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No.AIBSNLOA/CHQ/2011/40

Dated: 7th December 2011

To

Shri R.Chandrasekhar,
Secretary,
Department of Telecommunications,
New Delhi

Subject: Seniority of ITS officers to be directly absorbed in BSNL vis-à-vis officers already absorbed after deemed deputation – reg

Sir,

We have come across a letter published by some Executive Associations in BSNL in their websites, purportedly written by Director (HR), BSNL vide No.400-146/2011-Pers.I(Pt.) dated 24.11.2011 and addressed to Joint Secretary, DoT, presumably in connection with the Recruitment Rules proposed by BSNL for recruiting higher level managerial personnel.

2. We believe that DoT will thoroughly analyse the contents of the letter and the DoP&T orders referred to in the above quoted 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 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 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) 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). 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 it is for DPE to clarify on the issue and not the DoT.**
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 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.** Now, the BSNL 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. **One cannot have the cake and eat it too.**

4. We therefore hope that the DoT sees through the game of the repatriated officers still sitting in decision making positions, trying to manipulate things by misquoting various orders and pushing through their wishes as decisions of BSNL Management. Let these non-optee officers be relieved forthwith and let the recruitment rules, if needed, be framed by absorbed officers.

With kind regards,

Yours sincerely,



(V.P.Arya)
General Secretary

Copy to:

1. Shri Kapil Sibal,
Minister of Communications & IT,
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2. Shri S.R.Rao,
Addl. Secretary (T), DoT, New Delhi