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No. AIBSNLEA/CHQ/GSSs-Presidents/2012-13

Dated:30.11.2012

To,

**All General Secretaries/Presidents  
BSNL Unions/Associations**

**Sub:- Regularization of officiating JTOs before conducting ensuing JTO LICE** - An open letter/ request to all General Secretaries / Presidents of Unions and Associations in BSNL.

**Dear Comrade,**

As you are aware the issue of regularization of about 2000 officiating JTOs (TTAs qualified in departmental test as per 1996 RR and successfully undergone prescribed mandatory training as per JTO RR-2001), all over the country, remains unsettled for the last several years, only because of the misdeed on the part of the BSNL management. They have been functioning as full-fledged JTOs in all respects for the last seven or more years.

***In the screening test held in the year 2000 as per RR of 1996, nearly 6000 TTA s were qualified through out the country. It was the only examination conducted under the RR of 1996. It may be noted that in all earlier recruitment rules, competitive channel was not denied to any cadre even if that cadre is eligible under qualifying / screening channel. But under 1996 RR, even that chance was refused to TTA s. For many of the TTA s, this was the first and last chance for a promotion in their entire career.***

***A number of TTAs were qualified in the 35% qualifying examination in 1995 in accordance with RR of 1990. Before all of them got absorbed, the new 1996 RR came into existence. At that time the TTAs qualified earlier to the publication of new rule were given protection in the new rule stating that, "they are deemed to***

***have been qualified in the new RR of 1996.” Thereafter 1999 RR and subsequent to the formation of BSNL, 2001-RR also came into existence where in a competitive examination was brought in for the departmental candidates for the post of JTO. The officials who were earlier permitted with various engineering qualifications were restricted and certain branches like electrical, electronics, telecom, computer science etc., were only permitted to appear in exam. Knowingly or unknowingly, those who were qualified as per the 1996-RR were not given any protection. Out of those qualified for promotion as per 1996-RR, about 3500 got absorbed as regular JTOs and the remaining 2500 were sent for training in accordance with the syllabus of 2001-RR, and subsequently posted for officiating as JTOs in various states of the country and they have been discharging duties to the satisfaction of superiors at par with other regular JTOs. Majority of them are officiating continuously as JTO for the last 7 years.***

***However, there had been acute shortage in the cadre of JTO, as further direct recruitment from outside quota ( open market) against 50% quota had not been made which resulted in accumulation of about 11, 300 vacant posts of JTO in the DR quota.***

***After formation of BSNL, there was strong demand from trade unions for diversion of DR quota to 35% departmental quota, in order to give promotion to those who have cleared screening test as per 1996-RR. In view of this and also to mitigate the shortage in the JTO cadre, BSNL Board, the supreme body of BSNL, in its meeting held on 30-3-2001, took a policy decision in the larger interest of the company and public, to approve training and recruitment as JTO to all TTAs who have qualified in the screening test but could not be sent for training due to non-availability of vacancies in departmental quota. This would be done @ 500 posts per year by diverting posts from DR quota. Accordingly all such officials were given Phase-I training to the cadre of JTO as per syllabus of the BSNL (Graduate Engineer) prescribed in 2001 RR.***

After completing the diversion of DR quota for the years 2001 to 2007 (3500 posts), CWP 5608/2007 was filed by Mr. Dalbir Singh & 7 others (TTAs) before Hon. Punjab & Haryana High Court at Chandigarh for quashing the action to fill up posts of JTO for the year 2006 and 2007 from the candidates of waiting list of year 2000 and to scrap the waiting list of the year 2000 etc.

The WP was disposed of with the judgment dated 30-5-2008 as below:-

**“This WP is disposed of with a direction to the respondents (BSNL) to restore the posts diverted from DR quota to 35% departmental quota to admit TTAs who had qualified the screening test held on April 23, 2000, to DR quota as stated by them in the written statement.”**

**By this time vide letter dated 12-8-2008 order was issued for diversion of another 500 DR quota posts and this was one of the reasons for filing a Contempt of Court Petition,(COCP No.1431/2008) by some of the petitioners.**

BSNL authorities, violating the guidance from competent sources, took a decision not to file any appeal against the judgment and decided to implement the judgment of HC. Accordingly, the Management Committee decided not to make any diversions further and also all the posts so far diverted were restored to DR quota. BSNL also created 3500 supernumerary posts to adjust the officials already promoted against the diverted posts. The creation of supernumerary posts will no way affect the promotional aspects of the petitioners. Yet, the Court was not satisfied with the action taken so far and observed that “ respondents have already created manpower by creating supernumerary posts and the entire exercise seems to have been made to circumvent the judgment of the court” and also asked to file a Review Petition for clarification of the order. The RP was also dismissed on technical ground. Admittedly, more than 16,000 posts of JTO s were remaining vacant. Supernumerary posts were created due to scarcity of manpower and shall be a separate group and the 35% quota vacancies under RR-2001 shall remain intact for the petitioners and similar others and will no way affect them.

Now it is learnt that a detailed fresh affidavit containing substances against and harmful to the affected officiating JTOs has been filed thereafter and the hearing on the COCP is still going on, for the last several years in the guise of which the management is denying justice to this oppressed group.

**Thus the JTO s officiating for the last 7 years are being unnecessarily harassed and subjected to mental agony.** We have been closely watching and pursuing their case, for the last several years and were under the impression that, regularization of all the remaining officiating JTO s scattered all over India (about 2000 in number now) would be completed in a phased manner as it was done in the case of first 3500 persons. The litigation originated in the Haryana High Court created a stalemate condition blocking the further processing of the operation.

**The BSNL management made the following mistakes/ faults/ colluding activities in handling this case:-**

1) Regarding BSNL Board's decision dated 30-3-2001 to accommodate all the qualified / eligible waitlisted candidates, a false averment was filed by an officer in BSNL corporate office in the counter affidavit, which only led to the impugned court order crisis thereafter.

There is no mention regarding any restoration of the diverted posts in the Board's decision. But in the written statement filed in court by BSNL, it was mentioned that the posts so diverted from DR quota to 35% quota would be restored back to DR quota in due course. It was on the basis of this written statement that the court directed the BSNL to restore the posts so diverted from the DR quota. If the Board's decision was produced without any alteration the impugned judgment which finally led to contempt of court case would not have happened. We cannot view it as a mere inadvertent error. This colluding act from the corporate office was not investigated by the CMD despite repeated demands made from this association.

It is a fact that the BSNL Board's decision in this regard still exists and remains unchanged. If at all a decision to restore the diverted quota was taken, it was taken later, at a lower level, after the pronouncement of judgment, for which no authenticity exists above the Board's decision.

2) It is to be noted that all the petitioners in the CWP entered in the Department in the year 2002 only and they possessed less than 5 years service at the time of filing the petition in the year 2007, but filed wrong information in the Civil Writ Petition (in Para no.5 of the CWP it is specifically stated that they have 15/20 years of experience) thereby misguided the Hon'ble Court. In the written statement filed by AGM(L) O/oCGM Hariyana Telecom Circle, this was not objected. Hence the Hon'ble court accepted that wrong information and considered it as correct. If the BSNL officers concerned had properly countered the same with facts and figures producing the appointment particulars as documental proof, the petition could have got dismissed at the admission stage itself. There has been collusion in this case.

Only when BSNL lost the case and a Contempt of Court Case (C.C.O.P No. 1431 of 2008 in CWP 5608 of 2007) was filed by some of the petitioners in the High Court at Chandigarh, the BSNL Corporate Office came with the clarification that the petitioners in the CWP joined in the department only in the year 2002 and were not eligible for

appearing in the examination against 35% quota as per the RR in force. But the fact that this was originally suppressed by the CGM, Haryana in the counter affidavit of CWP, has not been mentioned in the reply to COCP, even now. If this had been furnished already by the CGM Haryana in the counter affidavit, the decision of the court would have been different. **CMD did not initiate action against the erring officers and the petitioners who filed wrong information despite demand raised by us.**

**3) Appeal was not filed in the Apex Court and interest of the Company was not protected:-** The prayer in the petition was to quash the action to fill up the posts of JTO for the year 2006 and 2007 from the candidates of waiting list of the year 2000. But the court has gone beyond its jurisdiction to undo the promotions to vacancies beyond 1-9-1999. Career-prospects of several thousands of employees would be affected by the impugned judgment of the Chandigarh HC, but they were not made parties in this case and they did not get any chance to make their defense.. **Actually this was reported to be a very fit case to be appealed through SLP in the Apex Court. We learnt that the contesting BSNL counsel, Corporate Office Legal Wing and the authorities concerned in the BSNL HQ were all of the same opinion and an instruction was passed to the CGMT, Haryana Circle to file the SLP. We understand that this decision was reversed in the Haryana Circle and they could manage to torpedo the decision of the Corporate Office tactfully.**

To come out from the charges of contempt of court, unnecessary commitments contrary to the Board's decision have been submitted before the Court of Law, which in turn will be harmful to the interest of the officiating JTOs waiting for regular posting, which also warrants an investigation

**Unfortunately, the BSNL Corporate office itself unnecessarily mixed up the matter of conducting JTO LICE with the contempt of court case. Now they are in a hurry to conduct JTO LICE without settling the case of regularization of officiating JTOs, thereby making the issue more complex.**

We are aware that all most all Unions/ Associations in BSNL are of the opinion that the issue related to officiating JTOs should be settled before conducting an LICE to JTO cadre as per the latest RR. In the present context this can be done by allowing a one-time up-gradation of their posts to JTO before conducting an LICE to JTO cadre for obvious reasons, for which full powers are vested with the Company. Any of the existing litigations cannot stand in its way since nobody is denied with his right or chance by implementing this personal up-gradation.

BSNLEU had already taken up this issue as an item in the National Council and raised the same demand.

NFTE, through their national website requested all concerned to sit together to reach at a workable solution.

SNEA also wants to settle the issue on the same lines. All other similar organizations in BSNL expressed same views and nobody can take a different stand in this genuine issue.

**We therefore make an earnest request before the General Secretaries/ Presidents of all unions/ associations in BSNL to exchange their views in this regard in view of the present crisis created by the management. We are not against the conducting of LICE, but the grievances of officiating JTOs are also to be addressed by ourselves. Extreme pressure has to be exerted on the erring management by a concerted effort from the side of Trade Unions/Associations. We are in deed, duty bound to take up the matter to protect the interest of this oppressed group. All General Secretaries may kindly take initiative to hold an immediate meeting to arrive at a consensus and pressurize the management to have the settlement. It is suggested to convene a combined meeting of General Secretaries of all Unions/ Associations at the earliest possible occasion. We may also demand to conduct an inquiry into the colluding activities on the part of the officers and book the real culprits involved in it.**

This may please be treated as most urgent.

Fraternally Yours,

-sd-  
**(Prahlad Rai)**  
**General Secretary**

To:

**Shri V.A.N. Namboodiri,**  
**President BSNLEU &**  
**Convener, Forum of BSNL Unions/Associations, New Delhi**