

Synopsis of ITS issue:-

----- .1986	MTNL formed with service area of Delhi and Mumbai Metros.
01.10.2000	BSNL formed with service area other than Delhi and Mumbai Metros. As per cabinet decision and Gazette notification, all the assets and the posts created on the basis of assets were transferred from DOT to BSNL. All the officers and staff transferred from DOT to BSNL on deemed deputation on as is where is condition along with their posts.
2003	The absorption process of Group B, C, D employees in BSNL w.e.f 01.10.2000 was completed by 2003. Union cabinet gave approval for the deemed deputation of Group A officers for 5 years from 01.10.2000.
04.10.2005	The absorption process of Group A (Telecom operations/Finance & Accounts/Civil/Electrical) services started on 04.10.2005. Majority of the Group A officers in Finance & Accounts/Civil/Electrical etc except ITS Group A officers in Telecom operations stream got absorbed in BSNL/MTNL w.e.f 01.10.2000. ITS Group A officers are occupying the senior level posts in Telecom Operations stream namely Dy General Manager (JAG level), General Manager (SAG) and Chief General Manager (HAG).
2005	Indian Telecom Service Association (ITSA), the Association representing ITS Group A officers in Telecom operations stream, filed WP 22515/2005 in the Hon Delhi HC demanding prospective date of Absorption , instead of 01.10.2000. Absorbed Employees did not become a party in the case as they were not affected by the prayer of "prospective date of absorption" contained in WP.
26.08.2008	Second time option called for Group A services.
22.09.2011	Third time option called for Group A services.
03.11.2011	Vide OM No A-11010/33/2011- Abs. Cell dated 03.11.2011, DOT repatriated all unabsorbed Group A officers working in BSNL/MTNL back to DOT. BSNL relieved 355 Group A officers after this. 945 officers remained in BSNL.
19.03.2012	All the employees and officers on deemed deputation are given promotions against BSNL posts till their absorption in BSNL. On absorption, their promotions are regularized by BSNL. DOP&PW vide its letter dated 19.03.2012 clarified that the promotions given to DOT officers on deputation to BSNL against BSNL posts and opted for Govt/DOT service are illegal and their pay and pension has to be revised as they continued in DOT based on the posts available in DOT. DoT is having only 463 posts.
	Hon Delhi High Court order on WP(C) No: 22515/2005: i) The deemed date of absorption of the petitioners fixed as 1.10.2000, is held to be illegal, being contrary to Rule 37-A (4) of CCS (Pension) Rules; ii) The deemed date of permanent absorption of such of the petitioners who seek permanent absorption in BSNL/MTNL shall be 8.12.2005;

17.04.2012	<p>iii) The petitioners before this Court are given an option, to be exercised within two weeks from the date of this order, to revert to the Government or to seek permanent absorption in BSNL/MTNL as the case may be;</p> <p>iv) Those Government servants who have already accepted permanent absorption w.e.f. 1.10.2000 will not be entitled to exercise a fresh option in terms of this order;</p> <p>v) BSNL/MTNL shall relieve such of the petitioners, who opt to revert to Government service within 2 weeks of receipt of options from them;</p> <p>vi) Such of the petitioners who opt to revert to the Government shall be appropriately redeployed by the Government in Government service through surplus cell of the Government. We have no doubt in our mind that the Government would not like to keep such of the petitioners who opt to revert to the Government idle and, subject to availability of the positions with it, give them such work as is deemed appropriate to be performed by them.</p>
01.05.2012	<p>Last date for submission of fresh options as per the Hon HC order over. Only one officer exercised fresh option to BSNL. All others including the office –bearers of ITSA who prayed for prospective date of absorption. Their strategy is to prolong the process as much possible and continue on deputation.</p>
18.05.2012	<p><i>BSNL and MTNL filed application in Hon Delhi HC praying for extension of 25 months time for relieving the unabsorbed Group A officers (BSNL –945 & MTNL–83) .</i></p> <p>Hon Delhi High Court order on WP(C) No: 22515/2005: CM No. 6492/2012 (Exemption). Allowed, subject to all just exceptions. The application stands disposed of.</p> <p>Review Petition No. 322/2012. We have heard the learned counsel for the petitioner in the review petition. There is no merit in this review petition and the same is dismissed. CM No. 6374-75/2012. These applications have been filed by BSNL and MTNL for extension of the time to implement the judgment and order dated 17.04.2012, whereby they have been directed to relieve such of the petitioners who have opted to revert to Government service. The option was to be exercised within two weeks. It appears that almost all employees have exercised the option to revert to Government service. Both BSNL and MTNL are finding it difficult to relieve the said employees within the period stipulated in the judgment and order dated 17.04.2012. In fact, that period has already elapsed, a couple of days back. Considering the facts and circumstances of the case and in order to ensure that the working of BSNL and MTNL does not come to a standstill, we are extending the date up to 30.09.2012 for relieving those employees who have opted for Government service. It is absolutely clear that any financial loss that may be suffered by</p>

	<p>such employees on account of the fact that they have been retained in BSNL and MTNL till 30.09.2012 shall be borne by BSNL/MTNL. The learned counsel for Union of India has no objection to this modality as long as the financial loss that may be caused to the employees on account of the retention of employees shall be borne entirely by BSNL and MTNL, as the case may be. The applications stand disposed of.</p>
01.10.2012	<p><i>BSNL and MTNL filed application in Hon Delhi HC praying for extension of time till they recruit manpower at MT/DGM level for relieving the unabsorbed Group A officers.</i></p> <p>Hon Delhi High Court order on WP(C) No: 22515/2005: CM 16684/2012. Exemption is allowed subject to just exceptions. This application stands disposed of. CM 16682/2012 and CM 16685/2012. These are applications for extension of time on behalf of the BSNL and MTNL. Issue notice. Notice is accepted by the learned counsel appearing on behalf of the non-applicants/petitioners as also by the learned counsel for the Union of India. The learned counsel for the Union of India shall take instructions with regard to the surplus manpower that they have and how they will redeploy them on account of the option exercised by the persons working with BSNL/MTNL. Renotify on 31.10.2012.</p>
07.11.2012	<p>Hon Delhi High Court order on WP(C) No: 22515/2005: CM 16682/2012 and CM 16685/2012. For the time being, we are extending the period of implementation from 30.09.2012 till 15.12.2012. Further, we are directing the Union of India to take a clear decision and come out with a concrete plan as to how the persons, who have opted for repatriation, are to be repatriated and in what manner. This is in case the repatriation is not completed by 15.12.2012. We have been informed by Mr Mehra, the learned ASG, that the Committee of Secretaries has been deliberating on this issue and the same is also to be placed before the Cabinet. It is for this reason that we have given one month's time so that the decisions are taken in this period and the same are placed before this Court. Renotify on 18.12.2012.</p>
18.12.2013	<p>Hon Delhi High Court order on WP(C) No: 22515/2005: CM 16682/2012 and CM 16685/2012. Mr Mehra, the learned ASG has shown to us a copy of the minutes of the meeting of the Committee of Secretaries held on 12.12.2012. He has pointedly drawn our attention to paragraph 9 of the said minutes wherein the recommendations have been recorded. It is now submitted by Mr Mehra that the matter would be placed before the Cabinet for their decision on the recommendations. He requests that this matter be placed towards the end of January, 2013 so that the decision of the Cabinet may be placed before this court. Renotify on 01.02.2013. Consequently, as an interim measure we extend the period of implementation till the next date of hearing. CM 16683/2012 and CM 18147/2012.</p>

	Renotify on 01.02.2013
13.02.2013	<p>Union Cabinet extended the deemed deputation upto 11.03.2013 or the date they relieved.</p> <p>Union cabinet decided to deploy the unabsorbed ITS officers in BSNL and MTNL for 10 years in a diminishing manner.</p>
15.02.2013	<p>Hon Delhi High Court order on WP(C) No: 22515/2005: CM Nos.16682/2012, 16683/2012, 16685/2012 and 18147/2012.</p> <p>1. The grievance of the applicants in CM No.16683/2012 and CM No.18147/2012 would be met if CM No.16682/2012 and CM No.16685/2012 are disposed of with a direction that within six weeks from today the mandamus issued by this Court as per the decision dated April 17, 2012 would be positively complied with.</p> <p>2. Issuing a direction that the mandamus issued by this Court as per the decision dated April 17, 2012 shall be positively complied with within six weeks from today, all above captioned applications stands disposed of.</p>
04.03.2013	<p>DOT filed application in the Hon Delhi HC.</p> <p>Para 12. That in compliance with this court order dated 15.02.2013 and also with a view to implement the Cabinet Decision dated 13.02.2013, the respondent department of Telecommunication wishes to issue the following orders:-</p> <p>i) Repatriation of all Group A officers including ITS officers currently on deemed deputation to BSNL/MTNL to DoT with immediate effect and consequent relieving of officers by BSNL/MTNL thereby completing the process of absorption of Group A officers of the DoT in BSNL and MTNL under rule 37-A of CCS(Pension), Rules,1972.</p> <p>ii) Deployment of ITS officers in BSNL and MTNL for a period of 10 years on year to year diminishing basis as per their requirement plan on the terms and conditions as approved by the cabinet with effect from the date BSNL and MTNL relieve officers in pursuance of (i) above. The deployment has been approved by the cabinet. A special dispensation to ensure that the services in these organizations are not disrupted and these operations do not suffer due to lack of required man power and has no relation whatsoever with the absorption process initiated and completed under Rule 37-A of CCS(Pension) Rule,1972.</p> <p>iii) Direction of all cadre controlling units of Group A Services of the DoT to complete the process of cadre review which is already under way and declare the officers as are in excess of the revised sanctioned strength consequent on cadre review as surplus as per Cabinet approval.</p> <p>----- Prayer:-</p> <p>In view of foregoing submissions made herein above, it is prayed that:</p> <p>a) The Hon'ble Court may kindly take cognizance of the course of action proposed in Para 12 above pursuant to the decision of the</p>

	<p>cabinet and this Hon'ble Court's order dated 17.04.2012, 1.10.2012 and 18.12.2012 and pass orders clarifying, if necessary, the order dated 15.02.2013.</p> <p>b) Pass any other or further orders it deems necessary in the interests of justice, equity and good conscience.</p> <p>-----</p> <p>Hon Delhi High Court order on WP(C) No: 22515/2005: C.M.No.M.No.2656/2013 in W.P.(C) 22515/2005. The application is dismissed for the reason no clarification is warranted with respect to order dated February 15, 2013.</p>
<p>11.03.2013</p>	<p>Vide order No A-11013/64/2012-Abs. Cell(I) dated 11.03.2013, all the unabsorbed ITS officers repatriated from BSNL/MTNL. BSNL issued the relieving order in the same day and uploaded in the website in the night.</p> <p>Vide order No A-11013/64/2012-Abs. Cell(II-A) dated 11.03.2013, all the unabsorbed ITS officers repatriated from BSNL (911 nos) to DOT vide above OM is deployed in BSNL for a period of 10 years on a year to year diminishing basis w.e.f. 11.03.2013(A/N) as per the requirement plan already given by BSNL to meets its requirements. All the ITS officers repatriated to DOT vide above OM will be deemed to have joined this Department on repatriation before their deployment in BSNL as ordered above. As such, these ITS officers are not required to physically report to the DOT on their repatriation. As on today 911 ITS Group A officers are working in BSNL on deputation.</p>
<p>Terms & condition for deputation dated 11.03.2013</p>	<p><u>TERMS AND CONDITIONS OF DEPLOYMENT OF ITS OFFICERS IN BSNL AND MTNL</u></p> <p>(i) These officers will not be paid any deputation allowance.</p> <p>(ii) During the period of their deployment in BSNL/MTNL, they will continue to be Government servants and will draw pay & allowances as per admissible to the Government officers of the equivalent grade.</p> <p>(iii) They will also be eligible to apply for deputation/ foreign service deputation in organizations other than BSNL and MTNL and will also participate in Central Staffing Scheme.</p> <p>(iv) The posts of BSNL and MTNL against which these officers would be deployed would not be counted towards cadre strength of ITS for the purpose of promotion. However, these officers would be eligible for consideration for promotions against the vacancies arising in DoT out of the sanctioned strength of 463 as on date or the revised strength determined after the cadre review. Besides, these officers shall also be entitled to be considered for promotion against posts falling vacant in DoT as a result of officers being deployed to fill vacancies in BSNL and MTNL that these organizations are unable to fill for want of internal personnel eligible for such promotion. These shall be subject to the ceiling indicated in Annexure 'C' to the Supplementary Note for the Cabinet.</p>

	<p>(v) Leave salary & pension contribution shall be paid by BSNL/MTNL to the Central Government i.e. DoT as per extant rules.</p> <p>(vi) The period of deployment of any individual officers to BSNL/MTNL shall not be counted towards any ceiling on period of tenure deputation to other Department/organizations, including postings under Central Staffing Scheme.</p> <p>(vii) For the purpose of the proposed deployment, BSNL and MTNL shall be exempted from the rule of immediate absorption.</p> <p>(viii) The inter-unit transfer and posting of ITS officers between DoT and BSNL/MTNL shall continue to be made by DoT. However, CMD, BSNL/MTNL shall exercise full control over transfer/posting of ITS officers while they are posted in these organizations.</p> <p>The effect of the terms and conditions on the employees and BSNL are:</p> <p>a) Since deputed officers are occupying the promotional posts of absorbed officers, absorbed officers will not get promotion. BSNL has to pay for its own employees and the deputed officers also for the same post. If the absorbed officers are promoted, then there is no need for paying to the deputed officers.</p> <p>b) As per (ii) and (v), the entire financial burden will be on BSNL. BSNL's own employees are not extended the benefit of pay revision, curtailed perks and allowances in the name of financial crisis but these officers will be entitled for all benefits of Central Govt employees in BSNL. So far they were given the same perks extended to the BSNL employees only but hereafter they will get all the benefits. Even they will get the next pay revision benefit in 2016 also. This is a reward for them for defying the Govt order and not getting absorbed in BSNL.</p> <p>c) As per (iv) above, they will be effectively eligible for promotion on BSNL posts also in addition to DOT posts. This is a reward for them. If post in BSNL is vacant, then the ITS officer in DOT will be sent to BSNL and the resultant vacancy in DOT will be again filled by promotion and this chain will continue. To make it happen, BSNL will not promote its own absorbed officers as being done today and no recruitment will take place in order to keep the posts vacant.</p>
	<p>There is no provision in the BSNL Management Services Rect rules to take officers on deputation. As per RR, posts can be filled by absorption, promotion and by direct recruitment only.</p>
<p>Contingency plan of</p>	<p>As per contingency plan submitted to DOT by BSNL vide No BSNL/32-1/SR-2011 dated 21.10.2011, BSNL requires only 24 CGMs(HAG), 198 GMs (SAG) and 489 DGMs(JAG). We are having sufficient no of absorbed officers eligible to be promoted to these posts (except GM posts). 2 absorbed CGMs are working and 30 absorbed GMs are eligible for promotion against the requirement of</p>

BSNL dated 21.10.2011	24 CGMs and 2133 DEs are eligible for DGM promotion. On the requirement of 489 DGMs, 293 absorbed/promoted/direct recruited DGMs are already working and promotion order for 414 are ready. After the promotion order the no of DGMs will be 707 in place of 489. Since the unabsorbed are not relieved, promotion orders are not issuing. Further, provision of relaxation in eligibility service is already provided in RRs for promotion from DE to DGM posts. So there is no shortage in CGM(HAG) and DGM(JAG) level, rather excess officers are available. For GM posts, recruitment process started in December, 2011 through Special Lateral Rect Rule 2011 (SLD RR 2011) but stopped in order to retain them in BSNL.
BSNL proposal	<p>a) As per the contingency plan dated 21.10.2011 BSNL proposed to recruit CGM/GM etc by a time period of 3-6 months. (Para 3.2.2. "----- Rect rules are currently being framed. However, recruitment process is time consuming and would at least take 3-6 month period").</p> <p>b) In CM 6374/2012, BSNL prayed time for 25 months.</p> <p>c) In CM 16682/2012, BSNL prayed time for about 13 years, rect at lower level and further promotion to GM/CGM level.</p> <p>d) In CM 2656/2013, DOT prayed time of 10 years to repatriate all of them.</p>

- BSNL had 40,000 Cr cash reserve initially and making 10,000 Cr profit per year from 2001 to 2006. BSNL is claiming that ITS are the only technical experts. But during last three years BSNL registered heavy losses (this year it may go upto Rs 9000 Cr) when the deputationists are holding the key posts. All other operators who are not having ITS on deputation registered profit also.
- There is no difference between BSNL management and ITS as all the top positions are occupied by the ITS on deputation. CMD and 4 functional directors out of 5 are from ITS, all the Executive Directors and almost all the CGMs are non optees on deputation. The absorbed officers are not given promotion as the deputationists are not vacating the posts they are holding in BSNL.
- Their only intention is to continue in Govt service with full job security, continue in BSNL on deputation till retirement and enjoy all the benefits of a PSU and Govt and take promotions on BSNL posts illegally till BSNL survives and then go back to Govt in case collapse of BSNL.
- DOP & T vide its OM dated 08.10.2010 decided that on conversion of a Govt Dept to a PSU, **"A maximum period of 5 years for framing of rules and another 2 years of phasing out repatriation to those opting to come back to Govt has been prescribed"**.
- For DGM promotion there is no legal issue as Hon Kerala High Court already given direction to BSNL to give promotions based "subject to the outcome of the case" on a seniority related case. Now the final arguments are over and judgment is reserved. DPC for 414 posts completed and orders can be issued any date if Mgt desires.
- The three applicant unions/Associations in this case are SNEA(I), BSNLEU and AIBSNLEA. BSNLEU is the majority Non-Executive Union in BSNL after

membership verification. SNEA(I) and AIBSNLEA are the only two recognized Officers (Executives) Association in BSNL which represent almost 95% of the Officers (Executives) in BSNL.

- **Prayer:** (i) Stay the operation of DoT order No. A-11013/64/2012-Abs. Cell(II-A) dated 11.03.2013. (ii) Restrain CMD, BSNL from implementing the Order No. A-11013/64/2012-Abs. Cell(II-A) dated 11.03.2013, occupying and performing duties on BSNL posts and drawing the salary, allowances and other facilities from BSNL for the repatriated officers.