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भारत संचार निगम लिमिटेड
(भारत सरकार का उद्यम)
Bharat Sanchar Nigam Limited
(A Govt. of India Enterprise)

Lr. No.10-5/2009-WS&I/O&M/Part-I

Dated 6th May 2010

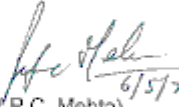
To

All Heads of Telecom Circles/Metro Districts/Functional Units of BSNL.

Sub:- Amendments in BSNL CDA Rules, 2006 in Rule 61 of BSNL CDA Rules 2006.

BSNL Board in its 124th meeting held on 21.12.2009, approved the amendments to the existing Rule 61 of BSNL CDA Rules, 2006. The details of the amendments in BSNL CDA Rules, 2006 are as per enclosed **Annexure-A** has been approved and further vetted by DOT & DOP&PW.

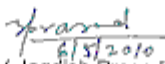
This is for vide circulation and implementation by all concerned. This will come into effect from the date of issue of this order. This has the approval of the competent authority.


(P.C. Mehta)
GM (WS&I)

Encl. Annexure-A

Copy for kind information and necessary action to:-

1. CMD BSNL.
2. Directors (CM)/(HR)/(Fin.)/(Ent.)/(CFA), BSNL Board.
3. CVO, BSNL.
4. Executive Directors (Fin.)/(CN)/(CA)/(NB) BSNL CO.
5. GM (Estt.) / (Pers.)/(FP) / (Restg.)/ PGM(BW) / PGM (Elect.) for n.a. pl.
6. Sr. DDG (Vig.)/ DDG(Estt.)/ DDG (SU)/Director(PSU-I), DOT.
7. GM(SR) for forwarding amongst recognized unions.
8. All PGMs/GMs of BSNL CO. New Delhi.
9. CS & GM(Legal), BSNL CO.
10. Dy.Manager (OL) for arranging Hindi version.
11. Office copy/ Guard file.


(Jagdish Prasad)
Dy.M (WS&I/O&M)
Ph. No.23734329

Annexure-A

Existing Rule No. & Provisions in BSNL CDA Rules 2006	Approved Amendment in BSNL CDA Rules 2006
Rule 61. DISCIPLINARY PROVISIONS FOR RETIRING EMPLOYEES (1)The departmental Disciplinary proceedings will continue against an employee after his retirement if the same was initiated before his retirement. (2)Disciplinary proceedings, if instituted while the employee was in service whether before his retirement or during his re-employment, shall after the retirement of the employee, be deemed to be proceeding under these Rules and shall be continued and concluded by the authority by which it was commenced in the same manner as if the employee had continued in service.	The existing Rule 61 of BSNL CDA Rules 2006 is proposed to be amended & submitted as below. Rule 61. DISCIPLINARY PROVISIONS FOR RETIRING EMPLOYEES (1) The employee against whom disciplinary proceedings have been initiated will cease to be in service on the date of superannuation but the disciplinary proceedings will continue as if he was in service until the proceedings are concluded and final order is passed in respect thereof. The concerned employee will not receive any pay and/or allowance after the date of superannuation. He will also not be entitled for the payments of retirement benefits till the proceedings are completed and final order is passed thereon except his own contribution to Provident Fund and he will be entitled for the provisional pension as per applicable rule. (2) Disciplinary proceedings, if instituted while the employee was in service whether before his retirement or during the re-employment, shall after the retirement of the employee, be deemed to be proceeding under these Rules and shall be continued and concluded by the authority by which it was commenced in the same manner as if the employee had continued in service.

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Existing Rule No. & Provisions in BSNL CDA Rules 2006	Approved Amendment in BSNL CDA Rules 2006
(3) During the pendency of the disciplinary proceedings the disciplinary authority may withhold payment of gratuity for ordering the recovery from gratuity of the whole or part of any pecuniary loss caused to the company, if the employee is found in the disciplinary proceedings or judicial proceedings to have been guilty of offences/misconduct as mentioned in sub-section (6) of Section 4 of the Payment of Gratuity Act, 1972 or to have caused pecuniary loss to the company by misconduct or negligence, during his service including service rendered on deputation or on re-employment after retirement. However, the provisions of Section 7(3) and 7 (3A) of the payment of Gratuity Act, 1972 should be kept in view in the event of delayed payment, in case the employee is fully exonerated.	(3) During the pendency of the disciplinary proceedings the disciplinary authority may withhold payment of gratuity for ordering the recovery from gratuity of the whole or part of any pecuniary loss caused to the company, if the employee is found in the disciplinary proceedings or judicial proceedings to have been guilty of offences/misconduct as mentioned in sub-section (6) of Section 4 of the Payment of Gratuity Act, 1972 or to have caused pecuniary loss to the company by misconduct or negligence, during his service including service rendered on deputation or on re-employment after retirement. However, the provisions of Section 7(3) and 7(3A) of the payment of Gratuity Act, 1972 should be kept in view in the event of delayed payment, in case the employee is fully exonerated.
(4) CMD BSNL is the competent authority to issue sanction to institute the departmental proceedings against the absorbed BSNL employees after retirement.	(4)(1) Chairman/Managing Director is the competent authority to issue sanction to institute the departmental proceedings against the absorbed employees after retirement for withholding a pension for combined service of BSNL and DOT period (herein referred as pension) or gratuity or both either full or in part or withdrawing a pension in full

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	or in part, whether permanently or for a specified period and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Company, if, any disciplinary or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of service, including service rendered upon re-employment after retirement: Provided that the Administrative Ministry shall be consulted before any final orders are passed: Provided further that where a part of pension is withheld or withdrawn, the amount of such pensions shall not be reduced below the amount of rupees one thousand two hundred and seventy five (Rs. three thousand five hundred from 01.01.2006). (4)(2)(a) The disciplinary proceedings referred to in sub-rule 4(1), if instituted while the absorbed employee was in service whether before his retirement or during his re-employment, shall, after the final retirement of the absorbed employee, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the absorbed employee had continued in service : Provided that where the disciplinary proceedings are instituted by an authority subordinate to the Chairman/Managing Director,

Approved

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	that authority shall submit a report recording of its findings to the Chairman/Managing Director. (4)(2)(b) The disciplinary proceedings, if not instituted while the absorbed employee was in service, whether before his retirement, or during his re-employment,- (i) Shall not be instituted save with sanction of the Chairman/Managing Director, (ii) Shall not be in respect of any event which took place more than four years before such institution, and (iii) Shall be conducted by such authority and in such place as the Chairman/Managing Director may direct and in accordance with the procedure applicable to disciplinary proceedings in which an order of dismissal from service could be made in relation to the absorbed employee during his service. (4)(3) In the case of the absorbed employee who has retired on attaining the age of superannuation or otherwise and against whom any disciplinary or judicial proceedings are instituted or where disciplinary proceedings are continued under this rule, a provisional pension shall be sanctioned with the prior approval of Department of Telecom. (4)(4) Where the Chairman / Managing Director decides not to withhold or withdraw pension but orders recovery of pecuniary loss from pension,

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	the recovery shall not ordinarily be made at a rate exceeding one-third of the pension admissible on the date of retirement of a absorbed employee. (4)(5) For the purpose of this rule,- (a) Disciplinary proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the absorbed employee or the pensioner, or if the absorbed employee has been placed under suspension from an earlier date, on such date; and (b) Judicial proceedings shall be deemed to be instituted- (i) in the case of criminal proceedings, on the date on which the complaint or report of a Police Officer, of which the Magistrate takes cognizance, is made, and (ii) in the case of civil proceedings, on the date the plaint is presented in the Court. Explanation For the purpose of these rules "absorbed employee" means DOT including erstwhile DTS/DTO employees who have taken permanent absorption in BSNL.