



All India Graduate Engineers & Telecom Officers Association

Central Headquarter, New Delhi

(The Recognised Representative Association of BSNL)

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GS/AIGETOA/2022/59

Dated 21.06.2022

To,

Shri P. K. Purwar,
Hon'ble CMD BSNL,
BSNL Corporate Office, New Delhi.

Subject: Our strong objection on the continued stalemate on account of precondition put forward by management and offering lower number of vacancies in the SDE to AGM Promotion and non starter of AO to CAO Promotional Process- Reg.

Reference: 1. AIGETOA letter No GS/AIGETOA/2022/56 dated 10.06.2022
2. AIGETOA letter No GS/AIGETOA/2021/32 dated 03.03.2021

Respected Sir,

This is in continuation of our previous submission and deliberation on the matter of AGM and CAO Promotion. It is quite unfortunate that despite of the verdict by the Hon'ble Supreme Court and Executive instruction issued by DOP&T, the stalled process of AGM and CAO Promotion is not materializing due new conditions put forward by the management with each passing day. It worth to note that the last promotion was held in the cadre of AGM and CAO in 2018 and thereafter the management always taken the shelter of legal entangle of the matte of Reservation in Promotion, linked with the Civil Appeal No. 629 of 2022 (Arising out of SLP (C) No. 30621 of 2011) of Hon'ble Supreme Court on the matter of Reservation in Promotion. ***In the meantime BSNL offered a VRS package where almost 78000 Employees opted for VRS on 31.01.2020 reducing the working strength of AGM(T), DGM(T), CAO and DGM(F) at all time low. But despite of reduction of more than 50% overall strength of BSNL manpower and extreme resource crunch, the existing 32000 Executives and overall 64000 Employees managed the services of BSNL even during the two waves of Carona Pandemic.***

Higher responsibilities were owned by the executives working in the preceding grade of SDEs and AOs to man the various positions and requirement of the department, even when the Salary were delayed from 30-45 days and especially JTOs/SDEs posted in field were forced to spent money from their pocket to meet the immediate requirement of operation and maintenance due to severe scarcity of fund. This fact has been brought to the kind notice of the Director(HR) and your goodself on multiple occasions also. This is to note that when it was turn of the Executives and Employees, they never shy away from contributing more than the legitimate responsibility and always stood for the BSNL. But unfortunately, the HR Managers of the orgnisation is not responding to its responsibility towards the vital Human Resource of the company in a similar fashion. The current example is that the long awaited promotion of the Executives in AGM and CAO grade is still not being executed despite of the pronouncement of the judgment of the Hon'ble Court. A series of meetings have happened but no concrete result is coming out of several meetings and deliberations. For the Promotion in the AGM grade, the process is yet to be decided and vacancies discussion initiated is so minimal that neither meet earlier assurance not caters the minimum requirement and render justice to the LDCE Qualified Executives.

Regn. No. : HR/019/2018/02138

Regd. Office : Flat No. A-302, Life Style Residency, Plot no: GH 41-42, Sector-65, Faridabad, Haryana-121006

A chronology of the events is enumerated below:

1. The last Promotion in AGM and CAO grade held in 2018.
2. Thereafter the matters lingered on the name of legal entangle and linked to the pronouncement of the judgment in the SLP at Hon'ble Supreme Court on the matter of Reservation in Promotion.
3. The judgment was pronounced on 28th Jan-2022 in the Appeal No. 629 of 2022 (Arising out of SLP (C) No. 30621 of 2011) of Hon'ble Supreme Court on the matter of Reservation in Promotion.
4. BSNL Management didn't start the process on the pretext that it will be initiated, once executive instruction will be issued by the DOP&T in line with the judgment.
5. DOP&T issued instruction vide OM dated 12th April-2022.
6. BSNL Management only initiated compiling works but stated that order will be issued once DOP&T issue some promotion order to get more clarity in interpretation of the OM.
7. DOP&T issued promotion order in their department and the copy of the orders submitted by us.
8. A new condition of undertaking by association was put forward by the management for execution of Promotion, which is first time in our knowledge.
9. The vacancy offered in AGM grade during our discussion on 13.06.2022 is very dismal, which neither meets earlier assurances not caters the minimum requirement, to render justice to the LDCE SDEs of earlier vacancy year.
10. The seniority of LDCE qualified executives have already modified several times and degraded by the department by changing its own decision resulting that an earlier vacancy year LDCE Qualified SDE has been put below to a later vacancy year DPC SDEs. We have submitted several representation on the matter and once again explained though Annex-A.
11. The AO to CAO Promotion discussion is not even started despite of extreme shortage in the cadre despite of raising the matter on several occasions with your good self also.

In view of above fact and our previous submission, we lodge our strong protest on the way the entire promotional matter is being handled by the management. We completely disagree with the method adopted by the management to seek undertaking from the association to initiate promotional process and so less vacancies offered in the AGM grade. A ray of hope has been opened with the verdict of the Hon'ble Supreme Court and we must capitalize the opportunity by executing maximum promotion; ideally all SDEs completed their residency period by utilising vacancies of AGM & DGM grades as both are interchangeable and to impart justice to meritorious LDCE qualified SDEs, whose seniority lowered by way of changing its own decision of BSNL management taken earlier in July-2020. In the absence of the remedial measures, this association shall be compelled to follow organizational recourse to seek justice for these candidates. We sincerely believe that department will take note of this injustice and will take all necessary actions in line with our submissions.

Thanking you.

Yours Sincerely

Sd/--

(MD. WASI AHMAD)
General Secretary

Copy to:

1. The Director HR, BSNL Board, New Delhi for kind information and NA please.
2. The PGM SR, BSNL Corporate Office, New Delhi kind information please.

ANNEX-A

In continuation to our previous submission, wherein we have categorically highlighted the gross injustice which BSNL HR is extending to the competitive quota people of List-12 (VY 2006-07 of LDCE) and List-13 (VY 2007-08 to 2009-10 of LDCE) by revision of their seniority and that why there is need to extend the promotions to all Eligible SDEs who have completed their requisite residency period. We have also raised our objection on calling the VC for the candidates only up to List 11, while the ideal justice should have been to consider the SDEs for all Vacancy Years. However, despite of our submissions and arguments, no corrective action has been initiated, which is raising a feeling of injustice resulting in huge unrest in the minds of all these SDEs. In this regard, we wish to submit the following once again for your kind consideration please to reach to an amicable submission of the matter.

1. It is a general practice that a person belonging to batch 2006 should be considered for promotion prior to persons belonging to 2007 batch or 2008 batch or 2009 batch, as later one was not eligible for VY 2006.
2. The Court orders referred to prepare the seniority list do not relate to List 9 as the list 9 onwards were not an impugned list before Hon'ble Supreme Court.
3. The Seniority List 9 to 13 circulated by Department is not in line with the SDR RR 2002 subsequently amended vide 30th July 2007 vide no. 20-1/2001/Pers-II where in an explicit mention of vacancy year wise quota is given. The Relevant Para is reproduced below:

"Accordingly, Quota under Seniority cum Fitness and Limited Departmental Competitive Examination (LDCE) under Column 11 and 12 of Schedule in all recruitment rule mentioned above stand amended as 67% and 33% respectively in place of 75% and 25%. These changes shall be effective from the vacancy year 2006-07."

From the above and also from the legal opinion submitted by this association from a retired justice of Hon'ble Supreme Court, it is very clear that Vacancy Year Wise quota is well within the ambits of SDE RRs and Seniority should have been fixed Vacancy Year Wise.

4. The eligibility of JTOs for promotion to SDEs against vacancy year 2006-07 and vacancy year 2007-08 are different. Therefore the class of SDEs selected against vacancy year 2006-07 and 2007-08 are also different. Since the seniority is determined among same class i.e. within Vacancy year, so the seniority is to be determined among the SDEs selected against one vacancy year only i.e. for each vacancy year 2006-07, 2007-08 and so on, separate seniority list is to be issued. Person Not eligible for 2006-07 Vacancy Year and placed in 2007-08 Vacancy year cannot be made senior to the person eligible for Vacancy year 2006-07. Hence, for seniority determination, quota is to be followed as per RR.

5. The DoP&T guidelines clearly extend the provision of Rota and Quota. Further, the guidelines applicable in BSNL clearly mandates that BSNL will follow Gol guidelines wherever there is lack of anything the rules of company meaning that in the absence of provisions or clarity in RR, the Gol guidelines i.e. DoP&T guidelines should have been clearly followed. But in the extant case these guidelines have been blatantly ignored. It is further intriguing to note that while revising the seniority list once again, department has quoted applicability of DoP&T guidelines. This selective application of DoP&T guidelines is creating a huge sense of injustice and unrest in the minds of all competitive quota people.
6. DOPT OM dated 04.03.2014 which was issued in reference to the Judgment pronounced by Hon'ble Supreme Court on 27.11.2012 in the matter of Civil Appeal No 7514-7515/2005 filed by N.R Parmar vs UOI & ors and in the said OM it is stated that ".....DoPT O&M no. 20011/1/2006-Estt (D) dated 03.03.2008 is stated as non-existent/withdrawn as initio....."and in the said judgment and the OM it is clear that the determination of inter-se seniority became effective from the day of the said judgment on the basis of vacancy year and not on the basis of date of joining.
7. It is further requested to refer the DoPT OM dated 13.08.2021 which was issued in respect to the judgment of the Hon'ble Supreme Court in Civil Appeal no. 8833-8835 of 2019 in the matters of K. Meghachandra Singh & Ors vs Ningam Siro & Ors wherein it is stated in para no 7 of the said OM that 'based on the above, it has been decided to modify the instructions relating to determination of inter se seniority between promotes and direct recruits as under:
 - (i) DoPTs OM no 2011/1/2012-Estt(D) dated 04.03.2014 issued in pursuance of order dated 127.11.2012 in N.R Parmar case is treated as non –est/withdrawn w.e.f 19.11.2019.
 - (ii) As the order dated 19.11.2019 is prospective, cases of inter se seniority of directs recruits and promotes, already decided in terms of OM no.20011/1/2012-Estt.(D) dated 4.03.2014, shall not be disturbed i.e. old cases are not be reopened.
 - (iii) In case of direct recruits and promotes appointed/joined during the period between 27.11.2012 and 18.11.2019 and in which case inter se seniority could not be finalized by 18.11.2019, shall also be governed by the provisions of OMs dated 7.2.986/3.7.1986 read with OM dated 4.3.2014 unless where a different formulation/manner of determination of seniority has been decided by any Tribunal or Court. It will be pertinent to mention that the Seniority List in question was never in dispute earlier.**
8. The judgment pronounced by the Hon. Supreme Court dated 12.08.2014 in the matter of BSNL & Ors vs S. Sadasivan & Ors and also in the judgment of Hon. Supreme Court in the matter of Vinod Verma vs UOI & Ors, which were referred in the BSNL speaking order dated 09.07.2021, have determined the principle of inter-se seniority and in the said judgments, the seniority of LDCE 2012 was never challenged.

