



**ALL INDIA  
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No. AIBSNLEA/CHQ/CMD/2012

DATED: 07.12.2012

To,  
**Shri R.K. Upadhyay**  
**CMD, BSNL**  
**New Delhi-110001.**

**Sub:- Undue delay in the disposal of WPCs filed by and against BSNL before the High Court of Kerala in the matter of seniority- Stalemate condition blocking all sort of promotions and postings in Engineering Wing - request to approach Apex Court seeking direction to the High court for a time-bound action in the interest of service and interest of public-Reg**

Ref:- WPC No.5406/2010, WPC No.26226/2010, OP CAT Nos 2941/2011 and 3019/2011- on the matter of seniority of 147 competitive quota officers – case of promotion from DE (STS Gr.A) to DGM (JAG) posts

**Respected Sir,**

We would like to draw your kind attention towards, the writ petitions were filed by various executives and BSNL Kerala, as cited above, in the matter of TES Gr.B seniority list, affecting the promotion from DE to DGM in Engineering stream. Litigations originated in CAT Ernakulam and now pending at High Court of Kerala remain unsettled for the past 3 to 4 years. The case was originated based on a revision of the seniority of 147 competitive quota officers, which was challenged by the affected executives in OA No.86/ 2009 in the CAT Ernakulam on various grounds. The CAT allowed this OA and the revised seniority of 147 SDEs(T) and the promotion orders issued based on it were set aside. The official respondents were directed not to disturb the seniority of the applicants and similarly situated individuals by interpolating the seniority of the combined competitive exam qualified individuals (147), whose seniority has to be below that of those who had passed in the qualifying examination prior to 1996. It was also directed that the seniority list should be revised accordingly and further promotion to the post of Executive (JAG-Group A) should be on the basis of the revised seniority list.

Aggrieved by the above said order passed by the CAT Ernakulam Bench, WPC No.5406/2010 was filed before the High Court of Kerala and an interim order was passed staying the operation of order passed by the Tribunal. Later, the High Court restricted the interim order to the petitioners alone and several persons approached the CAT Ernakulam Bench again by filing Review Applications. In the meanwhile, BSNL also filed WPC No.26226/2010. The Review Applications were heard in detail and dismissed by the CAT. The aggrieved parties again came to the High Court by filing OP(CAT)No.2941/2011 and OP(CAT)No.3019/2011.

When, the matter was heard on 23.02.2012 the High Court issued an interim direction that no promotions shall be effected until otherwise ordered by this Court. Further, on 28-5-2012, the High Court, after hearing both sides, modified this interim order and allowed management to facilitate the issue of orders granting temporary promotions locally, which may not affect entitlement of others in any way. In fact, this was based on a submission made by BSNL through an affidavit. But BSNL is not utilizing this interim order and local officiating promotions from DE to DGM are still not ordered, stating that there is no clarity in this order.

It appears that, BSNL management shows little interest and initiative to settle this case. Even though petition for an early posting was filed, it seems, the matter could not be properly appraised before the High Court. We observe that, even though this case is listed in the weekly list, the matter is getting adjourned indefinitely either due to inconvenience of the court or due to non-appearance of counsels for any of the parties.

Now the DPC from DE to DGM to fill up more than 400 DGM posts is not taking place only due to this pending court case. Several eligible senior officers are retiring on superannuation without getting their eligible promotion to JAG posts. Even local officiating arrangements are not ordered on the ground that there is no clarity in the interim order of 28-5-2012 passed by the court for allowing such temporary promotions. We cannot understand why the BSNL legal wing is unable to get a clarification in this regard from the same court.

Affected parties will seek legal remedies when they feel justice is denied or delayed. But it is the duty of the management to bring the situation under control and avoid deadlock for facilitating a smooth functioning of the company. The legal wing of Kerala circle is now handling this case in the High Court of Kerala for and on behalf of the Corporate Office. The inert and easy-going attitude and lack of interest on their part may harm the interest of the company in total. This should not be allowed at any costs and a constant and effective pursuance from your side is solicited in the true interest of service.

Filling up more than 400 vacant posts of JAG is a priority item in the true interest of the Company. We request you to consider this matter more seriously and approach the Hon'ble Supreme Court of India through a special petition as permissible by the law, describing the real stalemate condition prevailing in this organization in the absence of sufficient number of JAG officers, and get an urgent order directing the High Court of Kerala to dispose the above referred writ petitions in a time-bound manner without any further delay.

Mean while arrangement may be done through a senior and efficient counsel to get a clarification for operating the modified interim order of 28-5-2012 for allowing local officiating arrangements also to save the situation in the most needy circles.

We look forward some immediate and effective steps from your godself in this crucial issue.

With kind regards,

Yours Sincerely,  
-sd-  
**(Prahlaad Rai)**  
**General Secretary**

**Copy to: (i) Shri R. Chandrashekhar, Secy(T), DoT, New Delhi-110001**  
**(ii) Smt. Rita Teotia, Addl. Secy(T), DoT, New Delhi-110001**  
**(iii) Shri A.N. Rai, Director(HR), BSNL, New Delhi-110001**