



राष्ट्र हित

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अधिकारी हित

All India Graduate Engineers & Telecom Officers Association

Central Headquarter, New Delhi

(A Recognised Association of BSNL Executives)

(Affiliated to BMS)



Regn. no. HR/019/2018/02138

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GS / AIGETOA / 2024-25 / 64

Dated 16.08.2024

To,
Shri Kalyan Sagar Nippani,
Director (HR), BSNL Board,
Corporate Office,
New Delhi - 110001.

Subject: Request for Implementation of Hon'ble CAT Chennai Order vide OA Nos. 1401 & 1343/2017 & 1178/2018 and Re fixation of Pay of affected TTAs Promoted to JTOs as Departmental Outsiders from the Date of Appointment/Promotion without Any Further Delay and Appeal - Regarding.

Reference:

1. CAT Chennai Bench OA Nos. 1401 & 1343/2017 & 1178/2018 dated 10.07.2024.
2. 2nd PRC pay revision order BSNL CO Lr. No. 1-16/2010-PAT(BSNL) dated 07-05-2010.
3. BSNL CO Letter No.1-07/2012-PAT(BSNL) dated 28.3.2012.
4. BSNL CO ND No.5-31/2001/Per.IV dated 20th June 2016.
5. National Litigation Policy.
6. Tamil Nadu Revised Scales of Pay Rules, 2009 – Fixation of pay on promotion – Option exercised – Exercising of revised option to come over to the revised scales of pay -Clarification dated 27.10.2009.

Respected Sir,

We write to you on behalf of the AIGETOA to address a long-standing grievance related to the 2nd PRC pay fixation and revision for TTAs who were promoted to JTOs as departmental outsiders. This matter pertains to the Hon'ble CAT Chennai Orders in OA Nos. 1401 & 1343/2017 & 1178/2018 and the need for immediate implementation and re fixation of pay without further delay and appeal.

AIGETOA has consistently raised this issue, urging that the option clause exercised by all internal NE officials during the Non-Executive pay revision process be uniformly applied under FR 22-B and FR 22 1(a)(1) for pay fixation. Despite these efforts, BSNL CO has not issued comprehensive guidelines for pay fixation and revision for executives who were appointed as JTOs directly under pay protection from January 1, 2007, to May 7, 2010. This timeframe represents

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the eligible window for exercising the pay revision option as outlined in clause 3.6 of the 2nd PRC order No. 1-16/2010-PAT (BSNL) dated May 7, 2010. The absence of clear guidelines has resulted in inconsistent pay fixation across different units/Circles, leading to an anomalous and inequitable situation.

These aggrieved executives, during their tenure as Non-Executive grade Telecom Technical Assistants (TTAs), were receiving the pay scale of Rs. 7100-200-10100 in BSNL. They applied through proper channels for the direct recruitment examination for the position of JTO with a notified scale of pay of Rs. 9850-250-14600. This recruitment process was open to both internal officials and external candidates, and the applicants met the prescribed qualifications and relaxations outlined in the JTO Recruitment Rules (JTO RR). Subsequently, they were selected as departmental candidates for the elevated position of JTO.

All these aggrieved executives were appointed as JTOs during the period from January 1st, 2007, to May 7th, 2010, which corresponds to the eligible window period for exercising the option for pay revision as per clause 3.6 of the 2nd PRC order No. 1-16/2010-PAT (BSNL) dated May 7th, 2010. However, **some pay fixation authorities the failed to consider the option, resulting in the forceful retrospective revision of their TTA pay from January 1, 2007, without taking into account their chosen pay revision option.**

In contrast, many other internal officials, who were previously in a lower non-executive grade within the same class as the aggrieved executives, were promoted or appointed as JTOs/JAOs after January 1, 2007 with their pay was fixed in the pre revised scale with reference to the pay receiving in their Non-executive grade (under FR 22-B and FR 22 1 a 1) and correspondingly placed in the revised scale through the option clause Para 3.6 of the 2nd PRC order. This unequal treatment violates their rights and lien under the applicable pay fixation/revision regulations.

Despite repeated grievances submitted to the competent authorities, their option was denied by quoting the BSNL order (ref. 3), which states, "it is hereby clarified that the appointment given under direct recruitment outside quota after tendering technical resignation by the employee cannot be treated as promotion. Therefore, such employees are not entitled to exercise the option for fixation of pay in terms of the para 3.6 of this office order dated 07.05.2010." **This order was quashed by the Hon'ble PCAT on 8.5.2015. In the absence of the quashed order the options submitted by the aggrieved TTA officials should have been accepted since their appointment falls under category of promotion for the purpose of pay fixation/revision. However consequently, on 20.5.2016, BSNL issued the pay protection order (ref. 4), creating an artificial distinction in the pay fixation/revision process between the promotion and appointment as JTOs as a departmental outsider by simply ignoring their last pay receiving in service and lien under the applicable pay fixation/revision regulations.**

These aggrieved executives were compelled to approach various CATs to seek the correct pay fixation. **The CAT Chennai Bench Order vide OA Nos. 1401 & 1343/2017 & 1178/2018 dated 10th July 2024 ruled in their favour with directions to re-**

examine and re-fix the pay scale of the applicants under FR 22-B & FR 22 1 a 1. The following salient points established in the CAT order under Analysis/conclusion that

"6.2 ...the Hon'ble Apex Court observed as under the Special Leave Petition No. 16646 of 1995. Once they were all in one cadre, the distinction between direct recruits and promotees disappears at any rate so far as equal treatment in the same cadre for payment of pay scale. The birth marks have no relevance in this connection..."

"6.4. We do agree that the appointment of the applicants cannot be treated as promotion, but as an appointment under the direct recruitment quota, the benefits of pay protection drawn in the TTA grade, while fixing pay in the JTO grade, have to be taken note of.."

METHOD

...The benefit of pay protection would be available to an officer coming from PSU, etc., only if the officer has completed the period of probation successfully for being regularized/confirmed in the post in the parent organization.

MANNER

"fixation of pay under FR 22-B(1) consequent to his appointment to a post at a higher level through direct recruitment, where higher duties and responsibilities are involved ... his pay will be fixed under FR 22 1a 1...it cannot be said that once the applicants have been appointed in the same cadre as that of the promotee(s), the pay cannot be protected. The pay protection has to be automatic; no artificial distinction can be made in the cadre"

Conclusion

"We, therefore, have no hesitation in quashing and setting aside the orders No.5-31/2001-Pers-IV, dated 20.5.2016.....with directions to re-examine and re-fix the pay scale of the applicants in the light of the above discussions and pass appropriate order(s). The consequential relief(s) shall follow. The said exercise has to be completed within the period of three months from the date of receipt of a certified copy of this order. The OAs are disposed of accordingly."

In light of these directives, we kindly request your esteemed office to take immediate steps to implement the Hon'ble CAT order by **Re fixing the pay from the date of promotion/appointment to the JTO grade in as per FR 22(I)(a)(1) & FR 22-B(1)and revise their pay from the date of appointment** and thereby rendering justice and rectifying the discrepancies in the previous pay fixation orders.

Additionally, it is pertinent to mention the order of the Government of Tamil Nadu regarding Tamil Nadu Revised Scales of Pay Rules, 2009 – Fixation of pay on promotion – Option exercised – Exercising of revised option to come over to the revised scales of pay. Paragraph 4 states:

"This issue has been examined by the Government in detail and it has been decided to accept it. Accordingly, on the analogy of the orders issued in the Government Order second cited, I am directed to clarify that Government employees promoted/ appointed to higher posts during the period from 1-1-2006 to 31-5-2009 (both days inclusive) and also those employees promoted/ appointed to higher posts prior to 1-1- 2006 and whose next

increment in the lower post fell due on or after 1-1-2006 in the revised scale of pay shall be permitted to exercise revised **option to have their pay fixed either (i) on the date of promotion/appointment to the higher post directly under FR 22-B** or (ii) initially in the manner as provided in FR 22(I)(a)(1) or under FR 22(I)(b)(1) and then under FR 22-B on the date of accrual of next increment in the lower post whichever is more beneficial to the employees in the revised scales of pay."

It is evident from the above order that the direct appointments under FR22-B are equally eligible as those of the promotions under the pay revision process.

It is the sole method to achieve actual pay protection/fixation on the date of appointment/promotion occurring during the pay revision window period. The National Litigation Policy clearly provides **that in service matters, no appeal should be filed as tribunalization is meant to remove loads from courts. The orders of the Tribunals should be challenged on cogent reasons and not as a matter of routine.**

Hence, we urge you to implement the order without going for any appeal and further delays.

With Regards,

Sd/-

**[Ravi Shil Verma]
General Secretary**

Encl :

1. CAT Chennai Bench OA Nos. 1401 & 1343/2017 & 1178/2018 dated 10.07.2024.
2. Tamil Nadu Revised Scales of Pay Rules, 2009 – Fixation of pay on promotion – Option exercised – Exercising of revised option to come over to the revised scales of pay - Clarification dated 27.10.2009.

Copy to:

1. Shri S P Singh, PGM (Establishment), BSNL Corporate Office, New Delhi for kind information and n/a please.