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**No. AIBSNLEA/DRHR/2017-18**

**Dated-11.10.2017**

To,

**Smt. Sujata T Ray,**  
Director (HR/Finance),  
BSNL Board,  
New Delhi-110001

**Subject: Implementation of Judgment dated 17.7.2017 in CP No-404/2016 in OA No-4363/2012 -regarding absorption in BSNL etc.**

**Respected Madam,**

We would like to bring the following facts to your kind notice and consideration please.

An OA No.4363/2012 was filed before the Hon'ble Central Administrative Tribunal Principal Bench, New Delhi by some of our aggrieved JAOs, praying therein that the appointments of the applicants may be treated in accordance with DOT OM No-18-11/2000 SEA II dated 30.9.2000 as appointment on absorption with effect from the dates they were given fresh appointment letters in BSNL. In fact, some of the JAO's from other Central Government Departments who were on deputation in DOT from 1992 onwards, were ordered to be absorbed in DOT vide OM No-18-11/2000 SEA II dated 30.9.2000.

In the meantime, DOT/DTS/DTO converted into BSNL. SEA Section, BSNL ignoring the DOT OM dated 30.9.2000, issued a fresh OM No. 4-85/2003- SEA BSNL dated 05.11.2004 imposing new terms and conditions on these JAOs and accordingly, they were appointed as fresh candidates in BSNL.

The applicants along with other aggrieved similarly situated employees challenged the action of the BSNL/DOT in appointing them as a fresh candidate against the Direct recruitment quota in contravention of the relevant Rules (Appendix 11/ FRSR) before the Hon'ble Administrative Tribunal and the Hon'ble CAT vide order dated 22.9.2015 (Copy enclosed) in OA No-4363/2012 had allowed the said OA of the applicants while holding that "It is clear from the tenor of the Policy Decision dated 30.9.2000 as well as OM dated 5.11.2004 that the appointment of the applicants in BSNL has to be treated as absorption and not as fresh appointment."

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It was also held therein that “At this stage, Ld. Counsel for the respondents (BSNL) tried to allude that once the applicants herein had given an undertaking that their appointment should be treated as direct recruitment, there could be all reasons to believe and have semblance that the appointment was fresh appointment. We are on the firm opinion that such a plea of the Ld. Counsel for the respondents (BSNL) may not be accepted for the reasons that subsequent clarification OMs/undertaking cannot change the features of the basic policy.....Once the respondents have taken a policy decision and have issued OM in sequel thereto, the absorption of the applicants is to be treated in accordance with the terms and conditions contained therein only.....in the wake, the present OA is disposed of with the direction that the appointment of the applicants herein in BSNL should be treated as appointment on absorption with effect from the dates they were given fresh appointment letters”

The above order dated 22.9.2015 of the Hon'ble CAT Principal Bench New Delhi did not comply by the BSNL. Hon'ble CAT had initiated suo moto contempt notice and CP No-404/2016 is numbered. The above CP came up for final hearing on 17.7.2017 (Copy enclosed).The learned counsel appearing on behalf of BSNL had admitted before the Court that the BSNL is treating the applicants as absorbed with effect from their appointments and therefore there is no need to issue fresh orders in this regard.

In view of the decision of the Hon'ble CAT in CP No-404/2016 in OA No-4363/2012, it is requested to issue necessary instructions to the Officers concerned:

- (i) For the immediate issuance of absorption orders in respect of all JAO's absorbed from other Central Government Departments in BSNL with effect from the dates they were given fresh appointment letters.
- (ii) To fix the pay of these JAO's in accordance with GIO 10 below FR 22, [GOI MF OM No.F.1 (11).EIII (B)/69 dated 20.01.1970] as Hon'ble CAT in its order dated 22.9.2015 in OA 4363/2012 has ordered that the benefit of OM dated 30.9.2000 may be extended to the applicants, and in above OM, it was stipulated that their pay will be fixed under FR 22C.
- (III) These JAO's will not claim any seniority prior to the date of their fresh appointment in BSNL, which will be treated as absorption in BSNL. For this, if required, an undertaking can be obtained from the individuals at the time of implementation of the orders / Pension fixation.

With kind regards.

Encl: As above

Yours Sincerely  
-sd-  
**(PRAHLAD RAI)**  
**General Secretary**