



All India Graduate Engineer Telecom Officers Association

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

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Dated 28.05.2018

To,

Smt. Sujata T. Ray,
Director (HR),
Bharat Sanchar Nigam Limited
Janpath, New Delhi

Sub: Issuance of Promotion orders in the grade of SDE to DE –Implementation of Supreme Court order dated 11.8.2017 in SLP No. 9815/2017 (CA 14967/2017) regarding TES Group B seniority list 6 & 7.

R/Madam,

This is in reference to our earlier letters wherein we have been drawing the attention of BSNL Board with regard to the injustice being meted out to the LDCE passed executives of BSNL across various vacancy years conducted by the department from time to time. The examinations were conducted in accordance with the then prevailing RRs and were to be accommodated in a certain vacancy year in the prescribed LDCE quota for such officers. As of now their dreams of getting better promotional aspects have been shattered completely as BSNL has left them to the mercy of the outcome of various court cases.

The seniority of almost all the LDCE passed officers has been struck up in the quagmire of the fight between the one quota of officers versus the other and has been resultantly bogged down by numerous litigations. The department has not been able to protect the seniority of these LDCE passed officers which has been assigned by the department only. If you critically examine all such cases, the LDCEans have suffered tremendously on account of time and money, leading to sagging morale and ultimately losing out on various promotional aspects.

Another instance for the poor treatment being meted out to the LDCE Passed candidates is non-implementation of Supreme Court order dated 11.8.2017 in SLP No. 9815/2017 (CA 14967/2017) regarding TES Group B seniority list 6 & 7.

The LDCE passed executives as per 1996 RRs are into courts. It is utterly surprising that these RRs have not been adequately protected by the management in the court of law. In spite of these officers getting a Supreme Court order in their favour, department has not acted positively in the direction and are finding one alibi or other by denying them their due seniority. We request your kind intervention in issuance of the promotion orders of executives as we feel that delay in issuance of promotion orders is simply leading to denying them of their due residency period in getting the next promotions.

It is submitted that Hon'ble Supreme Court vide its order dated 11.8.2017 in SLP No. 9815/2017 (CA 14967/2017) has set aside Chandigarh CAT order dated 25.8.2009 in TA No. 84/HR/2009 and thus the seniority list 6 & 7 of SDE(T) issued by DOT stands restored. But despite this order, BSNL is still continuing with order of Chandigarh CAT which is really surprising which has been superseded by Hon'ble Supreme Court. The brief facts of the case are as detailed below:

1. On 12.1.2005 & 01.03.2005, DOT had issued final seniority lists 6 & 7 respectively. These seniority list were challenged by private respondent and Chandigarh CAT directed to revise the seniority list which was against the settled principle of DOPT on seniority.
2. The same was challenged by BSNL/DOT in Chandigarh High Court vide CWP 5111/2012 & CWP 5132/2012. However, the same was dismissed on the ground that the same was covered by Supreme Court decision in some other case.
3. Against the above High Court decision, DOPT/DOT advised twice to BSNL on 12.2.2015 & 4.3.2015 to file SLP but for unknown reason same was not filed by BSNL.
4. Thereafter due to contempt petition filed in Chandigarh CAT, DOT/DOPT finally agreed on 30.3.2015 for implementation of Chandigarh CAT decision dated 25.8.2009, although it was against DOPT rules on seniority and asked BSNL to revise the said seniority list 6 & 7. However, it was specifically mentioned that it should not be quoted as a precedent for other similar cases. Thus, indicating the compulsion/unwillingness of DOT.
5. On 1st April 2015, i.e. within a day, BSNL issued the revised seniority list 6 & 7.
6. Some of the affected SDEs then challenged the said High Court order of Chandigarh in Supreme Court. The Supreme Court vide its order dated 11.8.2017 has passed an order by which Chandigarh CAT decision dated 25.8.2009 has been set aside and seniority list 6 & 7 issued by DOT stands restored. This Supreme Court order dated 11.8.2017 is in line with Government of India instructions on service matters.

Now, when the sanctity of Government of India instructions on service matters has been upheld by Hon'ble Supreme Court, but surprisingly BSNL has not implemented the said Supreme Court order even after lapse of more than 9 months and further to note that still the Chandigarh CAT decision is being followed for issuing look after promotions in DE cadre by Circle/Units.

It is understood that BSNL has yet not implemented the supreme court order citing the reason that previous judgment was delivered by three-judge bench and the interim order has been passed out by a two-judge bench. Further, it may be noted that Hon'ble Court in its interim order dated 11.08.2017 has directed BSNL/DoT to execute the promotion orders in accordance with the stand taken by the respondents in its counter affidavit.

It is quite surprising that despite Hon'ble Supreme court has upheld the stand taken by the department itself, despite being well aware of the fact that spirit of the SDE Recruitment Rules stipulates the Rota and Quota between the executives promoted through competitive and Seniority Cum Fitness Quota, despite BSNL facing huge crisis in terms of non-availability of officers occupying Middle Level Management posts, BSNL is reluctant to promote officers on the pretext of pending court cases. This has resulted

into officers of both the quotas not getting promotions at all. They are simply getting retired despite being eligible for the promotion, which is in fact a huge injustice.

It may be noted that before delivering the interim order, all the facts and figures have been brought to the notice of the Hon'ble Learned Judges. Hon'ble Bench have taken into the consideration, all the facts and figures which includes the Judgment delivered by the previous three judge bench before giving the Interim Order in favour of the stand taken by the department. It appears that by not following the above order, not only contempt of the court is being made but BSNL also appears to be questioning the competency somewhere.

In view of the facts mentioned above, we feel that instead of holding the promotions, BSNL should issue the promotion orders in the cadre of DE/AGM immediately and seniority can be made provisional subject to outcome of the court case. Accordingly, we request your good self to kindly direct the Personal cell to take steps in executing the promotion orders from SDE to DE grade accordingly so that executives can get their much awaited promotions.

Yours Sincerely

Ravi Shil Verma
General Secretary

Copy to:

1. Shri Anupam Shrivastava Ji, CMD BSNL for kind information please.
2. GM (Pers), BSNL CO for kind information and n/a please.
3. GM (Recruitment), BSNL CO for kind information please.