



**ALL INDIA
BHARAT SANCHAR NIGAM LIMITED
OFFICERS' ASSOCIATION**

**CENTRAL HEAD QUARTERS
AD-87B, Pitampura, Delhi-110034.**

President
K. RAJASEKARAN
Mobile: 09443100950

Finance Secretary
SWAPAN K. BHATTACHARYA
Mobile : 09434136566

General Secretary
RAKESH SETHI
Mobile: 09868210449

No.AIBSNLOA/CHQ/2017/33

Dated: 16th August 2017

To

Ms. Sujata Ray,
Director (HR),
Bharat Sanchar Nigam Limited,
New Delhi

Subject: Extension of benefits to departmental officials selected against Direct Recruit JTO Quota who had applied through proper channel – option for fixation of pay in revised scale on date of promotion-reg

R/Madam,

We seek your kind attention towards a long pending issue relating to TTAs selected against DR JTO Quota who had applied through proper channel as Departmental Outsider and have been denied the benefit of option for pay fixation in revised IDA pay scale on the date of their promotion as JTO.

2. These TTAs applied for JTO DR Recruitment of 2007 through proper channel, as departmental outsider and got selected to the post. After training they were appointed on various dates as JTO in the year 2009. As wage revision of non-executives was not in place at that time, they got their pay fixed in the pre-revised JTO scale of 9850-250-14600 on the date of their promotion to JTO grade.

3. Later, when Pay revision w.e.f. 1.1.2007 for non-executive employees was ordered vide BSNL letter No.1-16/2010-PAT (BSNL) dated 7.5.2010, it was provided under Para 3.6 that **"The non-executives can opt for the revision of pay on 01.01.2007, or from the date of promotion after 01.01.2007, or from the date of next increment in the existing scale. The option under this shall be exercised in writing in the form as per Annexure- II so as to reach the authority within a period of three months from the date of issue of this order."**

4. It was also clarified vide BSNL letter No. 1 -37/2010-PAT(BSNL) dated 18.5.2011 that **"the Non-executives, who got promotion/financial upgradation under ACP Scheme from Non-executive grade to Executive grade between the period 1.1.2007 i.e. the date of revision of IDA pay scales and 7.5.2010 i.e. the date of issuance of Office Order No.1-16/2010-PAT(BSNL) may be allowed to exercise of option for fixation of pay in the revised pay from the date of their promotion/financial up-gradation under ACP Scheme."**

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5. But vide BSNL letter No.1-07/2012-PAT (BSNL) dated 28.3.2012, another clarification was issued that "The matter has been examined and it is hereby **clarified that the appointment given under direct recruitment outside quota after tendering technical resignation by the employee cannot be treated as promotion.** Therefore, such employees are not entitled for exercising the option for fixation of pay in terms of the para 3.6 of this office order dated 07.05.2010", thereby denying the benefit of option for pay fixation in the revised scale on the date of promotion from non-executive to executive scale in respect of departmental outsiders.

6. Many Circles implemented the BSNL order dated 18.5.2011 by providing option to those TTAs who had applied through proper channel for appearing in the Direct Recruitment examination for JTO and had been appointed as JTO after 1.1.2007, for fixation of their pay in revised JTO scale from the date of appointment as JTO. But a few circles denied such fixation quoting BSNL letter dated 28.3.2012, **thereby creating a situation where the JTOs in these circles are drawing much lesser pay than their counterparts in other circles.**

7. The whole issue is pivoted on BSNL's defective interpretation that "the appointment given under direct recruitment outside quota after tendering technical resignation by the employee cannot be treated as promotion." **This clarification is not based on any rules but merely based on an assumption that 'appointment' under DR quota is not 'promotion'.**

8. **We would like to point out that other CPSEs consider such 'appointment' as 'promotion'.** To cite a few examples, **Power Grid Corporation of India Limited**, A Govt. of India Enterprise, follows the rules that "In case of a departmental candidate appointed through selection against open advertisement or internal circular, the pay will be fixed at the minimum of the scale of pay of the post to which he is appointed **or according to the principle as followed in fixation of pay on promotion**, whichever is more favourable to him." [Clause 3.1.5 of Page 105 from Policy Manual of Power Grid Corporation of India - link:

<http://hr.powergridindia.com/HRWebSite/RTIInfo/payfixationrules.pdf>

9. **Central Railside Warehouse company Ltd.**, a subsidiary of Central Warehousing Corporation, follows the rules that "**Pay of departmental candidates selected for higher post against open recruitment will be fixed as on promotion.**"

[Clause 34.1 of Page 21 from CRWC Employees' Service Rules 2013 - link:

https://www.crwc.in/CRWC/pdfs/Employees_Service_Rules_2013.pdf

10. **Council of Scientific and Industrial Research (CSIR)**, an autonomous body operating through Societies Registration Act 1860 under Ministry of Science & Technology, in its circular No.1/68/83-Finance, dated, the 24th January 1992, has conveyed the clarification by Department of Expenditure thus: "Certain cases of wrong fixation of pay of serving Scientists on their selection against an advertised post have come to the notice of CSIR. In this regard clarification was sought from the Ministry of Finance, **Department of Expenditure who have since clarified as follows:**

"When a serving employee applies for higher post through proper channel in response to an advertisement, his appointment to the post applied for cannot be treated as an initial appointment. In such cases the pay is fixed either under normal rules or as recommended by the Selection Committee. Both the benefits

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cannot be given at a time. If the recommendation of the Committee is to fix the pay under normal rules, the benefit of FR 22(C) is admissible, if the selected employee was holding the lower post. In case the Selection Committee recommends advance increments, in that case, neither pay protection is admissible nor benefit of FR 22(C) is admissible and instead only advance increments with reference to the minimum of the scale of post are admissible. This process is adopted even in cases where advance increment(s) are recommended by UPSC....." [Para 22.5.23 of Pay Fixation document of CSIR vide CSIR D.O. No. 1/68/83-Finance, dated, the 24th January, 1992 – link: <http://www.csir.res.in/document/pay-fixation>]

11. It may also be noted that condition for fixation under FR 22 (I) (a) (1) [formerly FR 22C] itself provides for such fixation on **promotion or appointment to another post carrying duties and responsibilities of greater importance** than those attaching to the post held by him.

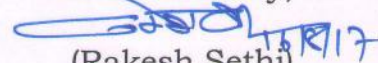
12. Suppose among two TTAs drawing same basic pay, one is promoted as JTO through LICE and the other appointed as JTO through DR quota as departmental outsider and both are appointed as JTO on the same date, denying the option for pay fixation from the date of appointment as JTO in the latter case will result in unwarranted anomaly and discrimination.

13. A large number of TTAs promoted as Departmental Outsider to JTO grade has been affected by the clarification issued vide BSNL letter No.1-07/2012-PAT (BSNL) dated 28.3.2012 resulting in frustration and heartburn.

14. We therefore request that the issue may be re-examined based on the above facts and the clarification issued vide BSNL letter No.1-07/2012-PAT (BSNL) dated 28.3.2012 may be withdrawn, so that the major discrimination against departmental outsider is removed.

With kind regards,

Yours sincerely,


(Rakesh Sethi)

General Secretary

Copy to: 1. Ms. Anima Roy,
General Manager (Estt)
BSNL CO New Delhi
2. Shri A. M Gupta,
G.M. (SR), BSNL CO, New Delhi