheme. Cadres/hierarchical structures are never static and are always subject to review based on recommendations of Pay

Commissions/Expert Committees or otherwise. (Clarification no.41 issued vide DOPT order **No.35034/1/97-Estt.(D)(Vol.IV) Dated 18-7-2001.**)

5. In the cases where, all the posts are placed in a higher scale of pay, with or without a change in the designation, without requirement of any new qualification for holding the post in the higher grade not specified in the recruitment rules for the existing post and without involving any change in duties and responsibilities then placement of all the incumbents against such upgraded post is not to be treated as the promotion/upgradation (Clarification no.35 issued vide DOPT order **No.35034/1/97-Estt.(D)(Vol.IV) Dated 18-7-2001.**)

6. The financial benefit allowed under ACP scheme shall be final and no fixation benefit shall accrue at the time of regular promotion. In other words upgradation under ACP scheme shall be treated at par with the regular promotion in so far as pay fixation is concerned. (Clarification no.20 and 22 issued vide DOPT order **No.35034/1/97-Estt.(D)(Vol.IV) Dated 10-02-2000.**) BSNL management has been promoting the officials on regular basis in the restructured cadres in the upgraded pay scales up to 1-10-2004. Hence the upgraded pay scales can't be denied to the people eligible for up-gradation under ACP scheme.

7. It has already been decided by the BSNL management that the person who already got 1st ACP before 1-10-2000 will be fixed in corresponding CDA scale in BSNL. As in case of JTO(C/E) who got AE pay scale(6500-10500 CDA) due to 1st ACP before 1-10-2000 were wrongly fixed in non executive scale of 8570 (IDA) in BSNL. When the case was represented to the BSNL management ,it was decided vide order No.16-2/2005-PAT (BSNL) dated 12-04-2005 that the JTO(C/E) who got gazetted pay scale of 6500-10500(CDA) prior to 1-10-2000 due to 1st ACP will be fixed in 9850-250-14600 and obviously all these JTO(C/E) are fixed in SDE(C/E) pay scale of 11875-17275 w.e.f. 1-03-2002 (Change of RR of SDE(C/E).

8. As per BSNL Corporate office no. 20-1/2001-Pers-II dated 6th March 2002, the post of Assistant Engineer (Civil) has been re-designated as SDE (Comp) and the pay scales of SDE have been revised from Rs.6500-10500 to Rs.7500-12000/-. Since the JTO(C) has been granted non functional scale of Assistant Engineer (C) under ACP scheme hence they shall be treated at par with SDE (C).

9. The Recruitment rule of Sub-Divisional Engineer (C) published by Personnel-II section of BSNL states in its Initial Constitution "All officials holding the post of Sub Divisional Engineer (Civil) on regular basis in the erstwhile DOT/DTS/DTO before the commencement of these rules and those who have been absorbed in BSNL shall be deemed to have been appointed as Sub-Divisional Engineer (Civil)."

Since there were no SDE (Civil) in the erstwhile DOT/DTS/DTO hence the recruitment rule in itself is faulty and must be re-cast after incorporating these amendments and the existing recruitment rules shall not be the basis of any orders.

10. Any order governing benefits of the DOT employees (now absorbed in BSNL) is supposed to be vetted by the parent department or DOPT. It is reliably learnt that this order has no concurrence of DOT or DOPT. Moreover the BSNL finance has not given concurrence to issue the above said orders. It is submitted that as it pertains to policy of DOT/DOPT, hence the advice of the said two departments must be taken before implementation of such order.

11. As per the para I.d.(7) of BSNL Promotion Policy issued vide No. 400-61/2004- Pers.I Dated 18.01.2007, ACP scheme may be opted up-to 1-10-2004. It means if any JTO, who is eligible for 1st ACP before 01-10-2004, may opt ACP and will be placed in the SDE pay scale of Rs.11875-17275, as per the existing hierarchy.

12. If the above said orders are implemented in Civil wing, the JTO(C) from 1982 to 1991 batch who are holding SDE pay scale under 1st ACP will have to surrender lacks of rupees and again come to the scale of JTO even after completion of more than 26 years of service, which will totally defeat the purpose of ACP Scheme.

We would therefore, request you to kindly intervene in the matter so that the order issued by Jt. DDG(BW) on 20.02.2008 is kept held in abeyance till the matter is sorted out with the consultancy of DOT/DOPT.

With Kind regards,

Yours sincerely,



(Prahlad Rai)

General Secretary

Copy to:-

(i) Shri Gopal Das, Director(HRD) BSNL, New Delhi-110001