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# All India Graduate Engineers & Telecom Officers Association

Central Headquarter, New Delhi

( The Recognised Representative Association of BSNL )

( Affiliated to BMS )



Regn. no. HR/019/2018/02138

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**GS / AIGETOA / 2023-24 / 84**

**Dated 01-09-2023**

To,  
**Shri Saurabh Tyagi**  
PGM (Estt)  
BSNL CO, New Delhi

**Subject: Issuing presidential orders to the employees , recruited through recruitment notification initiated by DoT , prior to 01.10.2000 and who joined duty after formation of BSNL, requesting to treat them as DoT recruitees, based on the criterion laid down by the Department of Pension & Pensioners' Welfare – Reg**

References:

1. BSNL CO letter No.48-212023-Pen (B) dated: 22.08.2023
2. DOT letter No. F-N 27-01/2022-SNG 898226/2023/Office of US(SNG) I /3113950/2023 dated 14.07.2023
3. BSNL CO letter to The DDG (Estt) No. 48-2/2023 Pen (B) dated 12.06.2023
4. AIGETOA's letter to CMD BSNL with reference number GS/AIGETOA/2022-23/44 dated 24.03.2023
5. DOT letter No. 19-14/2000-EW dated 8.8.2002

Respected Sir

I am writing on behalf of the All India Graduate Engineers & Telecom Officers Association (AIGETOA) to address a matter of crucial importance that directly affects the livelihoods and future security of a dedicated segment of BSNL employees **who underwent the recruitment process which initiated before the formation of BSNL by DoT but joined duty after the formation of BSNL**. This situation has led to a considerable predicament concerning **their employment status and pension rights**.

Our association initially raised this issue through the letter cited under reference 4. Subsequently, BSNL forwarded our communication to the DOT, as indicated in the letter referred to under reference 3. In response to these correspondences, DoT sent a response to CMD BSNL through the letter cited under reference 2. Based on the reply from DoT in the letter cited under reference 2, BSNL CO disposed off the representation of AIGETOA through the letter cited under reference 1.

However, it is critical to note that **BSNL did not adequately address the matter with DoT, failing to provide relevant court judgments and historical precedents, including the case of JE Electrical recruitment in the Kerala Telecom circle, as specified in the DoT order referenced under number 5. Despite our earlier communications highlighting**

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**this issue, BSNL merely forwarded the letters from AIGETOA and other associations to DoT. Remarkably, DoT also disregarded its own previous precedence established in the case of JE Electrical recruitment within the Kerala Telecom circle, as outlined in the DoT order cited under reference number 5, when instructing BSNL to dismiss the grievance.**

Furthermore, the Honorable Supreme Court upheld the decisions of the CAT Chandigarh and the High Court of Punjab and Haryana, dismissing the Special Leave Petitions (SLPs) of BSNL. These court decisions are attached for your reference:

1. Hon'ble Central Administrative Tribunal (CAT) Chandigarh Bench:  
TA No 35-PB of 2009  
  
TA No 37-PB of 2009  
  
TA No 38-PB of 2009  
  
Date of Decision: 22.01.2010
2. Hon'ble High Court of Punjab and Haryana:  
CWP No 14802 of 2010  
  
CWP No 14817 of 2010  
  
Date of Decision: 19.08.2010
3. Hon'ble Supreme Court:  
Civil Appeal No 1971 of 2012  
  
Civil Appeal No 1972 of 2012  
  
Civil Appeal No 1973 of 2012  
  
Date of Decision: 26.07.2023

**It is crucial that BSNL and DoT implement these judgments in true spirit not only for the specific case applicants but for all individuals whose recruitment process commenced before 01.10.2000 and who joined duty after the formation of BSNL. These individuals should be treated as DoT recruits, following the criteria outlined in various court judgments.**

In addition to our letters, numerous aggrieved employees submitted representations to BSNL. However, these representations were not adequately addressed by BSNL CO in alignment with court judgments and historical precedents, leading to court cases. Given these considerations, I kindly urge you to reconsider the matter and engage with DoT. We have prepared a response to address the observations outlined in your letter. This response presents our viewpoint, supported by existing regulations, legal judgments, and relevant precedents. We hope that you will carefully evaluate these critical factors and reconsider your position on this matter.

It is paramount to acknowledge that the observations delineated in your communication cited under reference 1, diverge from the historical precedents established by the DoT in analogous instances, and furthermore, do not harmonize with the legal determinations handed down by various courts concerning this matter. In addition, your observations appear to be at variance with the criteria delineated by the Department of Pensions and Pensioners' Welfare (DoPPW) in cases of this nature.

1. Before the formation of BSNL, the DoT issued recruitment notifications for the direct recruitment of Junior Engineers (JE) Electrical. The recruitment examinations were conducted by the DoT, and the successful candidates were subsequently inducted into BSNL after its establishment of BSNL. These candidates were eventually appointed by BSNL and accorded pensionary benefits under CCS (Pension) Rules 1972, as per the DoT' communication No. 19-14/2000-EW dated 8.8.2002(Enclosed for ready reference). Precise orders were also issued to these JE Electrical candidates, indicating identical dates of appointment and absorption. Notably, two of these employees subsequently availed the Voluntary Retirement Scheme (VRS) and continue to receive pensionary benefits under CCS (Pension) Rules 1972. **The circumstances elucidated above stand in stark contradiction to the assertions presented in your points i and ii of your letter cited under ref 1. Uniform treatment must be accorded to employees within the same category. The divergent treatment as observed constitutes an explicit infringement on their constitutional entitlement to equality before the law.**

2. The Government of India, through the Ministry of Communication, by means of their Office Memorandum (OM) issued by the DoT, No.2-29/2000-Restg, dated 30/09/2000, conveyed that a certain group of employees would be transferred to BSNL along with their posts under the existing terms and conditions, on a "as is where is" basis, as a deemed deputation, devoid of deputation allowance, upon the formation of BSNL. It is imperative to note that **this communication does not reference the extant posts for which the recruitment process had been initiated by the DoT/DTS/DTO and was underway during the issuance of the aforementioned OM.** This implies that the recruitment process for these posts remained under the jurisdiction of the DoT. Furthermore, the same communication explicitly specifies that BSNL would have the competence to establish its own posts, and the reality that the posts for which recruitment was in progress at that juncture were not conceived by BSNL, but rather were subject to the recruitment process of the DoT/DTS/DTO, incontrovertibly does not extend any authority to BSNL to enforce its regulations on the candidates thus selected. These facts are affirmed by numerous Honorable Tribunals and Courts within the country. In the prominent case **of K. Manjushree (Supra), the Honorable Supreme Court reaffirmed that regulations cannot be altered midstream during a recruitment process; this legal precedent stands as a guiding principle across analogous cases.**

3. The High Court of Kerala, in the matter of Abdul Rashid and others vs. Union of India and Others, similarly affirmed that the transformation of a Government Department into a Public Sector Undertaking (PSU) such as BSNL does not preclude individuals recruited prior to the actual date of transformation from being recognized as Government employees, given their appointment transpired subsequent to the inception of the new PSU (BSNL). This indicates that the aforementioned category of employees does retain the designation of Government employees, hence the Office Memorandum dated 03.03.2023 from the Department of Pensions and Pensioners' Welfare is indeed pertinent to these employees.

4. Furthermore, the recent pronouncement of the Honorable Supreme Court upheld the authenticity of the BSNL Clarification dated 16.01.2003, wherein it was stipulated that 'Casual Laborers/Temporary Status Mazdoors' who had been regularized or individuals who were appointed by BSNL on compassionate grounds post the establishment of BSNL, under the aegis

of the nominees of employees from DOT/DTS/DTO, and subsequently deceased while in service up to the date of BSNL's formation, should be extended the General Provident Fund (GPF) scheme, an entitlement typically extended to Government employees. The rationale behind the extension of government benefits to these employees via the aforementioned clarification of BSNL dated 16.01.2003 should likewise be extended to all comparable cases, wherein recruitment had been initiated by DOT/DTS/DTO, but the individuals commenced their duties after the establishment of BSNL, so as to uphold the cardinal principle of equality.

**We deeply appreciate your attention to this matter and your commitment to the welfare of above said employees. We anticipate a just resolution that safeguards the rights and interests of the concerned employees.**

**Encl:**

- 1. JE E case DOT letter No. 19-14/2000-EW dated 8.8.2002 along with its back file**
- 2. Hon'ble CAT Chandigarh Bench , High Court of Punjab and Haryana and Supreme court judgements**

With warm regards,



**Ravi Shil Verma  
General Secretary**

**Copy To**

- 1. Shri Apurva Chandra Ji, Hon'ble Secretary (Telecom), Sanchar Bhawan, New Delhi for kind information please**
- 2. Shri P K Purwar Ji, Hon'ble CMD BSNL for kind information and intervention please.**
- 3. Shri Arvind Vadnerkar Ji, Director (HR), BSNL Board for kind information and intervention please**
- 4. DDG (Estt.), DoT, New Delhi**