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No. AIBSNLEA/CHQ/Dir (Fin)/2013/

Dated : 19-12-2013

To

**The Director (Finance),
BSNL Board,
New Delhi-110001.**

Sub: Retention of the admissibility of pay fixation taking AAO pay scale of Rs.7450-225-11500 (upgraded pay scale as on 01-01-1996) for those who were promoted as AOs after 01-01-1995 and before 01-01-1996 and exercised option to re-fix their pay in the AO post after accrual of next increment in the AAO post on or after 01-01-1996 -Reg.

Ref:

- (1) BSNL ND Order No.4-20/2003-SEA dated 01-04-2003.
- (2) Dept. of Pers & Trg OM No.1/12/97-Estt.(Pay-I) dated 23-04-1999 as amended by OM of even no. dated 10-08-1999.
- (3) Dept. of Pers & Trg OM No.16/8/2000-Estt.(Pay-I) dated 25-02-2003.
- (4) TN Circle letter No.TAC/Pen.Spl.Cell/67-58/10-13/26 dated 27-08-2013
- (5) CH TD letter No.BSNL/CHTD/CA/2-9/2013-14/2 dated 17-10-2013.

Respected Sir,

In Chennai Telephones, revision of pay of staff belonging to the organized accounts cadres w.e.f. 01-01-1996 has been ordered vide letter cited under reference no.5 (Annexure-A) in accordance with TN Circle letter cited under reference no.4 (Annexure-B) addressed to all CGMs. It seems the applicability of the provisions contained in the Dept of Per & Trg OM No.1/12/97-Estt. (Pay-I) dated 23-04-1999 as amended by OM of even number dated 10-08-1999 cited under reference no.2 (Annexure-C) has been ignored by both TN Circle & Chennai Telephones while ordering for such downward revision of original pay fixation made w.e.f. 01-01-1996 retrospectively with actual benefit from 19-02-2003, thereby the promotes of AOs (from AAO) during the year 1995 who have exercised option under FR 22 (I)(a)(1) to re-fix their pay on accrual of next increment in the lower post of AAO on or after 01-01-1996 are facing hardship.

During the year 2003, BSNL ND order cited under reference no.1 (Annexure-D) was implemented w.e.f. 01-01-1996 retrospectively with cash payment from 19-02-2003. Though the order is literally applicable for the staff working as JAs/SAs/JAOs/AOs as on 01-01-1996, the staff promoted during the period from 01-01-1995 to 31-12-1995 in the above organized accounts posts and exercised option under FR 22(1)(a)(1) to re-fix their pay on the accrual of next increment in the lower post on or after 01-01-1996 are also equally entitled to the benefit. This is so because the accrual of next increment on or after 01-01-1996 in the pay scale of lower post which has been revised upward has benefited such promotes and accordingly pay fixation was done 10 years ago with notional fixation 17 years ago. This was a well settled case in those days and has been followed by several circles while making pay fixation of the similarly placed employees. This pay fixation is also in conformity with the clarification contained in the GI, Dept. of Pers & Trg OM No.1/12/97-Estt. (Pay-I) dated 23-04-1999 as amended by OM of even number dated 10-08-1999 (Annexure-C) which was issued as decided by the President of India. The decision now taken by TN Circle and Chennai Telephones for downward revision of earlier pay fixation which was done 10 years ago with notional fixation 17 years ago is incorrect on the following counts.

- a) This is in contravention to the provisions of paras 2, 2 (i), 2(ii), (3) and (4) of the G.I., Dept. of Per & Trg., OM No.1/12/97-Estt. (Pay-I) dated 23-04-1999 as amended by OM of even number dated 10-08-1999 (Annexure-C) which was issued as decided by the President of India.
- b) During the past 10 years so many officers who got similar pay fixation have retired from service and their PPOs have been issued by the CCA Unit of DOT on the elevated basic pay on account of this pay fixation. It means, the DOT which is the appropriate authority and has jurisdiction over this issue has accepted such fixation in question and paying the pension accordingly.
- c) The option exercised under FR 22 (I)(a)(1) is as per the provision under Fundamental Rule and hence the benefit envisaged under this provision ought to be given and cannot be denied. Accordingly, the revised re-fixation taking upgraded pay scale of Rs.7450-225-11500 for the lower post of AAO w.e.f. 01-01-1996 notionally with actual payment from 19-02-2003, was made by several circles correctly with an example explained in the calculation sheet at Annexure-E.
- d) Supposing **one employee (senior)** promoted and joined as **regular AO in Dec1995 with DNI in the lower post of AAO on 01-02-1996** and **another employee (junior)** promoted and joined as **regular AO in Jan 1996 with DNI in the lower post of AAO on 01-02-1996** and **both have exercised option under FR 22 (I)(a)(1) to re-fix their pay in the post of AO on the same date of 01-02-1996**, is it possible to have two types of pay fixation on 01-02-1996 creating anomaly between senior and junior? Certainly not. **But, this is what has happened now to the effect of incorrect action taken by TN Circle & CH TD after 10 years for downward revision of pay to senior. That is, the junior joined as regular AO in Jan '96 was given re-fixation benefit on 01-02-1996 taking upgraded pay scale of Rs.7450-225-11500 for the lower post of AAO whereas the senior requiring re-fixation on the same date of 01-02-1996 was restricted to original re-fixation which was done originally taking pre-revised scale of 2000-60-2300-75-3200 which is a clear case of discrimination requiring avoidance. The same is the case with re-fixation of pay on the date of DNI on 01-01-1996 also.**
- e) Now downward revision made to one of the victims vide TN Circle letter cited under reference no.4 reveals that the victim's **basic pay of Rs.8,500 in the post of AO as on 01-01-1996 which was fixed correctly by STP., Chennai has been revised to Rs.8,000/- as on 01-01-1996 by TN Circle**, the basis of which is clearly incorrect as explained at para 2 (d) above and item no. (iv) of the example for correct pay fixation furnished in the calculation sheet at Annexure-E.

Further, some employees who have not exercised option at the time of regular promotion as AO in the year 1995, have exercised option within one month from the date of intimation of the upgraded pay scale by BSNL Corporate Office New Delhi vide order no. 4-20/2003-SEA dated 01-04-2003 (i.e. within one month from 01-04-2003), as provided vide Gl., Dept. of Per & Trg., OM No.16/8/2000-Estt (Pay-I) dated 25-02-2003 (Annexure-F). Hence, they are also entitled for re-fixation of pay taking upgraded pay scale of Rs.7450-225-11500 for the lower post of AAO, as per option exercised.

Hence, it is kindly requested that necessary instructions for the retention of the benefits of option and pay fixation extended to the employees, ten years ago, by various circles of BSNL, notionally w.e.f. 01-01-1996, on the basis of the provisions of the Gl., Dept. of Per & Trg., OM No.1/12/97-Estt. (Pay-I) dated 23-04-1999 as amended by OM of even number dated 10-08-1999 (Annexure-C) which was issued, as decided by the President of India, for the benefit of employees who had been promoted after 01-01-1995 and before 01-01-1996 and whose cases the date of next increments in the lower scales (both pre-revised and revised) fell on or after 1st January, 1996, may kindly be issued. The same benefit may also be extended to the employees who have exercised fresh option as explained in the para 3 above. The recent letters cited under reference nos. 4 & 5 may also be arranged to be withdrawn.

It is also pertinent to mention here that Karnataka Circle in which the Official shri Venkatesan is working has also felt that the Pay Fixation done to him is correct. The letter addressed to Shri A.Shinha AGM (P-V) will clearly explains the reasons. A copy is also enclosed herewith for favor of perusal and decision please.

With kind regards,

Yours Sincerely,
-sd-
(Prahlađ Rai)
General Secretary

- Encl:** 1. Annexure A to F
2. Karnataka Circle Letter dt 19th Nov-2013