



Sanchar Nigam Pensioners' Welfare Association

Reg. No: SOCIETY/WEST/2021/8902564

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SNPWA/ GM(P)/1/23

Dated 12th June, 23

To PGM(P),
BSNL Corporate office

Subject: Request for appropriate and expeditious action to recast seniority and pay consequential benefits thereof strictly in consonance with the Judgments delivered by the Apex Court in the year 2015 and 2017.. on the 206 seniority

Sir,

The genesis of this entire issue rests on the Judgment of Chandigarh CAT in Nandlal Jaswal & Ors Vs BSNL & Ors in TA-47/PB/9 dated 26.05.09 decided which adjudged interalia:

“The respondents should not have taken a hypo-technical point that the applicants do not have any decision in their favour from Supreme Court, High Court or CAT. Also the view taken by respondents that benefit is to be given to applicants in IA-16 in CA 4339 of 1995 is erroneous as IA-16 was filed to seek clarification in CA-4339 of 1995. It was decided by Supreme Court that promotions made would not be adversely effected. Therefore the issue decided therein would apply to all those who fall in this category and not only to those who were party in IA-16”

PB CAT on 18.08.2009 extended the same judgment to a number of applicants of BSNL/MTNL in OA-1514/2009, P Senthilakumaralingam & Ors Vs UOI & Ors. Further PBCAT in a review petition R.A. NO.196/2009 in O.A. NO.1514/2009 and along with so many other petitions pending before the bench viz O.A. NO.2532/2009, M.A. NO.1715/2009; O.A. NO.2393/2009; O.A. NO.2394/2009; O.A. NO.2395/2009; O.A. NO.2913/2009; O.A. NO.362/2009, M.A. 8NO.262/2009; O.A. NO.754/2009, M.A. NO.514/2009; O.A. NO.2763/2008, M.A. NO.2055/2008; T.A. NO.1013/2009; O.A. NO.277/2009, M.A. NO.909/2009, and as BSNL had already filed a petition No.CWP-14817/2009 against the Chandigarh CAT Judgment, passed an order dated 04.12.2009 that now decision of Punjab and Haryana High Court will be binding on everybody and gives liberty to all petitioners & respondents to implead in the case.

In view of very comprehensive discussions, covering every gamut of the issue and meticulously apprising you of every aspect in elaborate manner, that we had had with your good self on

30.05.2023 in our scheduled meeting and in view of fresh inputs provided by us fully justifying and substantiating adequately our plea that the decision taken by BSNL Management to hold review DPCS without extending consequential benefits, in flagrant contravention of the following Judgments of Hon Supreme Court of the year 2015 and 2017, needs to be revisited to fully comply in letter and spirit with the below mentioned Judgments.

Hon'ble Supreme Court Judgments (2015) 12 SCC 360 and the final order dated 14.12.2017 in Civil Appeal No. 4389/2010 titled as "Union of India & Ors Vs Sohan Lal syal & Ors" are amply unambiguous in so far as their implementation wrt both seniority and payment of consequential benefits accruing thereof are concerned and, in view of these undisputable and irrefutable facts, you were kind enough to agree that there is need to review the implementation of these Supreme Court Judgments decided and acted upon by BSNL Management.. These facts and Judgments of the Apex Court are enumerated below

1. In its 2015 judgment Hon'ble supreme upheld the Judgment of Punjab & Haryana High court Judgment dated 25.11.2011, which had upheld the Tribunals decision in NandLal Jaswal & Ors. Very categorically adjudicated and reiterated unequivocally in one line (Para-14 of the Judgment)
"In the light of our above conclusion, there is no scope to interfere with the judgment impugned in these appeals."
2. This judgment again was reiterated by Supreme Court in its final Judgment dated 14.12.2017 in CA-4389/2010, Union of India & Ors vs Sohan Lal Syal & Ors, Para-7 ***"The Judgment of this court in (2015)12SCC360(Supra) will be treated as final between the parties on the principle of Seniority."*** However on the plea of BSNL expressing inability to pay the consequential benefits because of its financial position decided further as in para-8 ***"We, However, make it clear that no arrears will be paid in terms of impugned judgment. Consequential benefits of pay fixation including the pensionary benefits, if any, will be payable in terms of impugned judgment only w.e.f. 01.01.2018 and not for the past."***
3. In the context of these Judgments everyone by 206 seniority criteria are covered by these Judgments of Supreme Court *both in terms of re-fixation of Seniority and payment of consequential benefits except that consequential benefits to those whose implementation of restored seniority pending on 14.12.2017 will be given arrears wef 01.01.2018*
4. In view this, the entire exercise of holding review DPC by BSNL without extending consequential benefits is in total contravention of the Supreme Court Judgments whereas implementation has to be done exactly in the manner as already extended to hundreds and hundreds of officers in BSNL/MTNL on piecemeal basis.

5. BSNL's decision vide circular dated Feb 11, 2009 No. 2-13/2008-Pers (DPC) stands completely negated by the Hon'ble Supreme Court judgments and everyone covered by restored 206 seniority is at par except wrt the date of effect of payment of consequential benefit arrears.
6. What is of crucial significance and requires to be highlighted is that Hon'ble Supreme Court duly considered the financial position of BSNL and despite stiff opposition by the respondents Apex Court acknowledged and recognized the financial constraints of BSNL, thus restricting payment of arrears of consequential benefits wef 01.01.2018 and not from the retrospective effect that was already extended to hundreds and hundreds. This amendment of 2015 Judgement by Apex Court in 2017 thus paved the way for smooth implementation of the Judgment from perspective of BSNL since more than 90% eligible to get arrears wef 1.1.2018 had already retired, thus rendering financial liability on BSNL for payment of arrears virtually NIL and handful of all working officers eligible to get arrears from 1.1.2018 took VRS on 31.3 2019.
7. Though a good number of implementation orders already correctly effected by BSNL, some of them on the directions of DoT, have already been submitted to your good self as fresh inputs and the intricacies and entire background of this 206 case was discussed at length, we are quoting here under some of the orders implemented by BSNL in conformity with the Judgments of the Apex Court as an illustration to be followed by BSNL to implement Judgment of Apex Court in its proper perspective for the remaining left out officers..
 - i) BSNL order No.15-07/2007-Pers-II(DPC)/18 Dt. May 8th 2009
 - ii) BSNL order No. 412-06/ 2008-Pers.I Dt March 18 2009
 - iii) BSNL Order No. 412-24/2010-persI. Dt Oct 11th 2012
 - iv) BSNL order No.412-12/2013-Pers I. Dt. March 10 2014
 - v) BSNL (KRL) order No. ST/III-3-25[®]/2009/Pt/16 Dt 25.09.2010
 - vi) BSNL Order No. 54-43/2009-Pers (Legal) July 23 2010
 - vii) BSNL Order No.412-18/2011-Pers.I(pt) dt 15.02.2012

We are thankful BSNL Management for implementing the 1st part of Judgment relating to restoration of seniority but BSNL has completely breached Judgments of Apex Court in so far as extending consequential benefits wef 1.1 2018 is concerned and that is precisely the crux of the issue which merits very serious reconsideration and review of the decision of BSNL for extending consequential benefit.

in view of the above we request your good self to kindly decide on the proper implementation of 2nd part of 2017 Judgment of Supreme court for grant of consequential benefits wef 01.01.2018 which remains unimplemented, in blatant violation of the Judgment of the Apex Court.. This

blatant violation of Apex Court Judgment undoubtedly and unquestionably and unjustly deprives thousands of retired TES Gr'B' officers of their their meagre but fully legitimate financial benefit, if any, and that too does not entail any financial burden on BSNL since it would result in meagre increase in their pension only.

Regards

Sincerely yours

A handwritten signature in blue ink, appearing to be 'G L Jogi', written over a horizontal line.

(G L Jogi)