



All India Graduate Engineers & Telecom Officers Association

Central Headquarter, New Delhi

(The Recognised Representative Association of BSNL)

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GS/AIGETOA/2021/104

dated 23.08.2021

To,

The Chairman of Pay Loss Committee cum
The PGM(Pers), BSNL Corporate Office,
Harish Chandra Mathur Lane, New Delhi

Subject: Consideration and resolution of the Pay Loss Issue faced by the executives recruited in JTO/JAO Grade in pre-revised E1A Scale (9850-250-14600) after 01.01.2007 by extending their initial basic as 22820/- and our submission thereof to the Committee of Pay Loss.

Reference: F. No: A-41/12/1/2020-ESTAB dated 02 July, 2021.

Respected Sir,

This is in reference with the pay loss issues faced by the executives recruited in JTO/JAO Grade in E1A Scale (9850-250-14600) in BSNL at different points of time after 01.01.2007. The matter of pay loss was discussed in length in the first Formal Agenda Meeting of the recognized representative association and was again deliberated in details in the second Formal Agenda Meeting, thereafter on the directions of Honorable DIR HR a committee has been formed under your Chairmanship vide letter referred in reference above. In this regard we would like to submit the following facts for your kind consideration so that pay loss of JTO/JAO can be addressed in true spirit.

CASE DETAILS:

The JTOs of 2007, 2008 have been recruited through JTO RR 2001 and The JAOs of 2010 batch were recruited through JAO RR 2001. The basic pay of these JTOs and JAOs in the RRs was 9850-250-14600 (i.e. pre revised E1A) and recruitment was notified in this scale with a mention that scales are **likely to be revised upwards as per the recommendations of 2nd PRC**. Accordingly, the JTOs of 2007 and 2008 batch and JAOs of 2010 batch joined with a notion that their pay and perks are going to be further increased with implementation of 2nd PRC in BSNL. Post implementation of 2nd PRC, uniform fitment benefit @ 30%, on basic pay + DA @ 78.2 % was provided to all executives in BSNL.

The issue is concerned with DR JTOs of 2007, 2008 & JAO 2010 batches. The executives of the aforesaid batches were recruited, appointed and worked on pre revised scale of 9850-14600 (E1A) till January 2012. These JTOs were drawing the benefit of 50% DA merger (Known as DP) similar to pre revision appointed executives till revision. Thereafter the Pay scales of these executives were revised in provisional revised scale of E1 (**due to non available of replacement scale of 9850-14600 in 2nd PRC**) and basic got fixed at minimum of E1 i.e. 16,400/-. This resulted in a huge pay loss for all these executives just by virtue of implementation of 2nd PRC. In pre revised scale, the initial basic (Basic at DOA) for JTOs of 2005, 2007 & 2008 batches was Rs.9850/ (**Copy of the Pay Slips of some executives attached herewith as annexure-I**).

There was a difference of 2 increments between JTOs of 2005 batch and JTOs of 2007 batch. After implementation of 2nd PRC, retrospectively from 01.01.2007, initial basic of JTOs of 2007 & 2008 batches were fixed at Rs.19020 in revised scale of Rs 16400-40500, whereas initial basic of JTOs of 2005 batch was fixed at Rs.22820 in same revised scale of Rs 16400-40500. Therefore suddenly after revision, the **difference in number of increments between JTOs of 2005 batch and JTOs of 2007 batch rises from two to eight**. Rs. 22820/ is 20% higher than Rs. 19020/ & therefore those recruited after 1.1.2007 but appointed on pre revised scale has been pushed *back almost 10 yrs back i.e approx one PRC*.

As per Hon SC Judgment in P.Savitha vs UOI, by seniority, a senior will get higher pay with the increments that he earns proportionate to the number of years he is in service. These comparisons are done between two similarly placed employees. (i.e can't be a comparison between direct recruited and promoted. Similarly if Method of recruitment or minimum qualification is changed, there can't be any comparison). Not even a single parameter defers between 2k5 JTOs and 2k7/8 batch JTO.

The silence of DPE & DoPT in providing the fundamental rule & O.M reg pay fixation for those officers who were working in pre revised scale or shall be joining the department after 01/01/2007, how their intermediate pay scale/pay fixation shall be carried out while implementing 2nd PRC after 1/1/2007. Due to the absence of pay fixation ruling to the newly recruited officer has created a huge loss to the executives who joined the PSEs after 1/1/2007. BSNL Management has also adopted the pick and chooses methodology in settling the pay parity/pay loss cases due to non availability of fixation rule for the newly recruited officer who shall be joining department after 01/01/2007.

BSNL had addressed the pay parity/pay loss cases only due to the pressure created by few pressure groups that were in the majority.

BSNL Management has already removed such anomaly arising out after implementation of 2nd PRC fixation in the following cases

- a) JTOs of 2005 batch that joined after 01.01.2007.
- b) Departmental JAOs of 2010 (Deptl 40%)
- c) CSS cadre Assistant Manager's case.
- d) Departmental JAOs of 2010 (10%)

BSNL vide its office order dated 03.01.2012 (**Copy enclosed as Annex-2**) approved the proposal of five advance increments on the minimum of the revised pay scale of Rs.16400-40500 (E-1 Scale), to be given to directly recruited JTOs of 2007 and 2008 batch and JAOs in respect of whom result declared in April 2010 on the date of their joining the service. They all were placed on the revised scale of Rs.16400-40500 on provisional basis and were extended an initial basic of Rs.19020 retrospectively from the date of their appointment i.e. May-2009 as an interim measure to compensate for the initial loss. This minimized the loss to some extent but still there were anomalies/aberration on wages of JTO Cadre appointed after 01.01.2007, which will be very much evident from the table of wages along with old scale and new scale and other differences between pre-revised and revised basic of pay as mentioned in the annexure-II.

Thereafter, BSNL vide its letter dated 24.07.2015 (**Copy enclosed as Annexure-3**) allowed option of revision of pay from the date of promotion to the grade of JAO as one time dispensation with a condition that no arrears will be paid and effect of actual pay revision will be prospective i.e. from the date of issue of the letter. After perusal of the note sheet obtained through RTI (**Copy of the note-sheet is attached as annexure-4**), it is evident that BSNL has considered the following points while extending the benefit:

- That Rs.9850/- of (9850-14500 i.e. pre revised E1A) after fitment goes to Rs. 22820/- in the revised scale of 16400-40500.
- That after clarification dated 18/05/2011, the pay of such JAOs got reduced by Rs.2600/-.
- That there has been no such restriction of any date either in 2nd PRC for Executive dated 05/03/2009 and clarification dated 31/03/2010 or in the recommendation of wage revision committee for non-executives.
- That one time dispensation has been given to another set of employees who were promoted to the grade of Assistant Manager and joined after 07.05.2010.

The following points become very important to emphasize in respect of this one time dispensation to JAOs Departmental.

(1) **Most of the departmental JAOs of 2010 (Deptl 40%) are junior to the DR recruited JAOs of 2010 batch.**

(2) Departmental JAOs submitted request to consider them **en-block senior to DR recruited JAOs of 2010 batch** by stating different grounds. But the BSNL rejected the plea and stated that the gradation list prepared considering all aspects and request of JAOs 2010 (deptl batch) cannot be considered which was conveyed **vide letter No. 4-18/2007-SEA (Pt.) dated 30.01.2015. (Copy enclosed as Annexure-5)**

(3) On promotion to the posts of JAOs, the pay of these officer (JAO 40% deptl) got fixed at Rs.16400, as was done to DR JAOs of 2010, **as per FR 22 (1) a (i)**. On implementation of order dated 03.01.2012 of 5 advance increment to DR JAOs, an anomaly aroused between JAOs Deptl with that of DR JAOs and later anomaly got addressed by issuing Order No. 1-5/2012-PAT (BSNL) dated 20.12.2012.

(4) It is evident that, one particular points of time, **the Deptl JAOs of 2010 were drawing less when compared with DR JAOs 2010 and JTOs of 2007 and 2008. But after giving one time dispense to JAOs Deptl as Rs 22820/-, JAO Deptl started drawing more salary than DR JAOs.**

(5) **On implementation of one time dispense to the JAO Departmental, an anomaly of senior drawing less pay than the junior aroused. In this regard it is to be submitted that this pay anomaly is not a normal pay anomaly, it is a case where a senior directly recruited employee comparing the pay with Junior promote by taking the points and facts explained from (1) to (4) above.**

On comparing the above dispensations with the similarly placed BSNL Recruited JTOs of 2007 & 2008 batches and direct recruited 2010 batch JAOs who were recruited, appointed and worked on this pre revised scale of 9850-14600 (i.e. pre revised E1A) till January 2012, the following is submitted:

- a) The point says that Rs.9850/- of (9850-14500) after fitment goes to Rs. 22820/- in the revised scale of 16400-40500. If Management is considering 9850/- for those employees who were promoted as executive after 07.05.2010 then how can the same management ignore this 9850/- for those who worked till Jan-2012 on this scale of 9850-14600/-, since their appointment in 2009 and 2010.
- b) The point says that, However after clarification dated 18/05/2011, the pay of such JAOs got reduced by Rs.2600/-. Management is considering a loss which has arisen due to wrong fixation for JAOs but for JTOs of 2007 & 2008 batch and JAOs of 2010 batch, ignoring the loss of Rs. 7673/- after pay revision with respect to a correct pay in pre revised scale. This is illustrated in the following table:

Initial Basic on April 2009	Basic After 12-increments as on April-2021 (i.e. 10 regular +2 addl. because of TBP)	DA in April 2021	Effective DA in Pre-revised scale in April-2021 after merging of 50% DA as DP	Effective Basic on April 2021	DA on April 2021	Salary (Basic+ DA) on April 2021
9850/- in Pre revised	14050/-	356.7%	356.7-50 = 306.7%	14850x1.5 = 21075/-	64637/-	85712/-
19020/-in Revised	28850/-	170.5%	170.5%	28850/-	49189/-	78039/-
Loss with respect to pre revised on April 2021 = Rs. 85712 - Rs. 78039 = Rs. 7673						7673/-

- c) Committee observed that there has been no such restriction of any date either in 2nd PRC recommendation or Presidential Order issued for Executive by DOT, dated 05/03/2009 and clarification dated 31/03/2010. Even such restrictions are not mentioned in the recommendation of wage revision committee for non-executives as well. The same applies to the JTOs of 2007 & 2008 batch and JAOs of 2010 batch also, as they have also worked on this pre revised scale of 9850-14600 (i.e. pre revised E1A) till January 2012. The date of 07.05.2010 has same value in the non-executive cadre which 01.01.2007 has for executives i.e. JTOs of 2007 & 2008 batch and JAOs of 2010 batch.
- d) It becomes pertinent to mention that this one time dispensation has been given to another set of employee who were promoted to the grade of Assistant Manager and joined after 07.05.2010. The same can be applied one more time for other set of executives also.
- e) Therefore, it has been seen that time and again, one time dispensation has been given to the other set of employees on the basis that their reduced pay after implementation of 2nd PRC vis-à-vis their pre-revised scales, without bothering about the cutoff date as 01.01.2007 but taking cutoff date as alibi for not extending the initial basic of 22820 to those set of executives mentioned in the above subject, who are also facing pay loss is totally unjustified, when there is no restriction of any cut-off date in the recommendations of 2nd PRC. Recently management took another magnanimous step by extending the 22820 initial basic to departmental JAOs promoted under 10% quota vide order dated 28.08.2020. Since, it is **clearly written in point 6, that recommendation** is made **due to the points mentioned in 5 (a) to 5 (f) of the file noting no: F.No.7-4/2010-SEA (pt-1).**

Now, please give a look that how only these sections of Executives fall under this category. Please give a close look to following circumstances in case of 2007 & 2008 batch JTOs.

- Some 2005 batch JTOs have been appointed even after the appointment of 2007 batch JTO. And until unless BSNL makes any special rule deliberately, it is a general rule that those who are appointed first are senior to those who are appointed later.
- Only 2005, 2007 and 2008 batch have same notification of pre revised E1A (9850-14600). Moreover only these three batches have notification on this pre revised scale. All later batches have notification of revised E1 (16400-40500).
- Due to administrative delay or anything else, only 2007 and 2008 batches have worked in pre revised scale of E1A (9850-14600) till January 2012 whereas the pay revision order was issued on March 2009 itself. Therefore around 3 years after issuance of pay revision order these JTOs were kept in pre revised scale.

- As only 2007 and 2008 batches have worked in pre revised scale of E1A (9850-14600) along with 2005 batch JTO, only these can compare the difference in number of increment in pre revised which was 2 in pre revised for 2007 batch and jumped to 8 after pay revision. As no one after 2007 and 2008 batch JTOs were appointed in pre revised scale, none can compare their difference of increment in pre revised scale with 2005 batch JTO.
 - 2007 batch JTOs had started their training before issuance of BSNL pay revision order. Therefore even their stipend was also calculated on 9850-14600/.
- f) In the Panda Committee report it was stated by the management side that those joining after pay revision date of 01.01.2007 are to be placed at minimum of E1A scale, citing the Presidential directives issued by DOT vide order No. 61-6/2002-SU dated 28.07.2003. Sir, The presidential directives which is being referred to, was a directive issued for switching from CDA scale to IDA scale and not for any other purpose. Hence use of that presidential directive to deny a genuine demand on merit is not at all accounted for, when at the same time no directive are being followed to extend Rs22820/- to JAO departmental 2010 Batch (10% and 40% quota). Further it will also be pertinent to mention here that DPE has never finalized the corresponding revised E1A scale for pre revised E1A scale. Keeping this in mind, under the absence of revised E1A scale the corresponding minimum basic of revised E1A scale is unknown and is highly unlikely to come as well. Hence taking an alibi of Presidential directives which was issued on a different context, is nothing but shying away from settling a genuine demand of Rs 22820/- for those who were recruited in pre revised E1A scale of 9850-14600/-.
- g) It will be pertinent to mention that greater pay loss has been faced by the executives recruited under DR quota for the JTOs of 2007 & 2008 batches and JAOs of 2010 batch who were working on pre-revised scales of 9850-14600 (i.e. pre revised E1A) till January 2012. The loss has already been depicted in the table mentioned above.
- h) **It also becomes pertinent to mention here that the pay of JTOs of 2005 batch joined after 01.01.2007 got fixed at Rs. 22820 by stating that there should not be disparity in pay between the officers of same batch, but department is purposefully denying the same justice to directly recruited JAOs of 2010 batch by denying pay of Rs. 22820 which was given to Departmental JAOs even though both the sets of officers were of same batch, fixed at Rs. 16400 initially, later extended to 5 advance increments to both sets employees, were drawing equally for more than 5 years**
- i) This becomes further more important considering the fact that departmental JAOs who were promoted to JAO under 40% & 10% quota after 07.05.2010 were given 5 additional increment citing the example of the grant of 5 advance increment to JTOs of 2007& 2008 batch and JAOs of 2010 batch to maintain parity between departmental and Direct Recruit JAOs but the same parity concept has not been applied to the Direct Recruits while extending the 22820 initial basic to the promoted quota JAOs. Accordingly the corrective action needs to be taken to maintain parity as envisaged by BSNL.
- j) It is very much evident that these Direct Recruit JTOs of 2007 & 2008 batch and the Direct Recruit JAOs of 2010 batch also deserve to be given similar 22820 basic as that of their counter parts else these DR executives will be made subject to an irreparable loss by pushing them back by one pay commission as there will be a huge pay difference between the similarly placed executives who were working on almost similar/comparable pay scales in the pre-revised scales of 9850-14600 (i.e. pre revised E1A) scales. These three sections of employee have a very strong binding & relation with pre revised scale of 9850-14600(i.e. pre revised E1A) on which they worked till January 2012 and the fact that they were not recruited/appointed directly on revised scale of 16400-40500, it is requested to grant them the

similar relief as their salary w.r.t pre revised scale is lower by a margin of Rs 12553/- through administrative order similar to departmental candidates, promoted to JAOs.

- k) The committee formed earlier to examine the issue which got the demand negated has mentioned that the recognized association at that time has sought similar compensation for all executives. **Herein we as recognized executive association of BSNL reiterate that we understand that this concept of extending initial basic of 22820 is limited to only those set of executives who have been or whose recruitment has been initiated in the pre-revised scales of 9850/- (i.e. Pre revised E1A).**
- l) The Committee did not take note of the fact that the comparison is not with the senior batch but the comparison is with the situation and pay which the DR executives belonging to JTO 2007 & 2008 batch and 2010 JAO batch were getting in pre-revised scales and what they are getting post implementation of the 2nd PRC. Further the fact that BSNL envisaged to keep Promoted quota and DR quota officers at par in terms of pay has also not been taken into consideration as initial basic of 22820 has been extended to similarly placed promoted quota officers but the DR quota executives have been denied the same benefit. It is pertinent to mention that both PR as well as DR quota officers were drawing equal pay after equalization with DR JAOs up to 24.07.2015.
- m) BSNL should not create class amongst the employees entitled for up-gradation in fixation of scale in view of the aim and object of second PRC and therefore the differential treatment is creating huge difference of the emoluments between the two classes of employees which are similarly placed and executing the same responsibilities which is unfair and discriminatory and even violates service principles of maintaining equality.
- n) These executives have never been given option to choose the revised pay scale or to remain in pre-revised pay in view of the discriminatory revision of pay scale of these executives vis-à-vis other set of executives similarly placed and executing the same responsibilities .
- o) The anomaly arbitrarily created by BSNL while fixing the pay scale of these DR executives in comparison to other similarly situated employees is not sustainable in view of judgment delivered by the Hon'ble Supreme Court in the case of P. Savita Vs. Union of India, Ministry of Defense reported in 1985 SCC Suppl. 94 in which it has been held that where all relevant considerations are the same, persons holding identical posts and discharging similar duties should not be treated differently as the same violates Article 14 of the Constitution of India. **(Copy of the relevant part of the Judgment is attached as Annexure-6)**
- p) That the discrimination created by BSNL while fixing the basic pay of these DR Executives is also not sustainable in view of the judgment delivered by the Hon'ble High Court of Calcutta in the case of Mr. Ibrahim Mollah & Anr. Vs. Union of India & Ors. reported in (1994) 2 CALLT 410 HC wherein it has been held that it was wholly unreasonable and illogical to prescribe a different mode of pay fixation and discriminatory method of pay fixation is plainly prejudicial to one group compared to the other and the grouping is also not based on any discernible rational principle so far as the question of pay fixation is concerned and further it was held that 'it is needless to mention that the main purpose of pay revision is generally to make upward revision of pay of employees necessitated by a host of reasons such as fall in rupee value, the rising cost of maintenance of livelihood, circumstantial demands for larger pay packets for meeting the changing pattern of general life style bringing many hitherto luxury items in the fold of the necessities of life. **(Copy of the relevant part of the Judgment is attached as Annexure-7).**

- q) That the Hon'ble Supreme Court in the case of P. Savita Vs. Union of India has held that by seniority, a senior draughtsman will get higher pay with the increments that he earns proportionate to the number of years he is in service but due to decision of BSNL, the difference in increments between the DR executives of 2007 & 2008 JTO batch and 2010 JAO batch vis-à-vis their senior batch appointed just before has become 8 whereas the same ought to have been only 2.
- r) That the Hon'ble High Court at Calcutta in the case of Ibrahim Mollah and ors. Vs. Union of India has held that "The question is whether this classification of the two groups for the purpose of fixation of pay stands the test of article 14 of the Constitution of India. The law is now settled that classification permissible under Article 14 must satisfy two conditions, namely, (i) it must be founded on an intelligible differentia which, distinguishes persons or things that are grouped together from others left out of the group, and (ii) the differentia must have a rational relation to the object sought to be achieved by the measure in question." Further if the classification is not reasonable and does not satisfy the two conditions referred to above, the impugned legislative or executive action would plainly be arbitrary and the guarantee of equality under Article 14 would be breached.
- s) The Supreme Court on 19.7.2021 DISMISSED the SLP filed by Union of India against the Delhi HC judgment i.e (MMH 15-01-2021 CW 82 08 2020_224835 judgment 15.01.2021) which granted Old Pension scheme to the personnel appointed in CAPFs after 1.1.2004, but whose recruitment advertisement were released in 2003. It gave a big relief for those employees whose job advertisement came out before the old pension ended but the selection test was held in the bar or joining was done later. It is to be known that some CRPF jawans had applied in the Delhi High Court and demanded the benefit of old pension, their contention was that the advertisement for their selection was out in September 2003, there was no mention in the advertisement that the selected soldiers in the said advertisement. Old pension will not be payable to him. Then Central Government issued an ordinance on 22 December 2003, depriving all the servants in the service of the Central Government (except the armed forces) from 1 January 2004 and brought them under the purview of NPS, depriving them of old pension. On January 15, 2021, the Delhi High Court, while giving a verdict in favor of the soldiers, had directed the Central Government to give the benefit of old pension to the selected CRPF personnel under the said advertisement. Against this, the Central Government had approached the Supreme Court, but the Supreme Court upheld the decision of the Delhi High Court and dismissed the Central Government's petition on 19 July 2021. Now the way has been cleared for the selected soldiers to get old pension in the said advertisement. **(Copy of the relevant part of the Judgment is attached as Annexure-8)**
- t) As per 2nd PRC and 6th CPC Committee Recommendation, the basic motto of pay revision is to structure the compensation package of CPSE employees on account of economic & social development and the global scenario and competitive environment. Its motto is to enhance the compensation package of CPSEs employees for specified period (10 years) to upgrade the social status in synch with the development of country. Secondly CPSEs are facing direct competition with private sector, hence total compensation package must be restructured in that way it can promote efficiency, performance, productivity, attract talent & checking attrition. But in the instant case fixation of initial pay of the Rs19020 for JTOs of 2007,2008 and JAOs of 2010 has been done in such a way that they are in loss of heavy amount in a recurring pattern in comparison to other employees of the same base giving great dent to the said basic motto of pay revision.

- u) The central govt already issued fitment table for DRs to avoid disparity in getting benefit of fitment and reduced the gap of pay between the two sets of employees, before and after pay revision. Kindly refer the 7th CPC fitment table

In view of the submissions made above and the facts deliberated, it is clear that the hapless DR executives of 2007, 2008 JTO batch and 2010 JAO batch were even denied the option to continue in pre-revised pay scale of 9850-14600 (E1A) which would have been more beneficial to them and were forcefully offered a new basic of 19020 (in revised E1 scale of 16400-40500) by BSNL Management in the garb of pay revision but which was actually a pay scale reduction for them. Hence we place before the committee the request for the consideration of the demand to extend 22820 as initial basic to the directly recruited executives of 2007 and 2008 JTO batch and 2010 JAO batch. We are confident that the empathetic consideration of this demand by the committee and thereafter by BSNL Management will go a long way in improving the morale of these affected young executives and BSNL can reap huge benefits by tapping their work output for the benefit of organization. BSNL can also look to tap and retain the best available human capital that is available in market by offering an initial pay scale that is comparable with similarly placed other PSUs and organizations.

Before concluding we would like to invite your kind attention to the **basic financial rules 5A** for consideration please, the para is reproduced here under

“Where any Ministry or Department of Government is of opinion that the operation of any of these rules may cause undue hardship to any person, that the Ministry or department, for reason to be recorded in writing, relax the requirements of that rule to such extent and subject to such conditions as it may consider necessary for dealing with the case in a just and equitable manner”

In light of the above facts, figures and attachments, we hereby make a humble and impassioned appeal before the committee to consider the case of Pay loss by these affected executives in its true merit and give a positive recommendation to BSNL Management. We shall also be highly obliged if the committee give us an opportunity - being the recognized association in BSNL, to elaborate the issue in person before the committee. We conclude with an earnest appeal to before the committee to give a justified recommendation to impart justice to the deprived executives, who are being subjected to irreparable loss on account of the pay loss.

Encl. As above

With warm regards,

--Sd/--
[MD.WASI AHMAD]
General Secretary

Copy to:

1. The Committee Member, Shri Saurabh Tyagi, Sr GM (Estab), BSNL CO, for kind infor and N/A Pl.
2. The Committee Member, Shri Karuna R. Tiwari, Sr GM (PF), BSNL CO, for kind infor and N/A Pl.
3. The Sr. General Manager (SR), BSNL CO, New Delhi for kind information and N/A Please.