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**No: AIBSNLEA/CHQ/CMD/2021**

**Dated 23.03.2021.**

To  
**Shri P. K. Purwar Ji,**  
CMD, BSNL  
New Delhi -110001.

**REMINDER**

**Subject: Discrepancies in the Seniority List No.9 of SDE (T) published on 10.08.2020 -Reg.**

**Reference:** 1. Lr.No. AIBSNLEA/ CHQ/CMD/2020 Dated 09.01.2020.  
2. BSNLCO-PERS/ 13(21)/1/2020 -PERS1 DATED 10.08.2020.  
3. Lr. No: AIBSNLEA/CHQ/CMD/ 2020 Dated 27.08.2020.  
4. Lr. No: AIBSNLEA/CHQ/CMD/ 2020 Dated 14.12.2020.  
5. Lr. No: AIBSNLEA/CHQ/CMD/ 2020 Dated 09.2.2021.

**Respected Sir,**

We would like to draw your kind attention on the above cited subject and reference at Sl.No.1, wherein it was requested to prepare the Provisional Seniority List 9 of SDE(T) may be prepared purely on the basis of the data of joining pursuant to the orders contained in the judgments of Hon'ble CAT Chandigarh & Hon'ble Supreme Court Civil Appeal.No.14967/2017 dated 2.4.2019 (Vinod Verma vs BSNL & Others)

**“21.This Court (Hon'ble SC) further held that, in the absence of any express provision in rules, no promotion or Seniority can be granted from retrospective date when an employee has not been born in the cadre”.**

But to our surprise, the Provisional Seniority List 9 was prepared on the Date of Joining within the Vacancy year instead of purely on the basis of the Data of Joining in accordance with the Judgments of Hon'ble CAT Chandigarh & Hon'ble Supreme Court , which is clear violation of Hon'ble CAT Chandigarh & Hon'ble Supreme Court judgments , though the list -9 is not incumbent of above Court cases.

The Post of Sub Divisional Engineer (Telecom), SDE (T) in short, is a 100% promotional post. The promotion to the post of SDE(T) is from the post of Junior Telecom Officer (Telecom) JTO(T) in short . 75% of the vacancies to be filled by Promotion on the basis of Seniority cum Fitness (SCF) and 25% of the vacancies to be filled by Limited Departmental Competitive Examinations (LDCE) from amongst JTO (T)s who have completed 3 years of regular service as per **RR 2002** . The quota was modified as 67% for SCF and 33% for LDCE from the Vacancy year 2006 -07 onwards in amendment 2007.

The inter -se Seniority between the 67% SCF quota and 33% LDCE quota (that is 2:1 Rotation is applicable WEF 28/ 08/ 2015 only) was introduced as an addition / modification to the SDE(T) RR dated on 08.05.2018 .

**Next the Provisional Seniority List 9 of SDE(T) is said to have been prepared on the basis of date of joining in SDE(T) cadre in accordance with the judgment dated 02.04.2019 in the case of Shri Vinod Verma Vs UOI & others.** And in addition to that, in accordance with the Hon'ble SC judgement dated 12.08.2014 in the case of SK Dubey & others(Civil Appeal No.7830/2014), Hon'ble Supreme Court clearly Dismissed the seniority case in favour of applicants that date of joining is the criteria as per High Court orders, and fixing Seniority guidelines direction are given(03 Judge Bench Judgment.

**“It is well settled Principle in Service jurisprudence that a person appointed on Promotion shall not get Seniority in the earlier Year but shall get Seniority after the Year in which his/her appointment is made.”**

The SDE (T) Seniority list 6, 7 was prepared based on the Hon'ble Punjab Chandigarh Court Judgment and Hon'ble Supreme Court Judgment based dated 12.08.2014. SDE (T) Seniority List 8 was not incumbent of the these judgments. But while issuing the Provisional List 8 dt. 14.03.2016 it was clearly mentioned that based on the Hon'ble Punjab Chandigarh Court Judgment list was prepared i.e, purely based on the Date of Joining only .

But in the SLP filed in the Hon'ble Supreme Court , the List 8 was included and in Judgment dated 02.04.2019 , case of Shri Vinod Verma Vs UOI & others and list 6,7,8 are also incumbent of the case and the Final Judgment was delivered based on **the Date of Joining only .**

In similar way the SDE(T) List 9 must be prepared based on the Date of Joining pursuant to the above said judgments as follows in comparison with the List 6,7,8 since **there is no provision in RR of BSNL and the amendment was made in RR with effect from 28/ 08/ 2015 is as follows:**

The SDE(T) RR 2002 amendment (That is Modification/ addition/ deletion in SDE(T) RR 2002) circulation dated 08 -May-2018 –“*the Inter-se Seniority of the officers promoted against Seniority Quota(SQ -67%) and those who are promoted through LDCE/ LICE quota (CQ -33%) against the particular vacancy year shall be fixed in the ratio of 2:1 irrespective of the year of appointment/ date of joining*”. **“This Modification applicable with effect from 28/08/2015”.**

**The Provisional Seniority List 9 is published by BSNL on 10.08.2020 which is the subject matter of challenge since List -9 is prepared based on Date of Joining within the vacancy year , which is clear violation of Hon'ble CAT**

**Chandigarh & Hon'ble Supreme Court judgments, though List 9 is not incumbent of any above Court Cases.**

Due to this methodology followed by the Pers. branch in the Provisional Seniority List 9 , nearly 2000 SDE(T)s of Seniority Cum Fitness Quota (SCF) pertained to Vacancy years 2007-08 and 2008-2009 are affected, which created serious resentment , demoralization and panic among the Senior Executives **AIBSNLEA CHQ received more than 400 representations against the discrepancies in the Provisional Seniority List -9 published on 10.08.2020.**

The methodology followed in the Provisional Seniority List 9 is furnished below for favour of kind information please.

That is 2006-2007 SCF Quota SDE(T)s promoted on 15.05.2009 were placed in the Top of the list and 2006-2007 CQ promoted on 02.07.2013 placed below them.

- a) In view of the above, it is feared that the same analogy for the officers promoted through 67% SCF quota (Seniority quota denoted as SQ) on 15.05.2009 for the vacancy year 2007-08 and 67% SCF Quota on 30.03.2011 for the vacancy year 2008-09 **are to be placed below the officers promoted on 02.07.2013 ( CQ official s promoted for the vacancy year 2006 -2007) through 33% LDCE quota exam held subsequently on 04.03.2012) which is clear deviation .**
- b) Next The officers promoted through 67% SCF quota (Seniority quota denoted as SQ) on 30.03.2011 for the vacancy year 2008-09 **are to be placed below the officers promoted on 02.07.2013 (for the vacancy year 2006 -2007 & 2007 -2008) through 33% LDCE quota exam held subsequently on 04.03.2012) which is clear deviation .**
- c) Sir, due to above discrepancies in List 9, 2007-2008 & 2008 -2009 SCF Promoted SDE(T) officials will be losing their Seniority and the Promotion opportunities, which creates resentment, mental agony and demoralization among the Senior Executives since the List 9 was prepared not in accordance with the Hon'ble CAT Chandigarh and Hon'ble Supreme Court Judgments.
- d) In view of the foregoing facts, we request your good-self to kindly intervene in the matter and cause to issue necessary instructions to the officers concerned to revise the SDE(T) Seniority list No.9 purely based on Date of Joining in pursuant to the **Hon'ble CAT Chandigarh and Hon'ble Supreme Court Judgments so as to retain the Seniority of Seniors with reference to Date of Joining to mitigate the sufferings .**

With kind regards,

Yours Sincerely,

  
(S.Sivakumar),  
General Secretary,

Copy for favour of kind information & necessary action to:

- 1.Shri Arvind Vadnerkar, Director (HR) BSNL Board, New Delhi- 110001
- 2 .Shri R.K.Goyal , PGM (Pers.) BSNL CO, New Delhi - 110001.