



Bharat Sanchar Nigam Limited
(A Government of India Enterprise)

Corporate Office
Establishment-IV Section

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Website: www.bsnl.co.in

No. 7-1/Gen/2017/Estt-IV/

Dated: 25th OCT, 2018

To
All Heads of Telecom Circles,
Bharat Sanchar Nigam Limited,

Subject: Representations/court cases for grant of status of DoT employee absorbed in BSNL and to get the benefits under the Rule-37A of CCS (Pension) Rule 1972.

The undersigned is directed to say that several instances have come to notice in this office from different Telecom circles towards the representations/court cases filed by officials (who had been appointed as TTA against the advertisement dated 22.7.2000 at the time of DoT but examination was held on 18th -19th November,2000 after formation of BSNL) and raised the following points as under;

- (1) For granting status of DoT employee absorbed in BSNL and to get the benefits under the Rule-37 A of CCS (Pension) Rule 1972 as applicable to the Government employees by clubbing and accumulating the length of service done in appointed cadre and thereafter promoted/upgraded in past , present and future together into the DoT .
- (2) Recently, DoT issued an order vide letter no.61-4/2016-SU dated 29.09.2016, approving BSNL Board decision to contribute 3% of Basic+DA employees's salary to form a pension fund for BSNL recruited employees. The date of effect of that order was from the date of approval of BSNL Board(i.e 14.07.2016.) From this order , it is very clear that , the fifteen years which we served in BSNL is neither going to be considered for statutory pension under CCS (Pension) Rule nor for BSNL Pension, even though we have served and paid equal to an employee transferred from erstwhile DoTS under DoT, which is a grave injustice to us.

In this connection it is intimated that case has been examined and some inputs are provided in Annexure A to this letter :

You are therefore requested to issue common reply on the basis of aforesaid inputs for disposal of representations and defend the Court cases if any in your circle. This issues with the approval of competent authority.

Enclosure : As above (Three Pages)

Parimal Kumar
25.10.18
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- A. The employees recruited by the Department of Telecommunication and who joined before 01.10.2000 i.e., date of formation of BSNL are called DoT recruited employees who were transferred enmasse in BSNL and later on absorbed therein by calling the option for absorption in BSNL. Furthermore, even the transferred DoT employees who did not exercise the absorption of BSNL employees have been transferred back to the DoT.
- B. In the present case the recruitment process for the post of TTA was carried out and completed by the BSNL. The examination in question was conducted on 18-19th November, 2000, which shows that the whole recruitment process i.e., conduct of examination, declaration of the result and pre-appointment formalities and induction training etc. had been carried out by the BSNL.
- C. Applicants were appointed after 1.10.2000 and are Recruitess of the BSNL and their services are governed by the BSNL Rules for all intent and service purposes like EPF and pay fixation and allowances etc. Moreover, these candidates had also entered into Bond Agreement of Service with BSNL before accepting the offer of appointment which was issued by BSNL and duly accepted by the said candidates. The conscious and unconditional entry of above applicant in service bond agreement with BSNL bears testimony to their acceptance of their appointment to the post of TTA in BSNL. Furthermore, it has already been clarified vide letter dated 6.5.2008 of BSNL Corporate Office, New Delhi that the employees whose appointment orders are issued by BSNL will be treated as BSNL employees. Moreover, the condition mentioned in the appointment letter is not under challenge. Once, the applicants have accepted all terms and conditions mentioned in the appointment letter, therefore, at this stage, their claim is barred by principle of estoppels. Claim of the applicants is hit by the doctrine of issue Estoppel. Reliance in this behalf has been placed on **Y.B. Patil and Others Vs. Y.L. Patil [(1976) 4 SCC 66]**, **Vijayabai and Others Vs. Shriram Tukaram and**

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Others [(1999) 1 SCC 693] and Hope Plantations Ltd. Vs. Taluk Land Board, Peermade and Another [(1999) 5 SCC 590]. Chandra Prakash Tiwari & Ors. Vs. Shakuntala Shukla and Ors (2002) 6 SCC 127. (ii) Madhya Pradesh Public Service Commission Vs. Navnit Kumar Potdar and Anr. (1994) 6 SCC 293 (iii) S.S.Balu and Anr. Vs. State of Kerala and Ors. (2009) 2 SCC 479.

- D. The principle of old vacancy old Rule is not applicable in the instant case as the BSNL was formed w.e.f. 1.10.2000. All the assets/liabilities of Telecommunication Department in this regard along with Establishment were transferred to newly formed company namely, BSNL as is evident from the letter dated 30.09.2000 issued by the Department of Telecommunication. More over old vacancy old Rules is not applicable in the case of direct Recruitment.
- E. The appointment letters were issued to the applicants by the BSNL in the year 2001-03 after its formation i.e. 01.10.2000. The applicants continued to get service benefits like promotions, IDA pay scale, EPF and other allowances etc. as per the BSNL Rules without any agitation. It is only after ~~Eighteen~~ fifteen years of their appointments and after getting promoted to higher posts, they served a legal notice upon the answering respondents in 2018 and claimed that they are entitled to all the benefits as per the Department of Telecommunication Rules. Thus, the O.A. filed by the applicants is barred by law of Limitation as the same has been filed after a delay of about Eighteen years and no application for condonation of delay has been moved by the applicants. Section 21 of Administrative Tribunals Act, 1985 is very clear that O.A. is to be filed within one year from the date of passing of that order. Six months further time is given, if a representation is filed. However, in the present case, the applicant has failed to justify the huge delay in filing the O.A. Section 21 of the Administrative Tribunals Act has been considered in case of S.S. Rathore v. State of M.P. reported in 1990 SCC (L&S) 50, C. Jacob v. Director of Geology & Mining & Anr. 2008 (10) SCC 115 and in case of Union of India & Ors. v. M.K. Sarkar reported in (2010)2 SCC 59, Union of India & Ors. v. A. Durairaj reported in JT 2011 (3) SC 254, wherein Lordships have

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held that the applicant has to give detail of each days delay to the satisfaction of the Court for seeking condonation and Courts should not condone the delay in routine matters. It is not the case of the applicants that they have been discriminated.

- F. It is further stated that as per the provisions of BSNL Employees Superannuation Pension Trust Rules-Para3, says that all employees who are on the regular rolls of the company on or after effective date (05.05.2016) shall be eligible to participate in the scheme provided the employees is not more than 45 years of age as on date of joining the company. According circles may examine the representations considering the age of the applicants at the time of joining BSNL.

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