

M.K. Bhardwaj
Advocate

SUPREME COURT OF INDIA

&

HIGH COURT OF DELHI

AT NEW DELHI

**E-33, Ground Floor, Jangpura Extn.,
New Delhi**

Tele: 011-24311550

Mobile: 9958076980

Dated: 05.09.2023

To,

1. The Chairman-cum-Managing Director,
BSNL,
Bharat Sanchar Bhawan,
Harish Chandra, Mathure Lane,
New Delhi-110001
2. The Director (H.R),
BSNL,
Bharat Sanchar Bhawan,
Harish Chandra, Mathure Lane,
New Delhi-110001
3. The General Manager (Personnel),
BSNL,
Bharat Sanchar Bhawan,
Harish Chandra, Mathure Lane,
New Delhi-110001

**LEGAL NOTICE IN THE MATTER OF VIOLATION OF
ORDER OF HON'BLE TRIBUNAL DATED 18.01.2023 IN
OA NO. 3500/2016, RAJEEV CHAUHAN & ORS. VS.
BSNL & ORS.**

Sir,

Under the instructions and on behalf of my clients i.e. Rajeev Chauhan & Ors. (Applicants in OA No. 3500/2016), I serve upon you this legal notice on following terms:-

1. That as my clients were not granted one increment as granted to similarly placed persons promoted from JTO to SDE (T) on the basis of LDCE Examination, therefore they filed OA before Hon'ble Tribunal. The said OA No. 3500/2016 was allowed by Hon'ble Tribunal vide order dated 18.01.2023 with specific directions to grant the increment to my clients as granted to similarly placed persons. Subsequently, the said order dated 18.01.2023 was clarified in the following manner vide order dated 16.03.2023:-

"The instant MA has been filed by the applicants for clarification of order dated 18.01.2023 passed in the captioned OA.

The applicants seek correction of the error occurred in Para 2, in place of JTO, SDE would come and 67% need to be replaced by 33%, and in Para 4 by adding/correcting the sentence i.e. "If similarly placed persons of earlier batch have already been granted the benefits as claimed, the respondents

should consider the case of applicants also".

Keeping in view the aforesaid, the MA is allowed. Registry is directed to issued fresh corrigendum to the OA."

2. That as per the mandate of aforesaid order of Hon'ble Tribunal, claim of my clients was required to be considered for grant of one increment as given to other similar batches promoted on the basis of LDCE to the post of SDE (T). However, you noticee have rejected the claim of my clients vide order dated 09.05.2023 by referring judgment of Hon'ble Supreme Court dated 12.08.2014 & 02.04.2019 in Civil Appeal No. 14967/2017 filed by Vinod Verma Vs. BSNL. The said act on the part of you noticee is nothing but an attempt to become Appellate Authority over the order passed by Hon'ble Tribunal. The order passed by Hon'ble Tribunal on 18.01.2023 as modified / clarified subsequently in OA No. 3500/2016 attained finality for want of challenge, therefore the same was required to be implemented in true letter and spirit.

3. That the Hon'ble Supreme Court in the case of Commissioner, Karnataka Housing Board Vs. C. Muddaiah, judgment dated 07.09.2007 in Civil Appeal No. 4108/2007 held as under:-

"31. We are of the considered opinion that once a direction is issued by a competent Court, it has to be obeyed and implemented without any reservation. If an order passed by a Court of Law is not complied with or is ignored, there will be an end of Rule of Law. If a party against whom such order is made has grievance, the only remedy available to him is to challenge the order by taking appropriate proceedings known to law. But it cannot be made ineffective by not complying with the directions on a specious plea that no such directions could have been issued by the Court. In our judgment, upholding of such argument would result in chaos and confusion and would seriously affect and impair administration of justice. The argument of the Board, therefore, has no force and must be rejected."

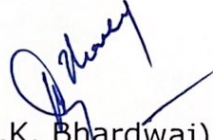
4. That it is evident from the aforesaid judgment as well as judgment of Hon'ble Supreme Court in the case of Maninder Jeet Singh Bitta Vs. Union of India & Ors. (2012) 1 SCC 273.

5. That it is evident from the aforesaid that the order dated 09.05.2023 passed by the Department/ BSNL (Noticee) is infact, contemptuous as stated above. How could you noticee override the directions issued by court of law. The judgments as referred in the order dated 09.05.2023 to reject the claim of my clients are wholly irrelevant inasmuch as, claim of my clients was required to be decided keeping in view the case of similarly placed persons. Furthermore, no authority / Department / Ministry has competence to defy the order passed by Hon'ble Tribunal by referring order of Hon'ble Supreme Court or High Court. If such practice is allowed, there would be no sanctity of the order passed by Hon'ble Tribunal, which enjoys the power as vested in High Court under Article 226 of Constitution of India.

6. That in view of aforesaid, I hereby advise you noticee to comply with the directions issued by Hon'ble Tribunal vide order dated 18.01.2023 as modified / clarified on 16.03.2023 in MA No.

912/2023 in OA No. 3500/2016 by granting one increment to my clients as granted to identically placed persons promoted from post of JTO to SDE through LDCE held prior to the LDCE on the basis of which my clients were promoted. In case, the contemptuous order dated 09.05.2023 is not withdrawn forthwith and my clients are not granted the due increment within four weeks thereafter, I would be constrained to advise my clients to file contempt petition under section 17 of AT Act read with Section 11 & 12 of Contempt of Court's Act, 1971.

7. The cost of this legal notice is quantified Rs. 55,000/- payable at your end.


(M.K. Bhardwaj)
ADVOCATE

M.K. BHARDWAJ
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