

BSNL Recognition of Non-Executives' Unions and Representation in the Councils Rules

Part - 1

I Background

1. BSNL came into existence w.e.f. 1.10.2000. With a view to provide a platform to the employees for redressal of their grievances, especially relating to their service matters, a meeting was convened on 28.9.2001 with all the unions under the chairmanship of the then CMD, BSNL in which Chief Labour Commissioner (Central) was also present clarified that Telecom is an industry and BSNL is an Establishment. In the meeting, it was agreed that membership verification will be conducted under the provisions of Code of Discipline which provides for recognition of only one union, which gets majority votes subject to a minimum of 15%. Considering the voluminous size of the organisation, it was also decided to treat the Circles as units of the establishment and if a participating union is able to get 50% or more votes at unit (Circle) level, it would have the right to deal with matters of purely local interest of its own members at the Circle/SSA level. This would be in addition to the Circle level organisation of the recognised union. Significantly, the CLC (C) also clarified that if there is a consensus amongst the participating unions for recognition of more than one union with a minimum of 15% votes, the Ministry of Labour could consider the suggestion with the consent of the Management. As consensus didn't emerge amongst the unions, the concept of recognition of one union was followed.
2. BSNL has so far conducted five membership verifications to elect a majority representative union of non-executive employees. Unions have often been raising demand for recognition of more than one union, but somehow the single union arrangement prevailed. It is worthwhile to note that the existing Code of Discipline has basically two components – one containing the obligatory part in the form of Do's & Don'ts for management as well as for Unions; and second – as an annexure – containing the process of recognition. The part containing the mutual obligations can widely be considered sacrosanct.
3. At the time of fifth membership verification, some of the unions approached the courts praying for amendment in the Code of Discipline / framing BSNL's own recognition rules so as to ensure recognition of more than one trade union and to make provision for allocation of seats in negotiating Fora for trade unions, proportionate to their vote share and also for extending certain trade union facilities to all the unions. In one such case, the Hon'ble High Court of Kerala directed the Chief Labour Commissioner (Central), New Delhi, to convene a meeting of all the trade unions of the employees as well as the management and to ascertain whether there is a consensus among the unions for effecting changes in the Code of Discipline for conducting a referendum for the purpose of

recognizing the trade unions. Accordingly, the CLC (C) convened a meeting on 27th August, 2012 of all the trade unions in BSNL and the management of BSNL. In the meeting, it transpired that the Code of Discipline which can be changed only by the Indian Labour Conference, may continue while BSNL management may bilaterally discuss for making their own rules for giving recognition to more than one union.

4. In pursuance of the said meeting, BSNL management held two meetings with all the applicant unions on 16th October, 2012 and 19th November, 2012 to solicit their view-points. Though consensus was lacking in these meetings as well, but majority of the unions emphasized for recognition of more than one union, proportionate representation in the Councils and extension of trade union facilities to all the applicant unions. Appreciating the sentiments of majority of the unions and also the management's inclination to give representation to the majority of the employees, the present Recognition Rules are being formulated.

II Broad objectives

1. While management acknowledges the right of workers/employees in the form of various statutory stipulations/obligations towards formation and conduct of unions, it also logically espouses the role and positive contribution of these unions in spread of positive sentiments, maintenance of cordial atmosphere, healthy dialogue between management and unions, constructive approaches and spirit of mutual co-existence for the overall well-being, growth, reputation and competitiveness of the organisation. It is this spirit of bon-homie, which form the objective and aspiration of these rules.

III Preamble

1. These rules shall be known as the **BSNL Recognition of Non-Executives' Unions and Representation in the Councils Rules, 2012.**

IV Recognition Rules

1. The membership verifications shall continue to be held by way of 'secret ballot'.
2. For any registered union to be eligible for participation in the membership verification, it should have been functioning for at least one year as on the last date for submission of applications.
3. The unions should agree to observe these Rules and submit an undertaking, in writing, at the time of submission of application for participation in the membership verification.

4. Unions intending to participate in the membership verification shall have to submit the following documents also –
- a) A copy of Registration Certificate issued by the Registrar, Trade Unions.
 - b) A copy of Undertaking by the unions that they will abide by these rules as enunciated in Part-1 and Part-2.
 - c) A copy of the Constitution of the respective union, duly acknowledged by the Registrar, Trade Unions. [In case, the constitution is in vernacular language, a copy of English version thereof].
 - d) An undertaking by the unions that they shall accept the result of such secret ballot,
 - e) An undertaking that the conduct of elections under the supervision of CIRM officers in the Central sphere is acceptable to them, and
 - f) A copy of election symbol of their union of 3 cm x 3 cm size, hard copy as well as soft copy (in 'jpg' format).
5. A union which secures more than 50% votes of total votes in the membership verification will be eligible for recognition as the **Sole Recognised Representative Union** of non-executive employees in BSNL.
6. In case none of the union is in a position to secure a minimum of 50% votes, in that event a union which secures maximum votes subject to a minimum of 35% of total votes in the membership verification shall be eligible for recognition as the **Main Recognised Representative Union** of non-executives in BSNL. With a view to ensure majority representation of the non-executive employees, a union securing second-highest votes subject to a minimum of 15% votes of total votes in the membership verification will be known as the **Second Recognised Representative Union** of non-executive employees in BSNL. However, for all purposes including negotiations / agreements / deliberations, both these recognised unions will be at par.
7. In case none of the union is in a position to secure a minimum of 35% votes of total votes in the membership verification, in that event not more than two unions securing highest number of votes, subject to a minimum of 15% votes, shall be eligible for grant of recognition as the **Recognised Representative Unions** and shall stand at equal footing for all purposes, i.e. negotiations / agreements / deliberations.
8. Further, any union which secures a minimum of 2% of total votes in the membership verification will be extended limited trade union facilities, as indicated under the head Trade Union Facilities, refer item 'B'. Majority of the unions have demanded extension of limited trade union facilities to all the applicant unions, but this demand of the unions could only be conceded by the management in the form of extending level playing certain facilities during the

membership verification process to all the applicant unions. The management is of the firm view that it is appropriate and logical to fix an eligibility benchmark for regular extension of facilities to any union(s) throughout the period as it puts a certain amount of strain on the resources of the company, as well.

9. Furthermore, in case, a union, other than recognised representative unions and also a union which secures 2% or more votes at All India level, as discussed above, secures 50% or more votes in a unit (Circle), the incumbent union will have the right to deal with matters of purely local interest of its own members in that Circle. This would be in addition to the Circle level organisation of the recognised representative unions. The Circle units of the representative unions would be the main union in all the Circles. This union will be extended limited trade union facilities, as indicated under the head Trade Union Facilities, refer item 'C'.
10. All unions participating in the membership verification will be known as the **Applicant Unions** and will be extended facilities during the process of membership verification only, refer the head Trade Union Facilities, item 'D'.

V Recognition Period

The recognition period of the union(s) out of this process of membership verification shall be three years.

VI Constitution of Councils

1. In the meeting held on 26th December, 2002 under the chairmanship of CMD, BSNL with the then recognised union, the constitution of Councils at various levels in BSNL has already been decided and the same shall continue. To recapitulate, the composition of the Councils and their functioning is discussed in the succeeding paragraphs.
2. With a view to ensure uniform representation in all the Councils, the number of Staff side members in the National Council shall be 14, its original number instead of 15.
3. The number of Staff side members from unions will be decided on the principle of proportionate representation taking into account the percentage of votes of total votes secured by them in the membership verification (as enumerated under item VII).
4. The General Secretary(s) of the union(s) who qualify for nomination to the Councils will submit to the management, a list of nominees to the National Council of their respective unions. Similarly, the Circle Secretary(s) and District Secretary(s) of their union(s) will submit the list of their members to the

- respective authorities or as decided by the General Secretary(s) of the concerned union(s).
5. At the All India level, the Council shall be named as National Council. Director (HR) will be the Chairman of the National Council. It will have executives from different wings from the management side and 14 members from the union(s) side. In case of any disagreement in the meeting, the relevant issues will be referred to the Management Committee of the BSNL Board which will have discussions with the concerned officers and union representatives for a decision. The meetings of National Council will be held once in three months and the Secretary, Staff Side shall submit the request to management along with agenda items, at least one month before the proposed date of the meeting.
 6. At the Circle level, the Councils shall be named as Circle Council. CGM of the circle concerned shall be the Chairman. It will have executives from different wings from the management side and 14 members from the union(s) side. In case of any disagreement in the meeting, the relevant issues will be referred to the National Council. The meetings will be held once in three months and the Secretary, Staff Side shall submit the request to management along with agenda items, at least one month before the proposed date of the meeting. In the BSNL C.O. also, a Circle Council will be formed and GM (Admn.) shall be the Chairman. Similarly, Circle Councils will also be formed in other units for which instructions have been issued from time to time.
 7. At the SSA level, the Council shall be named as Local Council. The SSA head of the concerned SSA will be the Chairman. It will have executives from different wings from the management side and 14 members from the union(s) side. In case of any disagreement in the meeting, the relevant issues will be referred to the concerned Circle Council. The meetings will be held once in two months and the Secretary, Staff side shall submit the request to management along with agenda items, at least one month before the proposed date of the meeting. In the case of metro districts of Kolkata and Chennai, Local Councils will be similarly formed at area GM level also.
 8. In addition, Local Council will be formed in the Circle HQs for taking up the local issues of the staff posted in Circle HQs. GM (Admn) or an officer nominated by the CGM will be the chairman of the Local Council at Circle HQs.
 9. It would be obligatory for the recognised representative union(s) to nominate its General Secretary(s) to the National Council; Circle Secretary(s) to the Circle Councils and the District Secretary(s) to the respective Local Councils as members from the Staff side.
 10. The Circle Councils and Local Councils will discuss only those issues that fall under their respective jurisdiction and authority.

11. In case any issue is not reflected in these rules, the existing instructions on the subject matter shall be referred to.
12. In case of merger or re-organisation of Circles/SSAs, the Circle/Local Councils shall also be re-organised accordingly.

VII Representation in the Councils

1. With a size of 14 members in the Councils at various levels, for proportionate representation based upon all-India voting percentages, for each seat a minimum of 7% (100/14, rounded off) of votes will be needed, irrespective of the number of recognised representative unions.
2. Any Union which secures a minimum of 7% votes in the membership verification at all-India level will be eligible for allocation of minimum one seat in the Councils at All India, Circle and SSA level.
3. Keeping in mind the principle of proportionate representation of employees' unions, the unions will be given proportionate representation in the Councils, as illustrated below :-

Illustration - 1

Name of the union	Union 'X'	Union 'Y'	Union 'Z'
%age of votes secured in the membership verification	46.57%	34.96%	7.38%
Inter-se ratio of votes	52.37%	39.32	8.30%
No. of clear seats	7	5	1
Balance %age of votes	3.37%	4.32%	1.30%
Total Seats in the Councils	7	6	1

Illustration - 2

Name of the union	Union 'X'	Union 'Y'	Union 'Z'
%age of votes secured in the membership verification	43.3%	40.9	13.1%
Inter-se ratio of votes	44.50%	42.03%	13.46%
No. of clear seats	6	6	1
Balance %age of votes	2.50%	0.03%	6.46%
Total Seats in the Councils	6	6	2

4. In the Councils, the Secretary, Staff Side shall be from the union getting highest number of votes while the Leader, Staff Side from the second largest union. However, the agenda for the respective Council meetings shall be submitted only by the Secretary, Staff Side.
5. Nomination to the Councils may preferably be from the serving members of the concerned unions.

VIII Trade Union Facilities

A. Recognised Representative Unions

1. Space for Notice Board;
2. Telephone facilities as per existing procedure;
3. Immunity from transfer as per existing ruling;
4. Nomination of Staff side members (proportionate representation) to the National Council, Circle Councils and Local Councils at BSNL HQrs., Circles and SSAs level respectively as per the existing guidelines and also grant of formal meetings in the form of Council meetings;
5. Facility of Special Casual Leave as per the existing procedure;
6. Deduction of union subscription from the salary of its members; and
7. Marking of copies of circulars / orders related to staff matters, such as general letters, orders, circulars, circle gradation list, etc., which are not marked as 'Top Secret', 'Secret', 'Confidential' or 'For Official Use only'.

B. Union securing 2% or more votes at All India basis

1. Space for Notice Board;
2. Telephone facilities as per existing procedure;
3. Facility of informal communication of significant common interest to the management;
4. Deduction of union subscription from the salary of its members.

C. Unions securing 50% or more votes in a Circle

1. Space for Notice Board;
2. Telephone facilities as per existing procedure;
3. Grant of informal meetings by the Management at the Circle;
4. Immunity from transfer as per existing ruling;
5. Deduction of union subscription from the salary of its members; and
6. Facility of Special Casual Leave subject to a maximum of 5 in a year.

D. Applicant Unions (facilities during membership verification period only)

In order to keep all the applicant unions on level playing during membership verification period, following facilities would be available to all the applicant unions :-

1. Space for Notice Board;
2. Telephone facilities as per the existing procedure;
3. Immunity from transfer as per existing rules;
4. Special Casual leave as per the existing procedure on proportionate time basis; and
5. Grant of meetings at all India / Circle / SSA levels with the officers concerned with the membership verification process on issues purely related to membership verification process.

Note : The facility of 'deduction of union subscription' extended to all the applicant unions shall continue.

IX General Guidelines

With a view to have optimum organizational productivity/competitiveness, focused interaction, environment of discipline, industrial peace and to promote/maintain cordial relations with the management, all the unions, role-modelled by the recognised unions, are expected to observe certain guidelines enumerated below, which are just illustrative in nature -

1. To promote mutual respect and decorum
2. To adhere strictly to the prescribed channel of communication with no level jumping
3. To take up the issues of its members which affect a group of employees and not to espouse or support the cause of an individual employee relating to service matter
4. To refrain from writing or publishing any objectionable/offensive material in their journals/web-sites/correspondences/communications
5. To avoid unscheduled meetings with the management except in emergent circumstances.

CODE OF DISCIPLINE

- I. To maintain Discipline in the Industry (both in public and private sectors) -there has to be (i) a just recognition by employers and workers of the rights and responsibilities of either party, as defined by the laws and agreements (including bipartite and tripartite agreements arrived at all levels from time to time) and (ii) a proper and willing discharge by either party of its obligations consequent on such recognition.

The Central and State Governments, on their part, will arrange to examine and set right any shortcomings in the machinery they constitute for the administration of labour laws.

To ensure better Discipline in Industry-

II. The Management and Union(s) agree-

- i. that no unilateral action will be taken with any company matter and that disputes will be settled at appropriate level;
- ii. that the existing machinery for settlement of disputes would be utilized with the utmost expedition;
- iii. that there would be no strike or lockout without notice;
- iv. that affirming their faith in democratic principles, they bind themselves to all future differences, disputes and grievances by mutual negotiations, conciliation and voluntary arbitration;
- v. that neither party will have recourse to (a) coercion, (b) intimidation, (c) victimization or (d) go-slow;
- vi. that they will avoid, (a) litigation, (b) sit down and stay in strikes and (c) lock outs;
- vii. that they will promote constructive co-operation between their representatives at all levels and as between workers themselves and abide by the spirit of agreements mutually entered into;
- viii. that they will establish upon a mutually agreed basis, a grievance procedure which will ensure a speedy and full investigation leading to settlement;
- ix. that they will abide by various stages in the grievance procedure and take no arbitrary action which would bypass this procedure; and
- x. that they will educate the management personnel and workers regarding their obligations to each other.

III. The Management agree -

- i. not to increase work loads unless agreed upon or settled otherwise;
- ii. not to support or encourage any unfair labour practice such as (a) interference with the right of employees to enroll or continue as union members, (b) discrimination restraint or coercion against any employee because of recognized activity or trade unions and (c) victimization of any employee and abuse of authority in any form;
- iii. to take prompt action for (a) settlement of grievances and (b) implementation of settlements, awards, decisions and orders;
- iv. to display in conspicuous places in the undertaking the provisions of this code in the local language (s);
- v. to distinguish between actions justifying immediate discharge and those where discharge must be preceded by warning, reprimand, suspension or some other form of disciplinary action and to arrange that all such disciplinary action should be subject to an appeal through normal grievance procedure;
- vi. to take appropriate disciplinary action against its officers and members in cases where enquiries reveal that they were responsible for precipitated action by workers leading to indiscipline; and
- vii. to recognize the union in accordance with the criteria (Part I).

IV. The Union(s) agree:

- i. not to engage in any form of physical duress;
- ii. not to permit demonstrations which are not peaceful and not to permit rowdyism in demonstrations;
- iii. that their member will not engage or cause other employees to engage in any union activity during working hours, unless as provided by law, agreement of practice;
- iv. to discourage unfair labour practices such as (a) negligence of duty, (b) careless operation, (c) damage to the property, (d) interference with or disturbance to normal work and (e) insubordination;
- v. to take prompt action to implement awards, agreements, settlements and decisions;
- vi. to display in conspicuous places in the union offices, the provisions of this code in the local language (s); and
- vii. to express disapproval and to take appropriate action against office-bearers and members for indulging in action against the spirit of this code.