

**ALL INDIA
BHARAT SANCHAR NIGAM LIMITED
EXECUTIVES' ASSOCIATION**

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Dated 03.10.2018

No. AIBSNLEA/CHQ/Director (HR) /2018

To,
Smt. Sujata Ray,
Director (HR)
BSNL Board,
New Delhi-110001

Subject Fixation of Pay under FR-22(1) (a) (i) to the Officials, who were screening Test passed & were officiating in the grade of JTO-reg.

Reference 1) AGM (Estt-IV), ND Lr.No. 3-32/2013/Estt-IV, dated 22nd Dec-2015
2) AGM (Estt-IV), ND Lr. No. 3-8/2010-Estt-IV (Pt), dated 18th Sep, 2018
3) AGM (Personnel-V), ND, Lr.No. 1-50/2008-PAT (BSNL), dated 5th Mar 2009
4) AGM (Estt-IV), ND Lr.No. 3-8/2010/Estt-IV, dated 26th December, 2016
5) Director, DOT, ND Lr.No. 1-4(36)/98-PAT, dated 21-12-98

Respected Madam,

We would like draw your kind attention on the above subject. The pay of the Ex-officiating JTOs was fixed by the Dept. according to rule FR35 instead of **FR 22 1 (a) (i)** since 2005. After a legal battle at CAT, Ernakulum and PCAT New Delhi, BSNL Corporate office has issued a clarification vide Ref (1) stating that pay is to fixed in the scale of **9850-250-14600** for the years 2005 and 2006 and thereafter on 1-1-2007 it is to be re- fixed in the scale of **16400-40500**.

After a favorable judgment of FR 22 1 (a) (i) in Hon'ble Kerala High Court and dismissal of SLP filed by the Corporate office in the Hon'ble Supreme Court against the Hon'ble Kerala High Court's Judgment, AGM (Estt-IV), ND issued a letter vide reference (2), directing the SSAs to follow the instructions contained in above cited Ref (1) for the fixation of pay for the said officers.

The following points may kindly be considered for Implementation of Hon'ble Kerala High Court Judgment in true spirit.

1) The Hon'ble CAT, Ernakulum clearly states "the respondents cannot deny them the fixation benefit under F.R.22(1)(a)(i) in the scale of pay applicable to the post

of Junior Telecom Officer, on the ground that they have not cleared the three phases of training. The temporary nature of the posts or the non-regularization of the posts etc. are matters irrelevant as far as fixation of pay is concerned."

This means, the officiating JTOs are to be treated as Regular as far as fixation of pay is concerned and the scale of Rs.9850-250-14600 is to be implemented from the date they are eligible for pay fixation and it is to be continued till their Regularization with pay protection.

- 1) When the revision of scales of pay of Board level and below Board level Executives of BSNL w.e.f. 01-01-2007 took place, AGM (Personnel-V), ND clearly mentioned vide ref (3) above viz.,
 - a) "In respect of Executives in E1A and E2A scales, their pay may be fixed in the revised E-1 & E-2 IDA scales of Rs. 16400-40500 and Rs.20600-46500 respectively and these revised scales may also be used wherever specifying the pay scales is un-avoidable (e.g. for pension contribution, fresh appointment etc.), till the time new scales are notified". Hence *there is no need of re-fixing the scale on 1-1-2007 as it is meant for fresh appointees (The Officiating JTOs are to be treated as Regular as far as fixation of pay is concerned.)*
 - b) In addition to that The Director DOT, New Delhi vide ref. 5 clarified about counting of past officiating spells of service on local Officiating basis towards the increment in scale of pay of the promotional post as follows

"Whenever an officer has officiated in the higher post for short spell in the same/identical scale of pay, all such periods of officiating shall count for increment in the officiating post as per the provisions of FR 26 (a) read with the provision under FR 22 (1)." Therefore in the case where the officiating promotion was given to the officer/official who fulfils the prescribed conditions provides for in the Recruitment Rules, the period of the officiating spell during which the official/officer was drawing pay in the same scale of pay of the promoted post shall count towards the increment in the time scale of the higher post.

All the officiating spells are to be counted for drawing increments without counting the small breaks which were done for administrative reasons and pay protection in the year 2014 (for LDCE officiating JTOs) and in the year 2015/2016 (for officiating JTOs who were regularized by amending the 2014 JTO RRs) is to be implemented.

- c) Pay fixation on Promotion: One notional increment equal to the increment being drawn by the executive in the pay scale, before such promotion would be granted and pay fixed in the promoted pay scale and rounded off to the next multiple of Rs. 10

But as per the instructions contained letter cited under ref (1), the pay of officiating JTOs brought down to pay scale of 16400-40500 and giving one notional increment which means again giving promotion on 1-1-2007 which is contradictory to the CAT, Ernakulum Judgment saying "the officiating JTOs are to be treated as Regular as far as fixation of pay is concerned". This notional increment is meant for the promotes after 1-1-2007 and not on

S. Srinivasan

[Signature]

01-01-2007. Moreover AIBSNLEA filed Contempt petition against the CO/ND order dated 22.12.2015 cited under ref (1) in Hon'ble PB CAT, New Delhi.

The method of pay fixation shown in the above cited ref (1) may be modified as Follows.

Substantive Pay as on 31.12.2006 in the TTA Pay Scale of Rs.7100-200-10100	: Rs. 8300
a) Officiating Pay as on 31.12.2006/ 1.1.2007 in JTO Pay Scale of Rs.9850-250-14600(Pre Revised Scale)	Rs 10100
b) D.A as on 1.1.2007 @ 68.8%	Rs. 6949
c) Fitment @30% on (a+b)	Rs. 5115
d) Total emoluments	----- Rs 22164

(Revised Scale of Pay corresponding to the Pre-revised Pay Scale as on 1.1.2007 is **Rs.16400-40500**)

Basic Pay fixed in the Revised Pay Scale as on 1.1.2007 Rs. 22170/

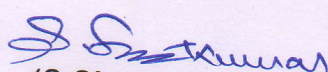
Vide reference 4 above, AGM (Estt-IV), ND has given direction for "**Fixation of pay under FR 22 (1) a (i) instead of FR-35 in r/o the officiating JTOs in the -Annexure enclosed, on Officiating Promotion as JTO from the date they are eligible for pay fixation**". The above pay fixation is subject to the outcome of the fourteen WPs arising out of TA No84 to 97/2008 pending before the Hon'ble High Court of Kerala at Ernakulam. **Thus the pay fixation is to be w.e.f., the date of Officiating promotion and this is not to be break up on 1-1-2007**

The long legal battle of 10 years for the genuine Pay fixation under FR 22(1)(a) (i) has not been resolved till date even after involvement of Hon'ble Supreme Court, which demotivates the JTOs from carrying day to day duties. The beneficiaries are very less in numbers.

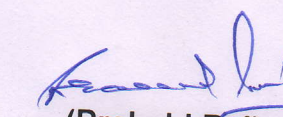
We would therefore request your good self to kindly intervene in this matter and cause to issue necessary instructions to the Officers concerned to modify the order dated 18.9.2018 cited under ref(1) for true implementation of the Hon'ble Kerala High Court Judgment and render justice.

Encl: As above.

With Kind regards


(S.Sivakumar)
President

Yours Sincerely,


(Prahalad Rai)
General Secretary

Copy to: Sr.GM (Estt) - for kind information and necessary action