



All India Graduate Engineer Telecom Officers Association

(An Association of DR Graduate Engineers / Account Officers of BSNL)

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To

GM (FP),
BSNL Corporate Office,
New Delhi.

Sub: - Retrospective extension of pay, pensionary and other benefits to Postal JAOs violating the extent service rules and norms – Reg.

Dear Sir,

On the above mentioned subject, the following few lines are submitted for your kind information, proper enquiry and restraining orders please.

1. Some of the clerks employed in other central government departments such as Ordinance Factory, Railways, Postal Department qualified JAO exam of their respective department in 1990s. But, these clerks could never be promoted as JAO in their respective department for the want of vacancies.
2. However, there were vacancies in the cadre of JAO in DOT and thus these clerks were allowed to officiate as JAO in DOT. On 30/09/2000, DOT, without obtaining proper approval from competent authority, permitted these clerks to write a special exam for the purpose of absorbing them in BSNL. The matter therefore went into litigation, and finally they could be absorbed in BSNL as JAO on 07/03/2005 (hereinafter referred to as "postal JAO"). Pertinently, none of these clerks was JAO in their parent department, and their absorption in BSNL as JAO is still under litigation.
3. The terms and conditions of their absorption were such that they would (i) **put resignation in their parent department** and (ii) **join BSNL as fresh JAO against DR quota**. For the service rendered up to 07/03/2005, they got all pay, pensionary and other benefits such as Pension, Gratuity, Leave Encashment and Medical from their parent department.
4. Now, it is reliably learnt that BSNL is going to extend pay, pensionary and other benefits (hereinafter referred to as "proposed benefits"), either on **actual** or **notional** basis, to these postal JAO with effect from 01/10/2000 (which is date of absorption of DOT employees). Whereas, the actual date of absorption of these postal JAO is 07/03/2005 and benefits up to this date have already been availed of by them from their parent department.

5. If the proposed benefits are given to them for the period prior to their date of absorption, i.e. 07/03/2005, it shall be illegal and unsustainable in service jurisprudence because: -
- a. Postal JAOs have already availed of all the pay, pensionary and other benefits accrued up to 07/03/2005 from their parent department;
 - b. The proposed benefits shall amount to duplication of pay, pension and other benefits during the period from 01/10/2000 to 07/03/2005;
 - c. Postal JAOs were absorbed as DR-JAO against DR quota, therefore they cannot be given any benefit for the period prior to the date of their absorption;
 - d. The proposed benefits shall have serious financial repercussion, and it will become precedent for the other cadres to raise similar unjust demands;
 - e. The proposed benefits shall be violation of terms and conditions of absorption of postal JAOs;
 - f. The absorption of postal JAOs is still sub-judice ; and
 - g. It is also gathered that no court has given any judgment for giving them proposed benefits. On the contrary, in the recent judgment in O.A. No. 4363/2012, Hon'ble CAT Principal Bench, Delhi has held in Para 9 that "It is stare decisis that the date of passing of examination cannot be treated as the date of appointment by any mode and appointment becomes effective only on the date when the letter of appointment/absorption is issued".
 - h. **Injustice has already been done with DR-JAO 2003 batch who were made Junior to the postal JAOs, despite the fact that DR-JAO 2003 joined in 2003 whereas postal JAOs joined in 2005. This injustice may also be addressed.**

In view of above facts and circumstances stated above, there is no justification of extending the proposed benefits to the postal JAOs. It is also needless to say that, the extension of proposed benefits to a particular batch or cadre will lead to further litigation and dissent among other batches and cadres of BSNL.

Copy to:-

- 1) CMD, BSNL
- 2) Director (HR)/Director (Finance), BSNL Board, New Delhi-

