

Appeal against random and unlawful salary deduction for the month of Sep-13 & Feb-14 and no action on my written representation.

From:

Ram Pratap Shahu (SDE)
O/o GMTD, BSNL Bhopal (MP)
HRMS-200206440
Mobile No- 9424051555
E-Mail- r_p_shahu@yahoo.co.in

To

The Chief General Manager
M.P. Telecom Circle
Bhopal

Nature of appeal:

This is an appeal against unlawful and random deduction of pay, allowances and superannuation benefits for the month of Sep-13 and Feb-14 by the DDOs without departmental proceeding as per the CDA rule, without passing any order by the competent/disciplinary authority and without giving me the opportunity of being heard. This is also an appeal against non disposal of my written representation to the SSA head against such unlawful act of DDOs.

Statement of facts:

1. While working as SDE Waidhan under DGM Singrauli, In the salary slip for the month of the Sep-2013 my basic pay is shown Rs 13112/- against Rs.32780/- without stating any reason. (My salary slip for the month of Sep-14 is attached herewith and Marked as **Annexure-1**). Similarly While working as SDE at Bhopal under GMTD Bhopal for the month of the Feb-2013 my basic pay is shown Rs 16885/- against Rs.32780/-. (My salary slip for the month Feb-14 is attached herewith and Marked as **Annexure-2**). I had noticed from my salary slip that my basic pay is randomly lowered without stating any reason hence all the allowances including HRA and EPF contribution is proportionally lowered. Said lowering of salary is done without departmental proceeding as per the BSNL CDA rule, without passing any order by the competent/disciplinary authority and without giving me the opportunity of being heard.
2. I had represented in writing against stated salary deduction to the concern DDOs. DDO of Sidhi SSA has replied in writing that the salary for the month of Sep-13 is deducted by instruction of IFA O/o GMTD Jabalpur

on account of absent from duty from 22/07/2013 to 08/08/2013 (attached herewith and marked as **Annexure-3**) and DDO O/o GMTD Bhopal has replied in writing that salary deduction is done for the month of Feb-14 based on absentee statement and instruction issued by DE (Admin) O/o GMTD Bhopal (attached herewith and marked as **Annexure-4**). Both the DDOs are failed to supply the rules/guidelines and order copy passed by the disciplinary authority in respect of salary deduction.

3. It is needless to mention that BSNL is following the CCS leave rule and Rule-25 of CCS leave rule thereof makes provision regarding absence after expiry of leave. Sub-rule (1) Rule 25 of the Rules provides that unless the authority competent to grant leave extends the leave, Government servant who remains absent after the end of leave is entitled to no leave salary for the period of such absence and that period shall be debited against his leave account as though it were half pay leave to the extent such leave is due, the period in excess of such leave due being treated as extraordinary leave. Sub-rule (2) provides that willful absence from duty after the expiry of leave renders a Government servant liable to disciplinary action. Moreover Sub-rule (6) of rule-5 of BSNL CDA rule-2006 clearly states that absence without leave or over-staying the sanctioned leave without sufficient grounds or proper or satisfactory explanation comes under misconduct hence without proceeding departmentally and passing an order by the Disciplinary/Competent Authority in view of the procedure laid down under the provisions of the BSNL CDA Rule-2006, the DDOs have no authority to straightaway deducted the salary.
4. The law is well settled that as a measure of penalty, the Disciplinary Authority is competent to direct the period of willful absence as dies-non under "No work No pay principle, such order cannot be passed unless a departmental inquiry has been conducted against the employee concerned. (Order passed by Honorable High Court of Chhattisgarh is attached herewith and marked as **Annexure-5**)
5. My salary deduction at both the accession is done without affording any opportunity of hearing to me, therefore, the same having adverse consequences like withholding of salary, withholding of HRA and other allowances, change of DNI, reduction of EPF contribution, etc. as per very basic law of the land even Disciplinary Authority cannot pass any such order of salary deduction without following the basic principles of natural justice but crossing all the limits of authority DDO straightway deducted my salary, Allowances and superannuation benefits without any order passed by Disciplinary Authority. The said act of DDOs are clear contravention of sub-rule 2 (b) of BSNL CDA rule-2006 hence liable for disciplinary action.
6. I have made written representation to SSA heads against the stated unlawful act of DDOs but it is regret to mention that my representation to

SSA heads on both the occasions remain unheard hence this present appeal. (Representation to SSA heads are attached herewith and cumulatively marked as **Annexure-6**)

Damage and relief requested:

1. I am requesting that, random salary, Allowance and terminal benefits deducted in the month of Sep-13 and Feb-14 without following the procedure and order from competent authority, be refunded to me along with losses plus interest.
2. I am requesting that, EPF contribution for both i.e. employer and employee along with interest against the short contribution made in the month of Sep-13 and Feb-14 be deposited by the employer itself as per the provision of Para-32 of EPF Act-1952.
3. I am requesting that appropriate compensation against my hardship and mental agony due to random salary deduction, be provided.

Disciplinary action requested

1. I am requesting that disciplinary action be taken against the concern DDOs for deducting the salary without having order passed by the Competent/Disciplinary Authority which is clear contravention of sub-rule 2 (b) of BSNL CDA rule-2006.
2. I am requesting that disciplinary action be taken against the SSA heads for non resolution of written representation hence non compliance of the provision of staff grievance redressed mechanism.

Without prejudice to your timely and affirmative action on damage and relief requested based on the statement of facts submitted above I reserve my rights to take legal and other remedial action deemed fit on the cost and consequences of the company.

Dated:

(Ram Pratap Shahu)

Enclosures: Exhibits and Supporting Materials

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5	Order passed by Honorable High Court of Chhattisgarh on no work no pay	5	9 to 12
6	Representation to SSA heads on salary deduction	6	13 to 17