



## All India Graduate Engineer Telecom Officers Association Central Headquarters

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**No. GS/AIGETOA/2019/11**

**Dated 29.01.2019**

To,  
**Shri Anupam Shrivastava**  
**Chairman & managing Director**  
**BSNL, New Delhi.**

**Subject:- Order of National Commission for SC reinstating LDCE (limited dept. competitive examination) passed officers (LDCE 147 executives) in pre-6 June 2018 position/status against reversion order by BSNL Corporate Office dated 06.06.2018 due to wrong interpretation of Court order and overlooking the provision of 1986 amended RR-request to reinstate in Pre- 6 June 2018 position/status - regarding.**

R/Sir,

With reference to the case related to reversion of 147 executives who have earlier worked in the STS grade as AGM/DE under Adhoc / Regular capacity since the year 2010 in Bharat Sanchar Nigam Limited, I would like to submit the following for your kind consideration and necessary corrective action by HR group of BSNL:

1. These executives have joined in Department of Telecommunication (DoT) as JTO (Junior Telecom Officer) against different recruitment years up to 1993.
2. On 6.11.1998, the DoT issued notification/circular for conducting LDCE which comprises both 'DQE' (departmental qualifying exam, 2/3<sup>rd</sup> Quota) as well as 'DCE' (departmental competitive exam, 1/3<sup>rd</sup> quota) for promotion from the post of JTO to SDE (TES Gp B). Vide clarification dated 11.1.1999, which inter-alia had provided that JTOs upto recruitment year 1993 are eligible for taking up the LDCE. They have passed both the departmental Qualifying and departmental Competitive examination held in November'2000 for filling up the 1/3<sup>rd</sup> vacancies of competitive quota arising prior to 1996 in the next promotional post i.e. SDE ( TES Gp B post). Significantly, only 147 officers were able to clear/pass the Departmental examination whereas more than 10,000 officers appeared all over India. Accordingly they had been assigned seniority of 1/3 competitive quota, Vacancy Year being 1990 to 1996, as per relative merit and hence they got promotion in the post of AGM (Adhoc) in the year 2010 and then AGM (regular) in year 2014.
3. The seniority of 147 LDCE (Limited Departmental Competitive Examination) executives was revised by BSNL order No. 56-04/2017-Pers (DPC)/Pt/06 dated 06.06.2018. In para 2 of the order BSNL stated that it followed the decisions taken in

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WP(C) No. 5406 /2010 dated 01.07.2013 by of Hon'ble High Court of Kerala which had been upheld by Hon'ble Supreme Court in its judgment No. CA 392/2017 dated 12.12.2017.

Again, **vide BSNL letter no. 412-03/2017-Pers.I/IV Dated 06.06.2018, 96 officers (out of 147) are declared ineligible for LDCE held in 2000/2003 and hence reverted/demoted to SDE grade.** In fact, the order of Kerala High court was wrongly interpreted by BSNL management. In the said court order, it was asked to fix the seniority of 147 officers from 1994 to 1996 instead of 1990 to 1996 according to the 1986 amended RR.

4. The matter was brought before the National Commission for SC by some of officers belonging to SC category submitting that due to defective application of law, they all have been demoted after serving in the higher grades for long period. The commission heard the matter in detail inviting Director (HR), CGM Legal and DGM (Personal) BSNL Corporate Office and others to explain their points. **The NCSC has finally observed that action of BSNL reverting 96 LDCE passed meritorious officers as arbitrary and against a well established rule of law.** It has also been mentioned that eligibility criteria of 5 years regular service for appearing in LDCE is not correct as it stood amended in 1986, RR 1986, which inter-alia, provided that the JTOs recruited against the vacancies created five year prior to announcement of the Examination being eligible for taking up the competitive examination. **NCSC did not find any merit in making 96 executives ineligible for appearing in LDCE conducted by DoT in 2000/2003. The NCSC in its order (File no. H-2/Tele-18/2018/SSW-I dated 16 January'2019, has directed the BSNL to reinstate all SC category officers and accordingly promote them so that status prior to 6 June 2018 could be maintained.**

5. In the instant case, this is to bring to your kind notice about some facts as stated below which are related with dept exam (LDCE) conducted in 2000/2003 as per DoT's notification dated 06.11.1998 and subsequent clarification dated 11.1.1999:

1. In the year 1996, DoT gave an undertaking in the Hon'ble SC that all the vacancies arising prior to 23 July 1996 shall be filled with old RRs i.e 1986 amended RR. Based on this undertaking, and court orders, exams were conducted in the year 2000 and its special supplementary examination in 2003 as per direction and observation of Kerala HC. In the said LDCE JTOs recruited upto year 1993 were allowed to appear in the exam as per clarification issued by the DoT on 11.1.1999 following the 1986 amended recruitment rules. That out of several candidates, who had appeared in the said examinations (2000/2003), only 147 persons are declared successful in having passed the LDCE, which comprised of both 'DQE' (Dept. Qualifying Examination , 2/3<sup>rd</sup> quota) as well as "DCE" (Dept. Competitive examination, 1/3<sup>rd</sup> quota) as per notification dated 6.11.1998 and seniority was finally assigned against 1/3<sup>rd</sup> quota between 1990-91 to 1996-97. But this seniority was challenged in Ernakulum CAT, which decided against the seniority, HC of Kerala also followed it and asked the Department to assign seniority against 1/3<sup>rd</sup> competitive quota between 1994-95 to 1996-97 as per 1986 amended RR instead of seniority staring from 1990-91.

- 2. Against the High Court order, under the direction of Department of Telecommunications, All including BSNL had filed SLP and leave was also granted in the matter but later BSNL withdrew their SLP after submission of undertaking that they had already assigned seniority to 147 LDCE executives as per the Kerala HC order dated 1.7.2013 i.e. against 1/3<sup>rd</sup> competitive quota between 1994-95 to 1996-97 as per 1986 amended RR. Finally, Hon'ble SC vide order dated 12.12.2017, simply upheld the HC judgement dated 1.7.2013.**

Later on, going against its own affidavit submitted in Hon'ble Supreme Court, BSNL proceeded in drawing the seniority of the 147 LDCE officers following the Supreme Court order dated 12.12.2017. In the judgment dated 01.07.2013, the Hon'ble Kerala High Court directed to assign the seniority of the 147 executives against 1/3<sup>rd</sup> competitive quota within the vacancies of the year 1994-95, 1995-96 and 1996-97 (upto 22/07/1996). Despite knowing the references made by Hon'ble Court in respect of the eligibility condition of the amended 1986 rectt rule in many paras of the judgment, BSNL has put the scrapped 5 years regular service condition of 1981 RR for 147 LDCE executives.

3. In fact, BSNL has relied upon para 47 wherein 5 years of regular service has been mentioned merely as an example which was, in fact, part of Recruitment rules, 1981 that stood amended in the year 1986. In para 47, the Hon'ble Court had merely quoted to illustrate the logic of ROTA as combined exam was held for 3 years and hence tried to avoid dispute among LDCE passed executives for re-fixing the seniority. It was simply illustrated as an example how a candidate recruited (in feeder cadre) in later period of time cannot claim higher seniority even if secured higher marks in the LDCE.
4. In fact, BSNL has overlooked the applicable its own statutory rule in this regard as notified by the DoT, despite the fact that applicable recruitment rule having sacrosanct value shall prevail in deciding eligibility criteria for the LDCE. Hence, counting of 5 years from year of recruitment in basic cadre i.e. JTO to the year of announcement (Notification) of exams should be taken into account while deciding eligibility for LDCE and promotion thereof. **Reference in this regard was made to the circulars dated 11.1.1999, 17.04.2003 and 26.08.2003 as was issued by DoT/BSNL, which clarified that JTOs recruited up to the year 1993 are eligible. Again, the eligibility condition stated in 1986 amended RR was never a question before any forum or court.**
5. In issuing the office order dated 06.06.2018, BSNL used the *5 years of regular service in feeder cadre (JTO) as on 1<sup>st</sup> January of the vacancy year* as eligibility condition for appearing the competitive examination. But this condition stated in the office order is not the specific conditions stated in the judgment dated 01.07.2013 of the Hon'ble High Court of Kerala for eligibility for appearing the examination and for determining seniority of the executives. In fact, in the office order dated 06.06.2018, BSNL used the scrapped eligibility condition of un-amended 1981 rectt rule and declared 96 executives as ineligible for LDCE. By misinterpreting the judgment dated 01.07.2013 and intentionally imposing the conditions, BSNL forfeit the legitimate rights of 147 executives thereby declaring 96 members as ineligible and in turn demoted them by two posts/ ranks for

example, from DGM/AGM rank to SDE [Cadre hierarchy is JTO > SDE > AGM > DGM].

6. Therefore, it is highly needed to safeguard the legitimate rights of officers by following the applicable RR according to which notification was issued in 1998 & 2003 and honoring the undertaking before Hon'ble SC on 25.10.1996 and also the undertaking dated 30.08.2016, submitted. Otherwise it may become contemptuous also as reversion of officers takes place by applying 5 yrs of regular service criteria which is not in accordance with the then applicable 1986 amended RR based on which unfilled pre -1996 vacancies were to be filled.

In view of above facts and the **recent order of NCSC directing BSNL to maintain the status prior to 06.06.2018 in respect all 147 LDCE executives in general and 9 SC category officers in particular, I hereby request your good self to reinstate these executives to the original position of AGM (Regular) i.e. pre-6 June -2018 status.**

I, seek your benign intervention in extending justice to these highly meritorious officers, who would have proved an asset to BSNL if promoted in the grade of DGM with sufficient age profile on their side. They are fully equipped, experienced and capable of taking up the roles of middle and higher level management.

With Regards

Yours sincerely,  
Sd/-  
**[Ravi Shil Verma]**  
GS, AIGETOA

**Copy to:**

- 1. Smt Sujata T Ray, Director HR, BSNL Board for kind intervention please.**
- 2. Shri Arun Kumar, PGM (Pers), BSNL CO**
- 3. Shri A.M. Gupta, GM (SR) for intervention in settling the genuine grievances of the above said 147 executives.**