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To,

Sh. Anupam Shrivastava
CMD, BSNL
New Delhi-110001

Subject: Unnecessary expenditure of BSNL in filing appeal in the Hon'ble Apex court against Hon'ble High Court of Kerala against the very righteous awarding of FR 22(1) (a) (1) pay fixation to the erstwhile Officiating-JTOs-Reg.

- Reference:** 1. WP(C) NO-7723/2010 and 13 connected cases Judgment from Hon'ble high court Kerala.
2. The Hon. Supreme Court judgment on SLP 4583/2012 dtd. 13/01/2012.

Respected Sir,

We would like to draw your kind attention to the pay fixation case of Officiating JTOs under **FR 22(1) (a) (1)**. After officiated posting, the erstwhile Officiating-JTOs had been granted pay fixation on FR 35. Since they had totally completed all the recruitment eligibility norms, they were eligible for FR 22 (1) (a) (i) fixation. Since the employees were negated legitimate pay fixation, they approached Hon'ble High court of Kerala in 2005 as WPC:14 WP(C) Nos 28349, 35263, 35938/2005 &2006 . All these petitions were disposed favorable to petitioners stating they are eligible for FR 22 (1) (a) (i) fixation.

BSNL Kerala appealed at Ernakulum HC Division Bench through WA No:1735 of 2006 and connected cases. HC Judgment released in June-2007 directed to maintain FR 22 (1) (a) (i) fixation. Due to the Implementation failure, again WPC 3791/2007 and 13 other cases were filed by the affected employees to Ernakulum HC DB . In the very next year 2008 all these 14 cases are transferred to CAT, EKM TA NOs: 84 to 97/2008. On 15/07/2009 CAT, order upheld the Ernakulum HC SB judgment in 2006 that FR 22 (1) (a) (i) granted was righteous.

BSNL Kerala again Appealed at Ernakulum HC DB through WPC NOs : 7723 23850 ,1735 of 2010 and OP (CAT) No: 2107 against TA NOs: 84 to 97/2008. On 15th September 2017. HC judgment released, after 7 years of legal analysis, very much favorable to the affected employees. **The very strong judgment (Ref:1) concluded that " The finding rendered by the Tribunal that fixation has to be effected based on FR 22 (1) (a) (i) " is perfectly within the four walls of law and is not assailable " (assailable : to attack with arguments)**

Parallel to affected people in Kerala, some other affected employees went to PCAT Delhi for FR 22 (1) (a) (i) fixation OA No: 1282/2010. PCAT also upheld Kerala CAT orders TA 84-07/2008. But, through various appeals the case escalated to Hon'ble Supreme court of India by BSNL in 2012 as SLP(C) NO: 4583/2012 (Ref:2) and as usual BSNL SLP failed against FR 22 (1) (a) (i) granting. SC also upheld Kerala Tribunal's order.

Out of more than 10 various court judgments , known to us, right from CAT to SC of India on the very righteous FR 22 (1) (a) (i) fixation for erstwhile O-JTOs , BSNL could never succeed to negate the FR 22 (1) (a) (i) fixation to FR (35) . In the series of judgments , the last one On 15th September 2017 from the HC of Kerala, Ref:1, was a very strongest one **verdict that “ the verdict cannot be attacked further with arguments”** .

Thus, so far BSNL could spend only millions of rupees, in vain, to fight against FR 22 (1) (a) (1) fixation it is a fact that BSNL cannot take back the additional payments if any based on the SC judgment in State of punjab and Ors. Vs. Rafiq Masih (White Washer) in CA no. 1L527 of 2014 on recovery of excess Payments made to employees

Now, apparently, Kerala Circle has been directed by BSNL CO, to file SLP against Kerala HC judgment Ref-(1) in all the 14 cases. Further, it would consume multiple crores of rupees to fight against all the 14 cases at Hon'ble SC and may take years and years of fighting . On common logical thinking, here also fate of BSNL would be the same in line with the last more than 10 back to back failures at various courts including SC of India.

Being these are facts, we cannot understand the intention of a section of BSNL Management's agenda behind spending Lakhs of rupees as advocate fees in SC especially at this stage.

Moreover, it's learned that before going to file SLP again to SC of India, legal opinion is not sought form senior advocates who were already involved in the case.

We would, therefore, request you to kindly seek a second legal opinion from a senior advocate before going with this SLP as Kerala Circle doing in many cases. In addition, we also request your kind honour to direct the Estt. Cell of BSNL CO, to rethink the matter of going ahead with another SLP for another failure worth lakhs of rupees.

With kind regards,

Yours sincerely



(Prahlad Rai)

General Secretary

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