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No. AIBSNLEA/CHQ/Secy.(T)/2020

Dated: 11.02.2020

To

Shri Anshu Prakash IAS,
Secretary to Govt. of India,
Deptt. of Telecom, Sanchar Bhawan
New Delhi- 110001

Subject: Employees recruited by the DoT prior to 01.10.2000 and joined duty after the formation of BSNL– request to treat them as DoT recruited and absorbed in BSNL, w.r.t. Hon'ble High Court of Kerala judgement dt 13.11.2019– reg.

Reference: Hon'ble High Court of Kerala at Ernakulam Judgement dated 13.11.2019 in OP (CAT) No.63 of 2017 (Z).

Respected Sir,

We would like to draw your kind attention on the above cited subject. In this regard, it is submitted that there are several officials working in BSNL, who were appointed by the DoT on Compassionate Grounds prior to the formation of BSNL i.e., 01.10.2000.

They were recruited by the DoT prior to formation of BSNL, i.e., 01.10.2000 and were sent for pre-appointment training. However, before they joined duty on completion of their training, the formation of BSNL took place. Hence, on completion of their training, they joined duty in BSNL. They continued in BSNL on the basis of their appointment and later on they were offered to exercise the option either to absorb in BSNL or to remain in DOT. All the Officials have exercised their options for absorption in BSNL. Accordingly, Presidential Orders were issued to them for Permanent absorption in BSNL. And consequence of this, they covered under Rule-37.A Pension Rules which has given the protection to the absorbed employees for drawing Government Pension and recovery of monthly GPF contribution under the GPF scheme. The monthly GPF contribution was also deducted from their salary.

However, subsequently, DoT issued a revised order, stating that the officials appointed under Compassionate Grounds, whose training commenced prior to 01.10.2000 and who joined duty in BSNL after 01.10.2000, should not be treated as DoT recruitees. Hence, the Presidential Orders issued to them were cancelled. These officials were also taken out of the GPF scheme and were brought under EPF scheme.

These officials have been continuously represented that they should be treated as DoT employees absorbed in BSNL since they were recruited by the DoT and were sent for training also by the DoT. They also claimed that they should not be treated as BSNL recruitees, simply due to the reason that they joined duty on completion of training, after the formation of BSNL.

These officials approached the Hon'ble CAT and the Hon'ble High Court of Kerala at Ernakulam. The Hon'ble High Court of Kerala at Ernakulam, in its judgement dated 13th November, 2019 in OP (CAT) No.63 of 2017 (Z) has pronounced that, the petitioners are servants of Union of India under the DoT, who on creation of BSNL, were transferred and permanently absorbed there under Rule 37-A, with all the protections available there under. The following are the observations made by the Hon'ble High Court of Kerala:-

"...17. We do not hence find any reason for Union of India to take a view, in the case of the petitioners who were recruited and dispatched for induction training, from being considered differently from those positioned identically when there was a change effected in the pension rules with effect from 01.01.2004; as revealed from the O.M relied on by the Jaipur Bench of the Administrative Tribunal.

18. On the factual background and the legal reasoning as above we find it difficult to sustain the order of the Tribunal and set it aside declaring the petitioners to be Government Servants as employed under the DoT, who were transferred and later absorbed in the BSNL. The petitioners have lost their status of government servants only when their options for retention in.....The Original Petition (CAT) is allowed and so is the OA, declaring the petitioners, servants of Union of India under the DoT, who on creation of BSNL, were transferred and permanently absorbed there under Rule 37-A, with all the protections available there under. We leave the parties to suffer their respective costs...."

In view of the judgement delivered by the Hon'ble High Court of Kerala, it becomes very evident that the above mentioned officials whose recruitment was made by the DoT prior to 01.10.2000, and who joined duty in BSNL after 01.10.2000 on completion of the training, are only DoT recruitees and should not be treated as BSNL recruitees.

In view of the foregoing, we earnestly request your good self to kindly intervene in the matter and cause to issue necessary instructions to implement the judgement of the Hon'ble High Court of Kerala, by issuing Presidential Orders to all such employees recruited by DoT prior to 01.10.2000 and bring them back into the GPF scheme like other erstwhile DOT recruited employees .

With kind regards,

Yours Sincerely,
-sd-
(S.Sivakumar)
General Secretary

Copy for information and necessary please:

1. Shri Arun Aggarwal, Member (Service) DOT, Sanchar Bhawan, New Delhi-110001
2. Shri P.K. Purwar, CMD BSNL, New Delhi- 110001.
3. Shri Arvind Vadnerkar, Director (HR), BSNL Board, New Delhi -110001.
4. Shri A.M. Gupta, GM (SR) BSNL CO, New Delhi- 110001.