


<p>भारत संचार निगम लिमिटेड (भारत संचार का उपक्रम) कारपोरेट ऑफिस पी ए टी विभाग</p>		<p>BHARAT SANCHAR NIGAM Ltd. (A Government of India Enterprise) Corporate Office, (PAT SECTION) 5th Floor, Bharat Sanchar Bhawan, Janpath, New Delhi – 110 001.</p>
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No.1-6/2016-PAT (BSNL)

Dated 19.09.2017

To

**All Heads of Telecom Circles/Telephone Distt./Regions/Projects/Telecom Stores/Telecom Factories & other Administrative offices
Bharat Sanchar Nigam Limited.**

Sub: Implementation of Supreme Court judgment on recovery of excess/wrongful payments made to employees in BSNL - reg.

Sir,

Vide this office letter of even no. dated 09.09.2016 and 23.03.2017, instructions have been issued to examine the cases of excess/wrongful payment made to BSNL employees and send the cases, wherever, waiver of the excess/wrong payment is considered necessary in the light of the decision dated 18.12.2014 of Hon'ble Supreme Court in the case of State of Punjab & ors. Vs Rafiq Masih (White Washer) etc. in CA No. 11527 of 2014. Further, instructions have also been issued on 08.05.2017 to send the details of such cases SSA-wise in a specified proforma.

2. It is relevant to mention that Hon'ble CAT Principal Bench, New Delhi in its judgment dated 12.05.2017 in OA No. 792/2016 in matter of Navneet Rai Rishi Vs UOI & ors. has dismissed the case of the applicant for refund of amount which has already been recovered. The operative portion of the judgment is as follows:

"The judgment of the Hon'ble Supreme Court in State of Punjab and ors. Vs Rafiq Masih (whitewasher) and ors. ((2015)4 SCC 334), which, for equity, prohibits, in certain situations, recovery from employees, where payments have mistakenly been made by employer, in excess of their entitlement, is in applicable to the present case. Further, in High Court of Punjab and Haryana and ors. Vs Jagdev Singh ((2016) 14 SCC 267), the Hon'ble Supreme Court held that the principle of non-recovery from retired employees would not apply in the case of an employee put on notice at the time of payment that any excess payment would be required to be refunded.

3. The matter of recovery has been further examined in consultation with legal branch of CO BSNL which has opined that the decision of Hon'ble Supreme Court (in the matter of Rafiq Maish (white washer)) is aimed to expiate the hardships due to recovery of wrongful overpayment. Also the Hon'ble Supreme Court vide its judgment has clearly summarized the model situations wherein recoveries by the employers would be impermissible in law. DOP&T and the DOT has also conveyed their guidance/decision for appropriate implementation (as conveyed vide this office letters dated 09.09.2016 and 23.03.2017).

In view of above, I am directed to convey that:

(a). Circle is, hereby, authorized to take a decision based on factual position in individual cases pertaining to Non-executive cases for waiving of recovery prior to the date of issue of DOP&T OM No. 18/26/2011-Estt. (Pay-I) dated 06.02.2014.

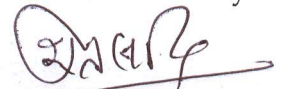
(b). After issuance of DOP&T OM dated 06.02.2014, all recovery cases of Non-executives are to be sent to BSNL Corporate office as per the procedure prescribed in this office letter dated 23.03.2017.

(c). In case of Executives, all recovery cases are required to be sent to Corporate office as prescribed in this office letter dated 23.03.2017.

4. In respect of 3(b) and 3 (c) above, the details of the case shall be sent to BSNL CO in the following format:

Category of employee (Executive/Non-executive)	Nature of recovery	Reason for wrong implementation	Recommendation of Circle (Yes/No)	Justification for (4)	Remark
(1)	(2)	(3)	(4)	(5)	(6)

Yours faithfully



(Sheo Shankar Prasad)
Dy. General Manager(Estt.-I)
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