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No. AIBSNLOA/CHQ/2011/42

Dated: 20th December 2011

To

Ms. Alka Sirohi,
Secretary (Personnel),
Department of Personnel & Training,
North Block,
New Delhi-110001

Subject: **Seniority of ITS officers to be recruited in BSNL vis-à-vis officers already absorbed in BSNL- reg**

Ref: Dir (HR) BSNL Lr.No.400-146/2011-Pers.I(Pt.) dated 24.11.2011

Madam,

The long pending process of absorption of ITS officers on deemed deputation to BSNL has recently been completed and those who have not opted for absorption in BSNL have been declared to have been repatriated back to Dept. of Telecommunications (DoT) vide its orders dated 3.11.2011. (Copy enclosed as Annexure-I). While around 400 non-optee officers have been relieved already, the remaining officers are waiting to be relieved to DoT.

2. Meanwhile, in a bizarre development, the job of framing Recruitment Rules for Managerial posts in BSNL consequent to vacating of these posts by the non-optee officers, has been entrusted by BSNL to the same non-optee officers. As a result, these officers are reported to have framed Recruitment Rules in a manner to aid their come back to BSNL on direct absorption from DoT. **It is further strange that they want to retain their seniority in DoT as Govt Officers after such direct absorption in BSNL vis-à-vis those officers who have earlier opted for BSNL and already got absorbed.**

3. We came across a letter purportedly written by Director (HR), BSNL vide No.400-146/2011-Pers.I(Pt.)dated 24.11.2011 and addressed to Joint Secretary, DoT (copy enclosed as Annexure-II), asking him to clarify on retaining of the seniority of the non-optee officers, quoting various DoP&T orders. *We learn that DoT has in turn written to DoP&T asking for clarification on seniority of officers directly absorbed (after technical resignation from Government) in a PSU.*

2. We believe that DoP&T will thoroughly analyse the contents of the above stated DoT's letter before taking a decision on it. However, we would like to bring to your kind notice, some of the infirmities in the arguments raised in the letter in favour of retaining seniority in Government Service by the officers to be directly absorbed in BSNL from DoT on the basis of the proposed RR.

1. In para 6 of the letter from Director (HR), BSNL, it has been stated that "DoT has made submission in various courts that that common seniority list is maintained between absorbed ITS officers in BSNL and unabsorbed ITS officers". This was the position when absorption process was not complete, when a few ITS officers opted and got absorbed and the rest did not opt but continued on deputation. But after the DoT order dated 3rd November 2011 repatriating the non optee ITS back to DoT, it is to be taken that the absorption process of ITS is complete. That the process of *relieving* the non optees by BSNL is not complete does not mean that the absorption process is still on. **Hence what was submitted by DoT in various courts as mentioned in the Director (HR)'s letter above during the process of absorption cannot be taken as a lead now. This Para now being quoted in a different context is deliberately misleading.**
2. Various DoP&T O&Ms are referred to in the letter, which are so old that it seems that they have been taken from the archives of DoP&T. **However it is clear that all the said O&Ms relate to the seniority of a Govt. servant joining from one department of Govt. to another department of Govt. (Example. from Railways to P&T etc) and are not applicable for a Government Servant directly absorbed in a PSU.**
3. But the BSNL letter has cautiously avoided mentioning another DoP&T order dated 31/01/1986 on "appointment of Central Govt. servants in the public sector enterprises on immediate absorption basis -terms and conditions", **which is precisely relevant to the present issue and elaborates about the terms and conditions of immediate absorption from Central Govt. to a PSU (Copy of the order enclosed as Annexure-III). Para 8 of the order says "for any provision not contained in the order or for relaxation of any provision, DPE is to be approached."** Therefore we feel that it is for DPE to clarify on the issue and not the DoP&T.
4. **Sub Rule 6 of Rule 37 A of CCS (Pension) Rules, 1972 reads that, "The employees who opt to revert to Govt. service shall be redeployed through the surplus cell of the Government".** And as per the 'Seniority Instructions Guidelines' issued by DoP&T, dated 11/11/2010 (from where all the DoP&T letters referred to in the Director (HR) BSNL letter have been taken), Para 4.31 [O.M.No.9/22/68-Estt.(D) Dated 6.2.69] reads that **"the surplus employees are not entitled for benefit of the past service rendered in the previous organisation for the purpose of their seniority in the new organisation. Such employees are to be treated as fresh entrants in the matter of their seniority, promotions etc.**
5. The BSNL letter seeks clarification for inter-se-seniority between the ITS officers joining BSNL through Rule 37 and Rule 37 A of CCS (Pension) Rules. It may be seen that Rule 37 A deals with the provisions when a Central Govt. department is converted as a PSU or

autonomous body. It deals with the provisions of deputation, option, absorption or repatriation and also pension benefits of those absorbed. Rule 37 deals with the provisions when an **individual** employee comes on deputation from Govt. to PSU and gets absorbed and his pensionary benefits. **In both the Rules, pensionary benefits alone are dealt with and nothing is said about seniority or inter-se-seniority.** Therefore no clarification can be issued about seniority for those getting absorbed under Rule 37 and Rule 37 A of CCS (Pension) Rules.

- 6. Earlier a proposal from DoT at the instance of ITS Association for prospective absorption was turned down by the Union Cabinet, as also other Ministries involved, including the Ministry of Personnel, Public grievances and Pensions.** Now, the BSNL's proposal to retain the inter-se-seniority of officers already absorbed and those who have been repatriated back to DoT but would get directly absorbed in BSNL, will be an attempt to hoodwink cabinet decision on this issue.
- 7. Above all, once the officers are directly absorbed in BSNL at some future date, they will cease to be ITS officers and retaining their seniority in ITS grade is neither lawful nor justified.**

3. Thus, the contents of the Director (HR) BSNL letter are unsustainable and against the interests of the ITS officers already absorbed in BSNL and seek to favour those who have refused to opt for absorption in BSNL but want to come back as directly absorbed officers still keeping their seniority intact.

4. We therefore hope that the DoP&T will have a thorough analysis of the issues involved, before making any clarifications as reportedly sought for by the Dept. of Telecom.

With kind regards,

Yours sincerely,



(V.P.Arya)
General Secretary

Copy to:

1. Shri V.Narayanasamy,
MoS of Personnel, Public grievances & Pensions,
New Delhi
2. Shri S.R.Rao,
Addl. Secretary (T), DoT, New Delhi