



ALL INDIA BHARAT SANCHAR NIGAM LIMITED EXECUTIVES' ASSOCIATION

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No. AIBSNLEA/CHQ/Dir(HR)/2013

Dated:31st May'2013

To

Shri A.N. Rai
Director(HR/EB), BSNL Board
New Delhi-110001

Sub:- Regularisation of officiating JTOs – follow up action with regard to assurance of the Management as per item No.3 in the record of discussions-

Ref:- 1) Notice for organizational action No.AIBSNLEA/CHQ/CMD/2013 dated 11-4-2013.
2) Record of discussions with Management No.BSNL/7-4/SR/2013 dated 2-5-2013.

Respected Sir,

Your kind attention is drawn to the record of discussions held by AIBSNLEA with the Management on 29th and 30th April 2013 based on the notice for organisational action dated: 11-4-2013. The case of regularisation of officiating JTOs was one among the twenty two prime demands placed by the association and the details of discussions appear under item No.3 of the record of discussions cited above. A written commitment from the management side in this matter in our favour is reproduced below from the record of discussions as follows:

“It was mentioned by GM (Estt) that BSNL is taking views of Sr. BSNL Counsel / Legal Cell to find if something can be done regarding officiating JTOs and the Association may give in writing anything that they want to be shown to Sr. BSNL Counsel.”

Through this commitment from the management side, now we got an ample chance to establish our valid and genuine arguments in a fruitful manner. We have already analysed all the legal aspects in the matter of regularisation of officiating JTOs and conveyed our findings to the authorities concerned through various correspondences. But the management side always ignored the facts presented by us and they repeated the same readymade negative reply quoting an imaginary “subjudice” situation.

The authorities kept mum when we alleged conspiracy and collusion on the part of top officers who handled CWP 5608/2007 in High Court of Haryana, in our letter No.AIBSNLEA/CHQ/CMD/2011-12 dated 7-4-2012. They also did not give a reply when we confirmed vide our letter No. AIBSNLEA/CHQ/CMD/2012-13 dated 15-05-2012, that, the petitioners in CWP 5608/2007 in High Court of Haryana, filed wrong information regarding eligibility and the BSNL favoured the culprits by not revealing the facts to the court of law. BSNL also filed wrong affidavit suppressing the real terms of the BSNL Board's decision dated 30-3-2001 regarding diversion of DR quota.

Our demand for a suitable vigilance inquiry in to these misdeeds were not responded by the management even after the elapse of a long period of one year. This shows that our findings are true and there is unpardonable lapse on the part of management. The adverse orders in the

for the past five years are the aftermath of corruption and colluding activities on the part of a vested interest group which BSNL Management could not prevent so far.

It is in this circumstance, we proposed an amicable solution to regularise all officiating JTOs by a one-time personal upgradation of their substantive posts in the TTA cadre for which concurrence was already conveyed by the recognised trade unions and associations. A question of subjudice does not arise in this matter, since diversion of DR quota is not involved in it. There is no need of waiting for the conduct of LICE or conclusion of Contempt of Court case to settle the matter in this legally valid manner for which the BSNL management is fully empowered.

Two different counsels were consulted on this matter and legal opinions were collected from them. Opinions were taken from Adv. M.R.Rajendran Nair, a Senior Advocate of the Kerala High Court and other from Adv.T. Sivadasan, a practicing Lawyer in High Court of Kerala and a former Registrar of the Supreme Court. The legal opinion given after examining all relevant documents in this matter states that,

(1) the regularisation of officiating JTOs by upgrading substantive posts, would not be in violation of the judgment passed by the High Court of Haryana in WPC 5608/2007 as diversion of DR quota is not involved in it. Hence a question of subjudice or contempt does not arise.

(2) The BSNL has got full powers to take such a decision.

(3) The demands made by us vide our latest letter No. AIBSNLEA/CHQ/CMD/2013 date 25-02-2013 addressed to CMD BSNL to exempt all officiating JTOs from appearing the ensuing LICE and to allow regularisation to all of them before giving posting to the others passing the LICE, are genuine and legally valid.

We are handing over these legal opinions along with the listed other documents including our earlier letters cited above with a suitable appeal addressed to the competent authority with reference to the record of discussions(item-3) for onward transmission to the Sr. BSNL Counsel/ Legal Cell as stipulated therein. Management may also give a set of documents direct to the Sr. BSNL Counsel also with a request to allow us a hearing on the matter. (Documents Annexed are as listed below).

The BSNL Management has an obligation to allow this as per the written commitment as conveyed in the record of discussions.

We would, therefore, request you to kindly intervene in the matter so that Establishment Cell of BSNL CO take immediate necessary steps as per legal opinion taken in this regard to regularize Offg. JTOs at the earliest.

Yours Sincerely,

-sd-

(Prahlad Rai)
General Secretary

Copy to:

- (i) Sh. R.K. Goyal, GM(Estt), BSNL CO, New Delhi-110001
- (ii) Sh. Neeraj Verma, GM(SR), BSNL CO, New Delhi-110001

List of enclosures:-

- 1).Legal Opinion from Adv.T.Sivadasan.
- 2).Legal Opinion from Adv.M.R.Rajendran Nair.
- 3).Letter No.AIBSNLEA/CHQ/CMD/2011-12 dated 7-4-2012.
- 4).Letter No. AIBSNLEA/CHQ/CMD/2012-13 dated 15-05-2012
- 5).Letter No. AIBSNLEA/CHQ/CMD/2013 date 25-02-2013
- 6).Record of discussions with Management No.BSNL/7-4/SR/2013 dated 2-5-2013.
- 7). Order of Supreme Court in Civil Appeal No.1533 of 2005 (SLP(C) No.19991 of 2003)
- 8). Legal Opinion on the Supreme Court Order by Adv. S Radhakrishnan, Kerala High Court.