



ALL INDIA
BHARAT SANCHAR NIGAM LIMITED
OFFICERS' ASSOCIATION

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No.AIBSNLOA/CHQ/2013/

Dated: 13th March 2013

To

Shri R.K.Upadhyay,
Chairman and Managing Director,
Bharat Sanchar Nigam Limited,
New Delhi 110001.

Sub: **Amendment in the schedule of Disciplinary, Appellate and Reviewing
authorities as contained in BSNL CDA Rules 2006 – reg**

Ref: *BSNL No.10-5/2012-WS&I dated 24th January 2013*

Sir,

We would like to draw your kind attention to BSNL letter cited under reference conveying amendments in the schedule of Disciplinary, Appellate and Reviewing authorities as contained in BSNL CDA Rules 2006 giving disciplinary powers to officers holding or entrusted with the charge of the office of CGM or equivalent and GM or equivalent.

2. We are of the view that these amendments are contrary to Government of India Instructions on the subject. DG P&T Memo No.STB 112/213/49 dated 15.12.1949, read with Memo of even number dated 26th February 1951 had clarified that an officer who is merely looking after the current duties of a higher officer is not competent to exercise disciplinary or appellate powers of the latter, if he himself is not vested with such concurrent powers of his own post.

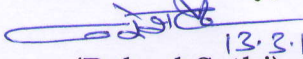
3. Further, according to MHA OM No. 7/14/61-Ests. (A) dated 24th January, 1963, "An officer appointed to perform the current duties of an appointment can exercise administrative or financial power vested in the full-fledged incumbent of the post but he cannot exercise statutory powers, whether those powers are derived direct from an Act of Parliament (e.g. Income Tax Act) or Rules, Regulations and Bye-Laws made under various Articles of the Constitution (e.g., Fundamental Rules, Classification, Control and Appeal Rules, Civil Service Regulations, Delegation of Financial Powers Rules etc.)"

4. The above position has also been confirmed by the full bench of Hon'ble Supreme Court of India in the case of *Girja Shukla v. SDO Harda*, 1973 LLJ 405. The observations of the court are: "There is a difference between a person appointed to officiate in a higher post and a person who is merely placed in current charge of duties in a higher post. Such a person without being clothed with that rank as in the case of an officiating appointment can only exercise administrative or financial powers vested in that incumbent, but not any statutory powers of the post."

5. Therefore the amendments, as circulated vide BSNL's above cited office letter, will not stand legal scrutiny and are bound to fail if contested in a court of law. We therefore request that the amendments be withdrawn forthwith.

With kind regards,

Yours sincerely,


(Rakesh Sethi)
o/c General Secretary

Copy to:

1. Shri Sanjeev Sharma,
Chief Vigilance Officer, BSNL
2. Shri P.K.Misra,
Secretary, DoPT, New Delhi