



BHARAT SANCHAR NIGAM LIMITED

[A Government of India Enterprise]

CORPORATE OFFICE

[PERSONNEL-BRANCH]

BHARAT SANCHAR BHAWAN

4th floor, Janpath, New Delhi- 110 001

No: BSNLCO-PERS/14(11)/8/2022-PERS. LEGAL

Dated: 30.12.2022

Subject:- OA No. OA/021/150/2022 before Hon'ble CAT Hyderabad Bench - regarding

Hon'ble CAT Hyderabad Bench vide Order dated 11.03.2022 in OA No. OA/021/150/2022 filed by Sanchar Nigam Executives Association and others Vs. UOI & Others wherein the Hon'ble Tribunal has issued the following directions:

"...After perusal of records, we are of this view, that let the applicants Association, if not already made representation, make the same within a period of one week and respondents shall take a call on the representation within period of five weeks thereafter. It is needless to say that if they have not finalized the draft Recruitment Rules, no further action should be contemplated. It would be better if parties call for a discussion. In 2018 their demands were accepted but however in the draft Senior recruitment it has not been reflected. Once the objections are decided by the respondents, they are free to proceed further in accordance with law. Liberty is also given to the applicants to re-approach this Tribunal, if they are not satisfied with the order passed by the respondents.

With the above observation, the OA is disposed of at admission stage itself. It is also made clear that we have not gone into the merits of the case. No order as to costs."

2. However it is highly noteworthy at the threshold, both on facts and in law to record that OA No. 1328 of 2019 substantially praying for the grant of same reliefs filed by you, the SNEA on 17.12.2019, is sub judice, pending before the Ld. CAT Chandigarh, which a significant legal event both consciously and deliberately has been concealed by SNEA before Ld. CAT Hyderabad in the above OA, manifestly amounting to 'suppresso veri' resulting in various legal consequences.

3. However, de hors tearing hurry of SNEA in filing another OA before Ld. CAT, Hyderabad without waiting for the outcome of the Chandigarh's sub-judice matter, in obedience to the Ld. CAT Hyderabad directive, the Corporation has decided to send its reply to your representation received on 30.3.2022 with the following comments:

A. (i) A proposal namely "BSNL Executive Promotion Policy Amendment & Recruitment Rules 2017" (BEPPARR-2017) was though deliberated by Board of Directors of BSNL in its meeting held on 28.05.2018, it was approved only conditionally in the terms below:-

".....The Government Directors observed that the proposal for implementing the policy with retrospective effect may have legal and administrative implications. Further, the Board deliberated the policy and observed that the reservation policy implementation aspect may also need to be considered by the Management so that there are no contradictions to Court orders and Government policy. The Government Director mentioned that the policy, if required, it may be sent for Government approval. ..The Board was informed that the reservation policy implementation aspect largely gets addressed by the proposed policy itself, wherever any gap arises, the same will be taken care of while implementing the proposed policy. The Board after detailed deliberation approved the proposal as 'BSNL Executive Promotion Policy Amendment & Recruitment Rules 2017' with effect from the date of the meeting of the Board i.e. 28.05.2018, subject to the compliance of the Reservation Policy requirements of Government and Courts orders."

Thus the Board had accorded only the conditional approval.

(ii) The provisions of reservation under BEPPARR-2017 were examined by an internal Committee of BSNL officers and the report of the Committee was referred to nodal SCT Cell, BSNL Corporate Office for their opinion/views as to whether the BEPPARR-2017 is compliant with the reservation policy of Govt. of India. The nodal SCT Cell after detailed analysis has opined that the BEPPARR-2017 is not in compliance with the reservation policy requirements of Government and for further clarification, if any, the advice of DOT/DPE/DoP&T may be obtained.

(iii) The proposal of BSNL Executive Promotion Policy Amendment & Recruitment Rules 2017 was only conditionally approved by the BSNL Board. The policy is required to be notified/promulgated after receiving the clarification on reservation issue from its Administrative Ministry.

Resultantly, no such policy exists in BSNL '*in presenti*', its implementation being out of question, wholly denuding SNEA in claiming any promotions on the basis of a non-existent policy.

(iv) Consequently, interalia considering the sensitive nature of the issue of Reservation, BSNL has solicited appropriate guidance from its Administrative Ministry namely the Department of Telecommunications; Which vide its letter dt. 02.05.2022 has requested that BSNL may reconsider the proposal based on the present staff structure and strength and accordingly the proposal may be re-examined by the Board keeping in view the present staff scenario; appropriate action being taken thereafter.

(v) BSNL Board in its meeting held on 20-10-2022 has deliberated the matter in detail and in view of advice of Administrative Ministry regarding reexamination of the BEPPARR-2017 proposal, post VRS, BSNL Board has directed for examining the case in supersession of the earlier approval and to submit a detailed proposal considering all pros and cons in post VRS scenario and suggest the way forward to meet the organization needs, career progression and aspirations of the executives. Accordingly, a proposal as per the decision of BSNL Board shall be submitted.



(vi) A fortiori, the impending policy namely 'BSNL Executive Promotion Policy Amendment and Recruitment Rules-2017' has also to concur the Hon'ble Supreme Court's decisions relating to reservation in promotions, the latest decision laying down law on the subject delivered by the Hon'ble Supreme Court on 28.1.2022 in the case of Jarnail Singh etc. Vs. Lacchmi Narain Gupta & Ors. Pursuant to this Department of Personnel & Training of the Govt. of India, directions of which are followed by the BSNL in the matter of reservation in promotions has issued an OM dated 12.4.2022, copy annexed herewith. The said OM is self-explanatory, to be followed by all concerned.

(vii) It is categorically denied that BEPPARR-2017 was formulated in compliance with the directions of CAT, PB, New Delhi in OA 298/2002 and OA No. 1086/2010, which deal with another subject interalia relating to absorption of DOT Gr. B employees in BSNL.

(viii) Further in its decision dated 2.11.2010 in OA No. 1086/2010 titled DINESH KRISHNAN & ORS. VS UOI, Ld. CAT, Principal Bench, New Delhi, issued directions as under:-

"... We have jurisdiction to direct the respondents to reconsider the entire issue and then decide the promotional avenues to the applicants.

Resultantly, we dispose of this OA with a direction to the respondents to reconsider the entire matter regarding promotional avenues to the applicants as promised earlier by them having been implemented and consider their grievances, including the averments now taken before us in the OA and our observations made in the preceding paragraphs. A reasonable and prudent reconsideration as apt in law would culminate into a speaking order to be passed by the respondents within a period of three months from the date of receipt of a copy of this of order. No costs"

In compliance with the Hon'ble CAT's order dated 02.11.2010, BSNL issued detailed speaking order dated 08.02.2011 which attained finality as not challenged in any manner in any Court of law.

(ix) Comparison of promotion policies of BSNL with other CPSEs is wholly misplaced for various reasons principal ones of which are these:

BSNL in view of its size, ever increasing cut throat competition in the telecom market, nature of services, etc. cannot be compared with other PSUs like BHEL, NHPC, HPCL, etc. Moreover, BSNL was formed out of some Govt. Departments into a Corporation on 01-10-2000 whereas the other CPSEs were born as independent CPSEs right from their inception. DoT employees even on absorption in BSNL have been allowed Govt. pension under rule 37-A of CCS Pension Rules 1972, a great beneficial advantage unlike other PSUs. Rule 37A was especially included/promulgated in CCS Pension rules on the eve of formation of BSNL for extending benefit of govt. pension to BSNL absorbees. BSNL absorbed employees have been extended the benefit of GPF and Government gratuity at the time of their absorption in BSNL w.e.f. 1.10.2000. Thus, it is evident that any comparison of promotion policies of other CPSEs/Organizations with promotion policies of



BSNL (where absorption of erstwhile Govt. employees to BSNL was done in large numbers with continued & combined pensionary benefits of Govt. and BSNL) may not be apt as these different policies of different organizations are obviously meant for different set of employees of different organizations. BSNL in fact followed most of the DoP&T rules and guidelines as it has not framed its own rules on most of the subject till today.

Needless to state that each CPSE is founded by the government for achieving some specific public objective, its various policies framed, modified/changed to answer the requirement of the day.

(x) BSNL further states that in so far as the implementation of any fresh/changed policy is concerned, an employer interalia in consideration of its various needs pertaining to its avowed objectives has a sole right to determine from time to time as to what its HR policies shall be for its employees. Further before any policy is finally announced/declared, its implementation cannot be asked for in law under service jurisprudence, not creating any vested right in anyone, as is the stage of BEPPARR-2017 till date.

This prerogative of the employer gets further strengthened due to subsequent developments -in the present case very significant, the intervention of the central govt. by introducing 'BSNL Revival Plan' which included Voluntary Retirement Scheme 2019 under which a very huge number of employees have since retired with huge retiral benefits, paving way for restructuring of the entire HR policy of the organization.

B. (i) BSNL is having its own Executive Promotion Policy which takes care of both Time-Bound / Post Based Promotion. All the posts/grades have their own Recruitment Rules and promotion are being carried out meticulously as per their respective Recruitment Rules. As such, one grade/ post cannot be compared with other.

(ii) As regards promotional aspects of BSNL absorbed employees, Executive Promotion Policy (EPP) was introduced on 18-01-2007 applicable from the date of absorption i.e. 01-10-2000 and the first paragraph of EPP is reproduced below:-

'Pursuant to absorption of Group 'B' officers of various services/ cadres into BSNL, the BSNL Management had constituted a High Level Committee and subsequently a Sub-committee to sort out outstanding issues on account of absorption and to recommendations of these committees have been duly considered by BSNL Board in consultation with the Department of Telecom. Accordingly, approval of the competent authority is hereby conveyed to time bound/ post based executive promotional policy in respect of Group 'B' level Executives of BSNL as per details given below: '

(iii) It is clear from the above that EPP was brought pursuant to absorption of Gr. B officers in BSNL, approved after consultation with all the stake holders including the Executive Associations i.e. SNEA as well as AIBSNLEA. Thousands



of the employees including the applicants have already availed the benefits of Executive Promotion Policy, in practice for more than 20 years.

(iv) The relevant clauses of EPP are reproduced below:-

I- Time Bound IDA Scale Up-Gradation Policy :-

a. Scope:

Time Bound IDA scale up-gradations shall be provided to the Executives from Pay-scale of Rs 9,850- 250 14,600 (IDA) up to IDA pay scale of JAG Selection Grade (Rs. 17.500 400 22.300)

3.1 FIRST Upgradation:- The FIRST UPGRADATION of IDA Scale of individual Executive will be due for consideration on completion of 4 (Four) years of Service in the current IDA scale subject to the condition that the Executive's basic pay in the current DA scale has crossed / touched the lowest of the higher IDA scale for which his/her upgradation is to be considered OR he/she has completed 6 (Six) years of service in the current IDA scale, whichever is earlier.

3.2 SUBSEQUENT Upgradation: The subsequent upgradation of IDA scale to the next higher IDA scale will be due on completion of 5 (Five) years of service in the current IDA scale.

II- Post Based Promotion Policy :-

(ii) Post Based regular promotions, in tune with above hierarchy levels, be regulated as per provisions of concerned already notified / to be notified R/Rs of BSNL

(v) Consequent to grant of any post based promotion, the officer's pay will be fixed under FR 22 (1) (a) (1) only in cases where such post carries higher scale from the current scale of the executive being promoted. Further, where executives pay scale is the same as that of promoted post, benefit of one increment in the current scale of the executive shall be granted on promotion. However, in cases where the executive's pay is higher than that of promoted post, Such post based promotions will be treated as placement with grant of substantive status of the post. Further, except as provided in instant guidelines, no claim will lie on account of any of the other provisions of FRSR in the context of pay scale's, pay fixation, substantive status etc.

(vii) Reservations to SC/ST Executives will be provided as per standing instructions on the subject.

From the above, it is clear that EPP consists of two parts namely :-

(I) Time Bound financial upgradation from pay scale of Pay-scale of Rs 9,850- 250 14,600 (IDA) up to IDA pay scale of JAG Selection Grade (Rs. 17.500 400 22.300) in every 4 to 6 years.

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(II) Post based promotion as per respective RR.

(v) BSNL has notified the Executive Promotion Policy (EPP) dated 18.01.2007 for Group B equivalent executives in line with absorption conditions (absorbed from government service as well as directly recruited employees) which is statutory in nature, framed with the approval of highest decision making body in BSNL i.e. BSNL Board in concurrence of Administrative Ministry i.e. DoT and made operational retrospectively w.e.f. 01.10.2000. The existing Executive Promotion Policy (i.e. BSNL EPP 2007) which in fact is a dual promotion policy envisages time bound as well as post based promotion of Group B equivalent absorbed/ directly recruited executives in BSNL i.e. ensuring time-bound IDA pay scale upgradation from pay scale Rs. 9850-250-14600 (IDA) to IDA pay scale of JAG selection grade (Rs 17500-400-22300) without any linkage to availability of posts and post based promotion in functional grades in accordance with respective recruitment rules to Group B equivalent absorbed employees in BSNL in the prescribed hierarchy. The Time Bound Pay Upgradation for Group B equivalent executives (absorbed and directly recruited) and some Group 'A' (JTS/STS) level executives is effective from 01.10.2000. Post based promotions are being carried out as per the respective/existing Recruitment Rules notified from time to time.

(vi) BSNL has thus put in place dual promotion policy which ensures five time bound financial Upgradation in a career of an executive from E1 to E6 pay scale almost every 5 years and post based promotion in accordance with applicable RRs on fulfilling prescribed eligibility in respective grades (ranging between 3 to 7 years). The regular promotions under existing RRs have already progressed and any further scope of time bound functional promotion may lead to highly imbalanced hierarchy and reporting structure. The benefit of double pay fixation (i.e. one at the time of time bound upgradation and other at the time of functional promotion) was also made available under EPP, sharply distinct from the policies of other PSUs/organizations.

(vii) Thus the assertion that BSNL is deviating from the assurances at time of absorption (which took place w.e.f 01.10.2000) is totally wrong & misconceived. Raising this issue even after 21 years of absorption is wholly uncalled for and violative of the administrative continuity principle.

(viii) As regards stagnation in promotion, the allegation of the applicant Association against Management is not true. Post based promotions in various grades/cadres/ Streams (except few cases where Court Stay is in force) has been completed for vacancies up to 31-12-2022 for vacancy year 2022.

(ix) (a) BSNL has notified special VRS scheme w.e.f. 31.01.2020. Around 78500 employees have taken VRS under special VR Scheme-2019 and BSNL is left with only 63000 employees as on date. Employee's situation has drastically changed as compared to 2018 when BEPPARR-2017 was submitted to BSNL Board for



approval, necessarily paving way for requisite restructuring of Corporation's HR Policy.

(b) BSNL Board has approved the current proposal on the condition that while implementing the proposed policy, it needs to be ensured that it should comply with the reservation policy of Government of India and related court orders. The proposed policy has larger policy issues related to reservation in promotion and therefore guidance as well as concurrence of Administrative Ministry for further course of action has been sought which has been received vide their letter dt. 02.05.2022 as given in Para 3 A(iii) above.

(c) Now in the changed scenario, promotion upto vacancy year 2022 for vacancies up to 31-12-2022 (except few cases) as per existing RRs has already progressed despite mammoth VRS of around 78500 officials.

(d) As per service jurisprudence right of the Management to regulate all aspects of employment including notification of any new HR policy, a fortiori in the unusual scenario of VRS of more than 50% staff cannot be gainsaid.

C. (i) IDA Pay scales on absorption of Gr. B officer in BSNL as per para 5.1 of letter dated 02-09-2003 has been presented differently by the Applicant Association wherein they have additionally shown the post/level (E1A, E2A, E3, E4, E5) corresponding to each scale which was rather non-existent in the said letter of terms of absorption. The details of corresponding IDA pay scales that will be given on absorption in BSNL in replacement of existing CDA pay scales vide Annexure II of letter dated 02-09-2003 are reproduced below:-

S.No.	Existing CDA Pay Scales	Corresponding IDA Pay Scales
1.	5500-175-9000	7800-225-11175*
2.	6500-200-10500	9850-250-14600
3.	7500-250-12000	11875-300-17275
4.	8000-275-13500	13000-350-18250
5.	10000-325-15200	14500-350-18700
6.	12000-375-16500	16000-400-20800

*The scale is under revision. Subject to approval of DoT/DPE, the revised IDA pay scale of 7830-230-12430 will be given.

(ii) E1A pay scale of Rs.9850-14600 was approved against CDA pay scale of Rs. 6500-10500 and E2A pay scale of Rs. 11875-17275 was approved against CDA pay scale of Rs. 7500-12000 in order to facilitate absorption. IDA pay scales have been revised w.e.f. 01.01.2007 vide DOT notification No. 61-1/2009-SU dt. 27.02.2009. In the notification it was mentioned that proposal of BSNL on E1A and E2A shall be dealt separately. Based on that BSNL vide its order dt. 05.03.2009 notified the revision of pay scales w.e.f. 01.01.2007 which provides that revised IDA scales for E1A and E2A will be notified later. It also provided that in respect of executives in E1A and E2A scales, their pay may be fixed in the revised E-1 & E-2 IDA scales respectively. The JTO RRs framed in 2014 contains the pay scale of Rs. 16400-40500 (E1), not challenged in any legal forum.



(iii) On proposal of BSNL for reconsideration of revised IDA pay scales for E1A and E2A in BSNL, the Administrative Ministry (DoT) in consultation with DPE vide its letter dated 18-07-2014 had informed as under:

“--that the proposal of BSNL to introduce E1A, E2A & E9A IDA pay scales for their executives was sent to DPE for offering their comments/views vide their letter No. 61-1/2014-SU dt. 30.05.2014. In response now DPE vide letter No. W-08/0002/2014-DPE(WC) dt. 09.07.2014 has stated that DPE vide OM dated 2.4.2009 has clarified that there is no justification for introducing intermediary pay scales and if there have been any aberration they need to be corrected. It was also clarified that every officer has to be fitted in to corresponding new scales. It has been observed that DOT itself has not agreed to the proposal of introduction of intermediary pay scales by BSNL for the reasons indicated in their communication to DPE.

In view of the above DPE is in agreement with the views of DOT and there is no scope to introduce intermediary scales of pay in 2007 pay revision in light of DPE guidelines”.

(iv) Subsequently, DoT, vide its Presidential order dated 28-03-2017 conveyed the settlement of E1A and E2A pay scale. As Associations/Unions were not satisfied with this presidential order, BSNL requested DoT to reconsider and convey approval for grant of E2 and E3 pay scales w.e.f. 01-01-2007 in replacement of E1A and E2A pay scale for JTO/SDE and equivalent grades. Recommendations of BSNL about revision of pay scales are subject to approval by nodal Ministries/Department of GoI (i.e. DoT/DPE). DOT vide its letter dated 29.04.2022 has conveyed that the proposal of BSNL for upgrading the scales cannot be agreed to.

(v) E1A and E2A pay scales provided at the time of absorption of Gr. B officers in BSNL were meant for erstwhile Gr. B officers of Govt. absorbed in BSNL. There was no commitment at the time of absorption to continue the benefits of E1A and E2A pay scale to fresh executives appointed by BSNL against an open notice of recruitment. The contention of SNEA that BSNL made recruitment in pre-revised scale of E1A and E2A after 2007 but now seeks to introduce new recruitment rules with lower pay scales of E2 and E1 for SDE/AO and JTO/JAO equivalent cadre w.e.f. 1-1-2007 is not correct as recruitment advertisements of JTO/JAO equivalent cadres issued after promulgation of revised pay scales specifically mention pay scale of the E1 and not E1A.


D. (i) As a part of Government revival package for BSNL, VRS scheme-2019 approved by Government of India was implemented in BSNL w.e.f 31.01.2020 and more than 50% of its workforce opted for VRS. Man power realignment interalia due to significant advancement in technology, use of IT tools in various functions, new initiative by business verticals, changes in business model and business processes, effective utilization of manpower and efficiency in operation necessitated framing of revised manpower plan by BSNL. Interalia based on all these considerations, BSNL Board approved its total manpower requirement along

with revised sanctioned strength post VRS restructuring in different grades and the modifications in Recruitment Policy in November, 2021.

(ii) Implementation of revised Manpower plan approved by the BSNL Board, latest guidelines of DoPT in the matter of inter-se-seniority and the fact that most RRs were framed about 20 years ago in 2002 necessitated the revision in modification of existing Recruitment Rules in tandem with DOP&T guidelines. Accordingly, Committees of Senior officers were formed for revision of various Recruitment Rules. Draft Recruitment Rules-2022 as recommended by the Committees for the JAO and equivalent level and SDE(T) have been circulated to the recognised Associations/Unions for their views/suggestions vide letters dt. 01.02.2022 and 09.02.2022. Valuable comments/views have also been received from all the recognised Associations/Unions. Thereafter the Revision of RRs of SDE(T) and equivalent level of other streams has been considered by BSNL Board in its meeting held on 28.03.2022 subject to fulfillment of conditions prescribed by it. Appropriate action being taken thereafter. BSNL Board has also approved revision of Recruitment Rules of JAO in the post VRS Scenario. As such the present claim of the SNEA to abandon the exercise of revision of Recruitment Rules, is not justifiable.

4. Interalia for the various reasons given in the foregoing paragraphs, the present representation made by SNEA is wholly unsustainable both on law and facts. The same as such does not call for any action at the Corporation's end.

This issues with the approval of competent authority.


30/12/2022
Asth. General Manager (Pers. Policy)
BSNL Corporate Office

To

1. Shri Kulla Suresh, Circle Secretary, SNEA, Telangana Circle, BSNL
2. Shri S.Murali Krishna, SDE, CNTX-South, Hyderabad
3. Shri D. Babu Rao, SDE(C), Civil Division-I, Telangana Circle, BSNL
4. Shri Chintala Jagadish, JTO(Arch), Telangana Circle, BSNL
5. Shri Ravinder Chawan, SDE(Elect), Telangana Circle, BSNL
6. Shri Nallabelli Maraiiah, SDE, O/o CGM, Telangana Circle, BSNL
7. Shri Samala Srinivas, SDE, ITPC, Hyderabad
8. Shri M. Naga Babu, JTO, Telangana Circle, BSNL
9. Shri K. Vemulu, JTO, Telangana Circle, BSNL
10. Shri Y. Raghu Babu, JAO, Telangana Circle

Copy to:

CGMT BSNL, Telangana Circle/CNTX-S/ITPC with the request that the order may be delivered to concerned executives under acknowledgement, please.