

**CWC
MEET
2013**

ALL INDIA BSNL OFFICERS' ASSOCIATION

CHQ NEW DELHI

REPORT OF THE GENERAL SECRETARY

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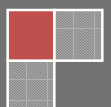
CENTRAL WORKING COMMITTEE MEETING

HELD ON 29TH & 30TH SEPTEMBER 2013

AT NEW DELHI



**ALL INDIA BSNL OFFICERS'
ASSOCIATION CHQ. NEW DELHI**



ALL INDIA BHARAT SANCHAR NIGAM LIMITED OFFICERS' ASSOCIATION.
Central Head Quarters, New Delhi.

Report of the General Secretary placed in the Central Working Committee Meeting of AIBSNLOA held on 29th September and 30th September 2013 at New Delhi.

Respected President and dear Comrades,

This is the first CWC of **All India Bharat Sanchar Nigam Limited Officers' Association** after its first All India conference which was held in a very grand manner in Trichy Tamilnadu on April 20th and April 21st 2012. This report is a sincere effort in recording in detail all the important developments affecting BSNL and its Executives witnessed during the intervening period and the views, role and activities of AIBSNLOA related to these developments. On a few issues past history has also been narrated so as to refresh the memories of the CHQ office-bearers, CWC members and Circle Secretaries with a view to equipping them for the impending Membership Verification.

2.0 AIBSNLOA'S STATUTE:

2.1 This report will show that AIBSNLOA has become a force to reckon with in all the important issues and has influenced decisions taken by the BSNL Management and activities of other associations and unions in BSNL. In all the important matters like Amendments to SDE RR, amendment to AO RR, proposed MTRR-2013, Cases wherein senior Executives are getting lower pay than their juniors due to getting of adhoc promotion in the next IDA pay scales before the date of their IDA pay scale upgradation under Executive Promotion Policy, proposals on CPSU cadre hierarchy and Pension Scheme for BSNL recruited employees, the Management sought for our views/comments and our studied response in each issue has had a definite impact on the decision making. In other issues like DGM Direct Recruitment, Amendment to the RR of PS and the Issue of treating promotion to the grade of AAO and Sr.AO as first time bound upgradation in IDA pay scale, our views have been duly considered. Similarly other associations and unions had to take up many issues like benefit of 78.2% fixation, E2, E3 scales for JTOs, SDEs and equivalent cadres only after we projected the issues and created awareness among the Executives and employees. On many occasions we see that the other associations follow suit after we raise important issues pointedly with specific justification and rationale.

3.0 FUNCTIONING OF CIRCLES:

3.1 After the AIC at Trichy, Circle bodies have been formed in UP West, Punjab, Haryana, J&K and ALTTC Circles. Efforts are on for forming circle bodies in the remaining circles. There have been hectic activities in Tamilnadu, Chennai Telephones, Madhya Pradesh, UP West and West Bengal circles. Other circles should strive to be more active by holding periodical meetings. CHQ has taken care of the individual cases like transfers, promotion and postings relating to all the circles and some proper implementation of policy issues like transfer policy in respect of some circles. All the circles should hold their Annual General Body meetings in accordance with the Constitution, which will be monitored in the coming days in view of the membership verification.

4.0 FITMENT BENEFIT OF 78.2% IN REVISED PAY SCALES W.E.F. 1.1.2007:

4.1 We need to recollect all that happened ever since the DPE orders on Second Pay revision for Executives and Non-unionised supervisors of CPSEs were issued on 26.11.2008. We need not overemphasize the fact that it was AIBSNLOA which first pointed out the deficiency in DPE orders dated and wrote to DPE. In its letter dated 8.12.2008, AIBSNLOA wrote that, "Further, as per the order issued by DPE, the fitment

will now be uniform @ 30 % on basic pay plus DA at 68.8% as on 01-01-2007. Now w.e.f. 01-01-2007, 50% of DA is merged with basic pay in most of CPSEs. Thus on 01-01-2007, an Executive was actually drawing his basic pay in the scale + 50 % D.P. + 18.8 % DA on pay plus DP. That is, they were drawing, in effect 9.4 % of pay more due to DA merger. But the 2nd Pay Revision Committee did not consider the DA merger while suggesting fitment formula and had recommended fitment benefit of 30 % on basic pay plus 68.8% DA only. And this fitment benefit recommended by 2nd Pay Revision Committee has been accepted by the Government without any improvement. It is worth mentioning here that the 6th Central Pay Commission also recommended a fitment benefit on basic pay plus 74% DA on 01-01-2006 for all Central Government Employees and did not take into consideration the DA merger for fitment. It has even specifically stated that DA merger is not taken for pay fixation. But the Government improved over the recommendation of the 6th Central Pay Commission for Central Government Employees in respect of fitment formula. It took the DA merger into consideration and allowed a multiplication factor of 1.86 as against the multiplication factor of 1.74 recommended by 6th CPC and added the grade pay which was 40 % of maximum of the pay band. Unfortunately, such an improvement on fitment formula has not been considered by the Government for the Executives of CPSEs. In view of the above stated position, the DA merger needs to be considered for fitment benefit in respect of all the CPSEs where 50% of DA was merged. In respect of other CPSEs where merger did not take place, the same fitment formula can be applied by considering as if the DA merger had taken place.”

4.2 Subsequently the Associations of Oil PSU officers and employees went on a strike on various issues which included the above demand. Although the Government acted harsh trying to crush the strike, it constituted a Group of Ministers to go into the issues raised in the strike. On the recommendations of the GoM, the Department of Public Enterprises, vide its O M No. 2(70)/08-DPE(WC)-GLVII/09 dated 02.04.2009 issued certain modifications to its earlier O.M. dated 26.11.2008 introducing revised IDA pay scales for the Board level & below Board level posts including non-unionized supervisors in the CPSEs. In its O.M. dated 02.04.2009, had conveyed its decision under Para 2 sub-Para i) that,

“Benefit of merger of 50% DA with Basic Pay for fitment purpose: The benefit of merger of 50% DA with Basic Pay w.e.f.01.01.2007, **effectively amounting to 78.2%**, would be allowed for the purpose of fitment and pay fixation in the revised pay scales (para 2 (i) of DPE O.M. dated 26.11.2008).” and under Para 3 that,

“Government has also decided that benefits under this O.M. read with the earlier decision as conveyed vide O.M. dated 26.11.2008 and 09.02.2009 has to be viewed as a total package. It has also been decided that the pay revision package as communicated by earlier O.Ms. along with **the above modifications would be applicable to all the CPSEs.**”

4.3 We took up the matter immediately with BSNL, DoT and then the MoC. But BSNL was in no mood to implement the DPE instructions. The two Executive Associations which had the facilities and patronage of the BSNL Management chose not to raise the issue. In a joint letter to the then CMD they wrote on 13.8.2009: **“Yes, if for the moment we are playing down so many genuine requirements of ours including the implementation of DPE O.M. dated 02.04.2009 for 78.2% IDA fitment, perks on revised pay scales etc. it is not because of our weakness but because of our immense strength, both moral and physical. Yes, it takes great Associations to convince its members to put the interest of this Company before their own interests, genuine, though they be.”**

4.4 In September 2009 the two associations had a meeting with Director (HR), which was reported as a meeting to discuss the bonus issue. **But information from their own camp revealed that the Management wanted downward revision of 30% fitment benefit if 78.2% is approved and the two associations agreed not to press for 78.2% for not reducing 30% fitment benefit.** We exposed this in our write-up ‘Guru-3’ which

was never disputed. The non-executive representative association also, while signing an agreement for pay revision later in the year 2009 also failed to clinch the issue, with a clause added to the agreement that “as and when BSNL management decides for 78.2% DA merger for executives, the same benefit may be extended to non-executives also.” Justifying the addition of the clause, the representative union wrote that, **“Due to the present financial situation, the BSNL management restricted this fitment benefit to 30% on pay + 68.8% DA. But due to our struggles and pressure, the management agreed to consider the issue of granting 30% fitment benefit on pay +78.2% DA after some time, for executives and non-executives together. Hence this clause is added in the agreement. In case the management agrees for this, our revised pay will further increase.”** It is worth mentioning that, at the time of signing of the agreement, BSNL had earned a profit of 575 crores.

4.5 While AIBSNLOA had been taking up the issue with BSNL, DoT, the DPE and the MoC time and again, others maintained a studied silence on this issue. The two Executive associations enjoying the facilities and patronage of the Management now and then raised the issue during agitations but every time agreed that it will be settled when BSNL’s financial position improved. On 2.12.2010 they withdrew the strike based on an agreement with the Management, that **“On the issue of Benefit of 50% IDA merger in pay fixation (effectively amounting to 78.2%), CMD BSNL informed that the case has been deliberated in the 130th meeting of the Board held on 25.8.2010 wherein the Board taking into account all the pros and cons decided to defer the implementation of the benefit of 50% of IDA merger for pay fixation till the Company’s financial position improves considerably and there are visible signs of recovery. On further insistence by the JAC members, CMD requested the union leaders to provide fresh inputs on this issue which could be examined by the management before submitting the case to BSNL Board for its consideration.”** NFTE reported that on 6.7.2010 constituents of the JAC had a meeting with the committee formed for the purpose under the Chairmanship of Shri S.R.Kapoor the then ED (Finance) **wherein the management proposed 78.2% merger benefit without arrears but the JAC rejected this proposal.**

4.6 On 13.6.2012, these unions and associations signed an agreement with the management that

“1. Revision of pay is agreed as per fitment benefit @ 78.2% w.e.f. 1.1.2007 subject to approval by the competent authority. However actual payment will be made prospectively and arrears thereof will be deferred for the time being and will be paid only when the financial position of the company improves. This will be applicable for the Pensioners also.

2. Medical reimbursement with voucher for outdoor treatment, Professional Upgradation Allowance and HRA will continue to be paid at basic pay with 68.8% fitment. Payment of these allowances will be reviewed on 1.4.2013, subject to financial position of the company.

4.7 But the DoT, the competent authority was not willing to approve the proposal, observing that, **“DPE’s O.M. dated 26.11.2008 as well as 02.04.2009 on revision of pay for Board level and below board level executives/ non-executives stipulates that lower limits against the maximum prescribed limit can be provided in the Presidential Directives depending upon affordability, capacity to pay and sustainability of the concerned CPSE.”** AIBSNLOA alone reacted sharply vide its letter dated 7.2.2013 that, “DoT has conveniently omitted the first line which states regarding the **uniform fitment benefit of 30% on basic pay plus DA @ 68.8% as on 1.1.2007 (Para 2 (i) of DPE O.M. dated 26.11.2008). The freedom given to the CPSE concerned to prescribe a lower ceiling limit other than 30% was as on 1.1.2007 only and not from a subsequent date. BSNL was certainly earning profit on 1.1.2007 and therefore there was no question of prescribing a lower limit and hence 30% fitment benefit was given. No CPSE was given any freedom to continue with 68.8% by the DPE.”** **4.8** Then, the DoT tried to delay the issue by referring the matter to BRPSE (Bureau for Rehabilitation of Public Sector Enterprises) unwarrantedly. AIBSNLOA took up the matter with the BRPSE strongly rebutting DoT’s move and pointing out that,

“granting of fitment formula amounting to 78.2% of DA is not a case of further pay revision. This is actually to implement the DPEs Order on the subject correcting the mistake in its original Order for pay revision concerning the fitment benefit which was wrongly prescribed as 68.8% of DA. DPE has given no option to the PSUs to give fitment benefit of either 68.2% of 78.2% or DA.

“As per the operational modalities for BRPSE, on reference by the administrative Ministry, other loss making CPSEs can be considered by BRPSE if it is of the opinion that revival/restructuring is necessary for checking the incipient sickness (incurring loss for two consecutive years) and making the CPSE profitable, keeping the industry specific business environment in view. **Thus it would be seen that BRPSE can advise the CPSE on revival/restructuring strategies and not on implementing earlier directions of DPE on pay related matter.”**

4.9 Finally DoT issued the Presidential directive on 10.6.2013 that, “Accordingly in partial modification of this Department’s order dated 27.2.2009, the benefit of merger of 50% DA effectively amounting to 78.2% as on 1.1.2007 for the purpose of fitment in respect of the Board level & below Board level executives and Non-unionised Supervisors and Non-executives of BSNL is hereby allowed from the date of issue of this order. **No arrears will be paid** and the revised fitment on the basis of DPE OM dated 2.4.2009 will be paid with prospective effect only.”

4.10 The unions and association which had signed the agreement on 13.6.2012 for **deferment of arrears** silently accepted the DoT stipulation that **‘no arrears will be paid’** and withdrew their call for agitation from 12.6.2013. Subsequently BSNL issued orders disallowing the benefit of 78.2% fixation for Medical reimbursement with voucher for outdoor treatment, Professional Upgradation Allowance, HRA and other allowances, although the Presidential directive did not lay down such condition.

4.11 AIBSNLOA alone has taken up with DoT that arrears cannot be denied and different fixation method cannot be allowed for pay and for other allowances. We have pointed out that, “Under Para 6 of its OM No.2 (70)/08-DPE (WC) dated 26.11.2008, the DPE, while conveying the Government decisions of the revised pay scales recommended by the II PRC, has specified that, “Dearness Allowance: 100% DA neutralization will be adopted for all the executives and non-unionised supervisors, who are on IDA pattern of scales of pay, w.e.f. 01.01.2007.” Thus DoT itself has violated the DPE instructions by denying payment of benefit of 50% merger of IDA, with effect from 1.1.2007, thereby denying 100% neutralization by ordering that no arrears will be paid.”

4.12 After allowing the management to delay the benefit of 50% IDA merger effectively amounting to 78.2% w.e.f. 1.1.2007 for years together and now agreeing to forego the arrears, these unions and associations claim this to be a major achievement, forgetting that 78.2% is the compensation provided to us for price rise and not a pay hike.

4.13 Since the Presidential directive allows the benefit of merger of 50% DA effectively amounting to 78.2% as on 1.1.2007 for the purpose of fitment in revised pay scales, all those who were in service on 1.1.2007 are eligible for revised pay fixation. Consequently all those who retired after 1.1.2007 but before the date of issue of Presidential directive viz. 10.6.2013 are eligible for revised pensionary benefits. AIBSNLOA therefore took up the issue with CMD BSNL. But the unions and associations of serving as well as retired employees have sought to create confusion by propagating different modalities allowing BSNL and DoT to deny the fixation benefit as on 1.1.2007 to the retired employees. One Executive Association even proposed that actual payment on the basis of revised fixation may be made for the last month on which an employee retires, seeking to further complicate the issue. But later it changed tag and has fallen in line with our stand. **We would like to recollect that confusion in similar manner was created for revision of pension for pre-2007 pensioners after second pay revision, wherein these associations proposed pension revision in CDA scale. Later they had to make**

amends and whirl around to our consistent view that pension revision has to be in IDA scales only.

4.14 Recently DoT in its Action Taken Report on the minutes of the 22nd meeting of SCOVA () has stated that 'The proposal for revision of pension/ family pension of pre-2007 and post-2007 BSNL IDA pensioners/family pensioners by allowing the benefit of merger of 50% of DA/DR effectively amounting to 78.2% as on 01.01.2007 **w.e.f 10.06.2013** based on the pay revision of BSNL serving employees w.e.f. 10.06.2013 is under consideration.' We have reacted strongly to this unlawful and patent discrimination.

4.15 All the complications in this regard are a result of the agreement entered into without foresight by the unions and associations. AIBSNLOA believes that there is no justification for denial of arrears on this count. We will continue our efforts to have the benefit with arrears from 1.1.2007 ensured.

5.0 GRANT OF E2 & E3 SCALES TO JTOs & SDEs AND EQUIVALENT CADRES AND CONSEQUENT HIGHER SCALES TO Sr.SDE, STS, JAG AND SG JAG:

5.1 Immediately after BSNL's orders for pay fixation in revised pay scales were issued, AIBSNLOA submitted a request to "review the issue dispassionately and grant following IDA pay scales to the Executives from JTOs level to Dy GMs : (a) JTOs level : E-2 grade, (b) SDEs level : E-3 grade, (c) Sr SDEs/Sr AOs : E-4 grade, (d) DEs level : E-5 grade and (e) DGMs level : E-6 grade. With the new fitment formula for pay fixation in the new pay scales as ordered by DPE, there will be no financial implication for the existing Executives if the proposal is accepted, since none of them will get any additional financial benefit. Even on their promotion to next level, there will no additional financial implication other than that would have been available against existing scales. The financial benefit will, however, be available only for the new entrants at JTO level after 1.1.2007. But this minimum expenditure on the part of BSNL for the highly qualified new entrants will give it back a big gain. BSNL need to retain the services of these Executives and ensure that they are not forced to migrate to other Organization in search of higher emoluments."

5.2 Both the Executive Associations which enjoy the facilities and patronage of the BSNL Management accepted this situation and only **"solicited immediate personnel intervention in this matter to get approval of the revised pay scales of E1A (9850 – 250 – 14600) and E2A (11875 - 300 -17275) at the earliest"**. But they never pursued the matter further and kept a studied silence on the matter. And so did the Management. AIBSNLOA has been pursuing the issue at various levels relentlessly. We had also time and again pointed out that the Department of Public Enterprises, in its O M No. 2(70)/08-DPE(WC)-GLVII/09 dated 02.04.2009 (vide Para 2.vi), has clearly instructed against introduction of any intermediary scales and further asserted that "If there has been any aberrations, they need to be corrected." and hence approving E2 and E3 scales to JTOs & equivalent cadres and SDEs & equivalent cadres is the only way out, since DPE cannot be expected to approve intermediary E1A and E2A scales. Aggrieved by inaction in this matter by BSNL, information was sought for from the DPE under RTI Act through a letter dated 19.6.2010. The information received from DPE on 23rd July 2010 confirmed our fears. The reply received was that **"DPE has not received any proposal for introduction of intermediary scales equivalent of E1A and E2A from BSNL/Department of Telecommunications and that DPE had earlier received the proposal for introduction of intermediary scales particularly in respect of Oil Sector CPSEs. The proposal was not agreed to."** This is another major betrayal of the JTOs and SDEs by not only the BSNL Management but also the two Executive Associations enjoying the facilities and patronage of the Management thus stood exposed.

5.3 Due to mounting pressure from new entrants, the issue of E2 and E3 scales was then taken up by the two associations along with AIGETOA and a committee was formed in February 2012. We wrote to the committee that no decision on the issue should be taken by the committee without calling for and considering our views on the issue. AIGETOA which is a part of the committee went on a struggle last month demanding resolution of the issue immediately. We met GM (Estt) and requested him to ensure that the committee takes a decision early after due consultations with us. Now, it is learnt that **‘So far, this issue has been deliberated in none of the meetings’**, from a letter written by the three associations having representations in the committee. However, we shall continue to pursue the issue with the Management.

6.0 REMOVAL OF ANOMALY BY GRANTING FIVE ADVANCE INCREMENTS TO JAOs AT PAR WITH JTOs:

6.1 JAO Part I Examination conducted in May 2005 was cancelled and later conducted on 27.5.2007. The results were declared on 30.3.2009. Subsequently JAO Part II examination was held in January 2010. The results were declared on 17.2.2010. The successful candidates were sent for training after a delay of 3 months, on 17.5.2010. On completion of training, they were appointed in July 2010. Meanwhile IDA pay revision in respect of Non-Executives was implemented vide BSNL letter dated 7.5.2010. Option to have the pay fixed directly on 1.1.2007 or on the date of next increment or on the date of next promotion was to be exercised within 3 months. However the fitment benefit of 30% of pre-revised basic pay was allowed only to those who had been promoted upto 7.5.2010 vide a corrigendum issued on 18.5.2011.

6.2 In BSNL Corporate Office, some CSS cadre officials had been promoted to the cadre of Assistants in May 2010. Since no pre-induction training was prescribed for them, they were appointed in May 2010 and got the fitment benefit of 30% for pay fixation in revised scale. But some other CSS cadre officials who had passed JAO Part II examination were deputed for training only on 17.5.2010 and were appointed in July 2010, lost the benefit of 30% fitment because of the restriction placed by BSNL order dated 18.5.2011. Thus those who were appointed as Assistants got their pay fixed at Rs.21620 while those who were appointed as JAOs got their pay fixed at the minimum of the scale viz. Rs.16400. In both the cases the results were declared in May 2010 but the difference is only the period of training.

6.3 In the case of JTO Batch 2005 there existed such discrepancy among the same batch of trainees, some appointed before 1.1.2007 and the rest after 1.1.2007. BSNL issued orders resolving the discrepancy by extending the benefit of 30% fitment to those appointed after 1.1.2007 also. We took up the issue for extension of similar benefit of to the JAOs who were successful in the JAO Part II examination held in January 2010.

6.4 After we continuously pursued the case, finally orders were issued on 20.12.2012 allowing the benefit of 5 increments to these JAOs.

7.0 EVOLVING OF PENSION SCHEME FOR BSNL RECRUITED EMPLOYEES:

7.1 BSNL vide its letter dated 12.7.2013 had sought our comments on the subject. The only information given in that letter was that “The Committee has, inter-alia, recommended that at the initial stage, the Company may contribute @ 2% of Basic Pay + DA on monthly basis and the employees may also be allowed to contribute monthly at a higher rate of Basic Pay + DA subject to a minimum of equal contribution given by the company w.e.f. the date of approval by the Administrative Ministry.”

7.2 After the informal discussions that we had with the Sr.GM (Establishment) on the subject, we came to understand that the BSNL’s proposal of ‘the company contributing @ 2% of Basic Pay + DA’ is in line with the Para V of Annex.-IV of DPE OM No.2 (70)/08-

DPE (WC) dated 26th November 2008 which suggests that, "The CPSEs should make their own schemes to manage these funds or operate through Insurance/ financial companies on fixed contribution basis. The amount of Pension, Gratuity and Post-Retirement Benefit will be decided based on the returns from the schemes to be operated."

7.3 We believe that the proposal is in a very nascent stage and commenting on it now would be inappropriate, without knowing what return exactly could be obtained from insurance companies and whether such return would facilitate payment of superannuation benefits to the extent of 30% of Basic Pay + DA (as amended by DPE OM No. No.2 (70)/08-DPE (WC)/GL-VII/09 dated 2nd April, 2009).

7.4 Hence we have submitted our response accordingly requesting to have broad consultations after further developments on this issue, including seeking of EOI from insurance/banking companies and the return offered by them.

8.0 PROPOSED MANAGEMENT TRAINEE RECRUITMENT RULES, 2013:

8.1 BSNL circulated the proposed **Management Trainee Recruitment Rules, 2013** vide its letter No. 400-07/2012-Pers.I dated 12.02.2013 to all Executive Associations and called for our views and comments to be conveyed to the committee in person according to a schedule. **As scheduled, GS and AGS had a meeting with the committee on 18.2.2013 evening and submitted our views and proposals on the matter in writing (reproduced below).**

When BSNL notified its first MTRR, vide its No. 400-07/2005-Pers.I dated 13.09.2007 and later the second time in the year 2009, we had submitted our views in great details bringing out there in the deficiencies, omissions, contradictions etc. in the said RR. We also drew attention to the fact that DOT had offered same Promotion Policy to the Group B level Officers in the terms of conditions of service for absorption in both MTNL and BSNL assuring time bound promotion upto JAG Selection Grade and thereafter post based promotion. MTNL, on its part, has recruited the JTOs/JAOs i.e. the entry level Executives as the Management Trainees. But BSNL is moving ahead with its proposal for recruitment of Management Trainees at an intermediary grade i.e. the erstwhile JTS level which is in violation of the offered terms and conditions of service for absorption. **Unfortunately, BSNL is violating the settled terms and conditions of service for absorption for Group B level Executives by imposing a promotion policy which is totally different from the one that was offered before absorption.**

The new Management Trainees' Recruitment Rules are also having certain deficiencies and omissions which we would like to point out as follows:-

(1) Three sets of MT RRs as on date:

The BSNL Management Trainees' Recruitment Rules (MT Rs), 2013, nowhere say that these Rules are in supersession or modification of its earlier Management Trainees Recruitment Rules, 2007 and the Management Trainees Recruitment Rules, 2009, Thus, as on to-day, three Management Trainees' Recruitment Rules in BSNL exist.

(2) Authorized strength:

It is stated at Para 5 of the Rules that Management Trainees shall be recruited against 50% of equivalent STS level posts. But as per Para 4, "The Management Trainee shall be appointed in IDA pay scale of Rs. 24900-50500 revised (E-3 level). Para 12.1 of the Rules states that these Trainees are to be appointed as Manager (MT) which again is JTS level posts. Para 12.2 states that the Trainees would be promoted to AGM level posts on working as Manager (MT) for two years. The pay scale of AGM level posts is Rs.29100-54500 and it is a promotion post. Thus, it is wrong to say that the Management Trainees are "recruited against 50% of equivalent STS level posts." They are actually to be recruited for appointment as Manager (MT).

(3) **Age limit:**

(a) As per the schedule attached with MTRR, the upper age limit for MT [Internal] candidates has been prescribed as 45 years (50 years for the first batch of internal candidates). This age limit needs to be removed **considering the fact that for long nine years since formation of BSNL, there was no policy or rule in place in BSNL depriving the absorbed Group B level Executives to get the opportunity for their career advancement. It will be further great injustice and disincentive to them, if they are now debarred to compete on age ground.**

(4) **Educational Qualification:**

(a) In case of internal candidates, there need not be any insistence for minimum qualification. After all, the recruitment is by stringent methods of examination, interview and group discussions. Thus only deserving candidates will come out successful.

(b) This relaxation in minimum qualification as suggested in (5) (a) should be available in all streams viz. Operations, Finance, Civil, Electrical and Architect.

Sr.GM (Pers) appreciated our points and said that the other associations have not given their views in writing and one more meeting will be called after they submit their views in writing.

9.0 DIRECT RECRUITMENT OF DGM:

9.1 BSNL again notified direct Recruitment of 106 DGM (T) and 56 DGM (F) on 23.9.2012. **Our consistent stand is that if at all there is a need for lateral induction, it must be at the level of GMs grade and above.** The process of direct recruitment of DGMs which was first initiated in July 2009 could be completed and postings made only in the second half of the year 2011. And, although examination was held to fill 210 vacancies, only around 40 DGMs could be recruited. So, if BSNL's aim is to recruit DGMs urgently, the route of direct recruitment will not be of any use. Instead the vacancies can be readily filled through promotion from DE/AGM grade. We therefore took up the issue with Sr.GM (Pers) requesting him to fill up vacancies in DGM grade through promotion from the STS grade officers and to withdraw the notification for direct recruitment of DGMs.

9.2 On 25.12.2012, BSNL issued a circular stating that consequent upon the judgment of CAT Chandigarh and subsequently by Principal Bench, CAT, New Delhi, steps have been taken to include provisionally for similarly placed BSNL executives (as applicants) who fulfill the following criteria:

- (i) Service of 12 years as Executive in BSNL
- (ii) Gross annual salary of Rs.7 lakhs for the financial year relevant to the year of recruitment (FY 2011-12 in this case).

Two days later BSNL issued a clarification stating that the provisional inclusion of BSNL executives in DR-DGM Recruitment will be subject to:-

- (i) Service of 12 Years of post-qualification working experience as on 1st August of the Recruiting Year.
- (ii) Approximate Annual Gross Salary of Rs.7 lakhs for three years upto the financial year relevant to the year of recruitment, FY 2011-12 in this case.

9.3 On 3.1.2013, we had a meeting on this issue with DGM (Pers). AGM (Pers) was also present. We explained our contention that when BSNL Executives were provisionally allowed to appear in the DGM DR examination, the conditions of age and qualification should have been relaxed as is the case with all other examinations. DGM (Pers) said that the provisional admission was based on court order but the RR remained unchanged. He agreed with our contention that gross salary of Rs.7 lakhs will mean discrimination among executives due to different HRA rates in different localities. DGM

(Pers) readily agreed that this was really discriminatory and agreed to bring this matter to the notice of GM (Pers). Regarding our contention on pay protection on selection as DGM under Direct Recruitment, he mentioned that DoT had much earlier clarified that those recruited as DGM under DR would be treated as BSNL recruits and will not be eligible for pension under Rule 37A. We therefore reiterated our point that instead of going in for recruitment with such tricky stipulations, the vacancies could be filled by promoting eligible STS officers. We also requested him that atleast the process for holding the examination may be stopped till the final verdict of the court. DGM (Pers) agreed to convey our views to Sr.GM (Pers) who will call us for further discussions. **As a result, the examination for direct recruitment in DGM grade scheduled to be held on 20.1.2013 was postponed till further notice vide a BSNL notification dated 10.1.2013.**

10.0 CPSU CADRE HIERARCHY:

10.1 As per the terms and conditions offered at the time of absorption, the Group B Officers of DoT were offered promotion between 4 to 6 years subject to certain attendant condition on their absorption in BSNL. Offer was actually made for promotion on time bound basis between 4 to 6 years upto SG JAG Grade without any linkage with the availability of posts. Post based promotion was offered only beyond SG JAG Grade. But when implementation of the promotion policy was taken up, the offer made in the option document has been grossly ignored and only financial upgradation has been provided in a time bound manner.

10.2 In February 2012, on insistence by three Executive associations a committee was formed for considering ‘**Introduction of CPSU cadre hierarchy in BSNL.**’ Three Executive associations were given representation in the committee but AIBSNLOA was not included. In view of the history of various earlier committees, we did not press for inclusion of AIBSNLOA in the committee. However, we wrote to the committee that no decision on the issue should be taken by the committee without calling for and considering our views on the issue. The committee met only twice, ON 12th July 2012 and 19th February 2013. However after discussions within the official side, the draft views of the official side were circulated on 1st July 2013. After comparing the promotion policies of BHEL and NTPC, the official side has rejected the concept of time bound functional promotion. It has given the following figures:

S.N	Functional Post	Equivalent pay-scale level	Sanctioned No. of posts	No. of executives drawing salary in that level
1	DGM	E5	1331	963
2	DE	E4	5286	11,100
3	SDE/Sr.SDE	E2/ E3	31,061	26,000
4	JTO	E1	48,597	11,000

10.3 Pointing to these figures, the official side has contended that the organization hierarchy will be severely disturbed if functional promotion is given on time bound basis. If the scenario for the year 2014 is projected when the next time bound upgradation is due, the no. of executives in higher pay scales (DE/DGMs) will increase whereas availability of executives at operational levels (JTO/SDE) would decline further. This would pose challenges for effective and efficient network management and service delivery. It would also have implications on delegation of financial powers which need to be made very carefully keeping fine balance between operational needs of the organization and the necessity of keeping expenses under control.’

10.4 The official side further proposes that, “Accordingly, if we have to follow CPSU cadre hierarchy, the Executive promotion policy in BSNL requires to be completely recast.

Some of the important features of such a policy would be clear assignment of marking system / weightages to different components such as performance, qualifications and experience for different levels of promotion such as from E-1 to E-2, E-2 to E-3 etc.” and that in this context, “there is dire need to review current benchmarks for financial upgradations so that these are aligned to the basic theme of performance-orientation and higher employee productivity.”

10.5 Having caught in the wrong foot, these associations while replying to the letter on 5.9.2013, have confessed that, “The bench mark for functional promotion is **already stringent** than that of Time Bound financial upgradations. **The United Forum in its proposal suggested higher bench marks for Time Bound functional promotions** considering the bench marks for the cadres like DE, DGM, GM, CGM etc in the BSNLMS R/R. When the bench mark for GM and CGM is “very good”, naturally the bench mark for lower cadre cannot be higher than that. The bench mark has to be lower for lower cadres.”

10.6 AIBSNLOA has chosen to keep a watch on the developments rather than commenting on the observations of the official side at this point of time.

11.0 PROPOSED AMENDMENTS TO SDE (T) RECRUITMENT RULES:

11.1 On 31.1.2013, BSNL Management addressed a letter to General Secretary, AIBSNLOA enclosing its proposal of certain amendments to SDE (T) Recruitment Rules, 2002 and calling for our views/comments. The proposed amendments related to Inter-se seniority of promotees and Competitive Quota officers, Diversion of unfilled vacancies from one quota to another, reckoning of eligibility service under relaxed conditions, reckoning of JTO training period for LDCE, admission of regular SDEs for LDCE and eligibility lists of JTOs for a Recruitment year.

11.2 After careful examination of the proposals, we have submitted the following suggestions:

(a) **Inter se seniority between seniority quota promotees and competitive quota promotees:** In order that the proposed amendments put an end to all seniority issues and consequent litigations, it is important that the DPCs and the LDCEs are held regularly every year. A calendar with specific dates for the DPCs and LDCEs should be circulated in advance every year and the dates should be strictly adhered to. It may be added under column 11 in proposed provision that: Normally the DPC for promotion on the basis of seniority cum fitness as well as the LDCE shall be held at least once in the calendar year.

(b) **Diversion of unfilled vacancies from one quota to another:** The proposed amendments do not shed light on the issue of unfilled vacancies of the LDCE of a particular year carried over to the next year, the method of fixing inter-se-seniority between the 67% and 33% quota promotees during the vacancy year and during the subsequent year. As per DoPT OM dated 3.7.86,

“(i) If adequate number of 33% quota (LDCE) promotees do not become available in any particular year, “rotation of quotas” for the purpose of determining seniority, would stop after the available 33% quota promotees and remaining 67% quota promotees are to be assigned their slots for the concerned recruitment year and bunched together at the bottom of the seniority list for the year.

(ii) The unfilled 33% LDCE quota vacancies for a recruitment year, would be carried forward to the corresponding LDCE quota vacancies of the next year (and to subsequent years, where necessary).

(iii) The additional LDCE quota promotees, who have passed against the carried forward vacancies of the previous year, would be placed en-bloc below the last 67% quota promotees in the next year /subsequent year seniority list.”

11.3 Therefore under column 72, where the existing note is proposed to be deleted, the following note may be added: 'Inter-se-seniority in respect of unfilled vacancies in an LDCE/DPC carried over to subsequent year/years shall be decided as per the provisions of DOPT O,M, No,22071/7/86 (Estt - (D) dated 3-7-7986 or any amendment ordered by DOPT and in place on the date of notification for holding the LDCE/DPC. There has been no further discussion on the issue.

12.0 PROPOSED AMENDMENTS TO ACCOUNTS OFFICERS RECRUITMENT RULES:

12.1 BSNL SEA section vide its letter dated 7.8.2012 proposed to amend BSNL Accounts Officers Recruitment Rules 2002 and had called for our comments. The proposal stated that, "In order to maintain uniformity of approach and to provide merit based career progression opportunity to JAOs to get fast tract promotion, it is proposed to introduce the concept of Limited Departmental Competitive Examination in the grade of Accounts Officer in line with SDE (Telecom) and amend the Recruitment rules of the Accounts Officer accordingly.

12.2 We wrote to the Director (F) giving him our comments:

"We are to state that at present large number of JAOs, who are working as regular JAO since the year 2000 and completed more than 12 years of their service as JAO, are awaiting their first functional promotion in BSNL. Introduction of LDCE at this stage, therefore, will cause a serious blow to their career growth and invite further stagnation. We strongly feel that such type of amendment in AO RR, if considered unavoidable, should be made applicable only after promotion of all the eligible JAOs. The required eligibility condition for promotion from JAO to AO is just 3 year of regular service as JAO and at present enough vacancies are also available in BSNL to accommodate all these JAOs. Hence we feel that the on-going preparations and processes for holding DPC for promotion to AO, CAO and DGM (F) should be completed and all the vacancies in these grades existing on date should be filled first and then the consultation process on the proposed amendment should commence.

"Equal treatment of Accounts & Finance wing and the Telecom Operations wing, aiming at common HR policy is welcome, but the glitches associated with the LDCE in Telecom wing - the failure to hold the LDCE regularly every year, the resultant seniority issues and consequent court cases - are to be sorted out before attempting to adopt the concept in the Accounts & Finance wing. The introduction of LDCE for promotion to Accounts Officer will put a complete halt on BSNL's promotion strategies in Accounts & Finance wing also even in seniority cum fitness quota, as it will divide the existing executives of BSNL in sub groups as per their individual interests and they are likely to engage themselves in these subgroups and plead their cases before the administration and courts.

Further asking the comments of the associations providing curt deadline for submitting the comments, just before seeking approval of the Management Committee, is neither fair nor just. Change is always welcome and is needed; but important proposals have to be deliberated at length before any decision is taken.

12.3 We therefore requested the Director (F) to advise the SEA section to complete the DPC processes first, then circulate the proposal to the Executives Associations, have discussions without haste and formulate a scheme devoid of the hitches afflicting the LDCE concept in Telecom wing. There has been no further development on this matter.

13.0 TIMELY CONDUCT OF DPC AND ISSUE OF PROMOTION ORDERS TO SDE/AO, DE/CAO AND DGM GRADES:

13.1 AIBSNLOA has played its role effectively by pursuing these issues continuously with the concerned sections as well as by taking up with the senior officers when required.

13.2 Orders for promotion to DGM (F) on adhoc basis based on the said DPC was issued vide BSNL No. 1-11/2009-SEA- BSNL(Part I) dated 28.4.2010. Names of around 90 eligible CAOs did not find a place in the promotion orders. Later it was known that these CAOs did not meet the selection benchmark for promotion to JAG grade mentioned in BSNL MS RR, viz. Very Good. Grading of 'Good' had never been considered as an adverse entry and hence the same had not been communicated to them. The practice of showing the APAR to the officer reported upon came only in July 2009. The Hon'ble Supreme Court of India, in numerous cases, had ruled that promotion could not be denied on the basis of un-communicated entries in the ACRs. Therefore all the affected CAOs represented for review and upgradation of the 'Good' entries in their ACRs as 'Very Good'. Many of them got their grading upgraded too. Although it had been agreed that such of the CAOs who met the benchmark after such upgradation would be considered for promotion at the earliest, nothing happened even after the lapse of two years.

13.3 Immediately after the AIC at Trichy, AIBSNLOA took up the issue on 17th May 2012 and followed it up with meetings with the senior officers of SEA section. We also took up the issue of filling remaining vacancies and periodically published the missing ACR details collected from SEA section. Exemption from four years of service as regular CAO was also obtained. Then, an issue raised by the SC/ST Commission Lucknow had to be sorted out by the Management. Finally promotion orders were issued in May 2013 and later in July 2013.

13.4 We also had discussions repeatedly about JAO to AO promotion and AO to CAO promotion. In respect of JAO to AO promotion, due to stay granted by Haryana and Punjab CAT, it has not been possible till now to complete the process. In our last meeting on 1st August 2013, we have requested GM (FP) to take necessary action for vacation of stay at the earliest. The next date of hearing is 29.8.13 and GM (FP) has agreed to cause instructions and necessary input to the BSNL advocate for early vacation of stay. GM (FP) also informed us that VC has already been called for 237 vacancies of CAO promotion on regular basis and that CPC will commence as and when VCs are received. We have requested him for expediting the work of CPC. Now, vide letter no. 2-1/2012-SEA-BSNL dated 24.9.2013 orders for regularization of 198 CAOs has been issued.

13.5 SEA section of BSNL Corporate Office issued orders on 27.5.2013 BSNL clarifying that ***henceforth, no officiating promotion/local officiating arrangement to the grade of JAO may be given in view of personnel branch CO BSNL letter No. 412-13/2013-PersI(I) dated 22/3/13 withdrawing officiating procedure and introducing 'look on' procedure instead.***

13.6 We immediately wrote to the Director (F) that the letter of BSNL Personnel section dated 22/3/2013 is in no way connected to Group C officials officiating in a higher grade of JAO. The said letter stipulates that "Executives with lower substantive grade but availing higher scale of pay may be considered for manning the higher grades (on stand-alone or combined basis) according to their scale of pay, on look-after basis, to meet shortages." It further stipulates that "the arrangement will enjoin upon the executives to shoulder the responsibilities matching their pay scales under the EPP in the interest of service" and "whereas the Group C officials are drawing pay in a lower scale than that of JAO but have to shoulder higher responsibilities of the JAO post. That is why they were given officiating in JAO grade and given the benefit of FR 35. This practice still continues in respect of TTAs officiating as JTOs" and requested that the SEA section order dated 27.5.2013 be withdrawn and the qualified and eligible Group C officials may

be allowed to officiate in JAO grade. As a result, SEA section withdrew its orders on 16.7.2013, allowing continuation of officiating in JAO grade.

13.7 DPC for promotion to DE (Adhoc) was conducted in July 2010 and promotion orders were issued. After that no DPC could be conducted mainly due to so many litigations and stays in various courts and due to the Management's reluctance in diverting posts from MT quota.

13.8 Immediately after the AIC at Trichy, we took up the issue stating that "Pending uncertainty over the outcome of various court cases, shortlisting eligible officers at the top of the seniority list and promoting them is the only way to alter the situation." We also simultaneously took up the issue of the Executives who were promoted as DE (Adhoc) in the year 2010 but could not join the other circles where they had been posted due to various personal and family circumstances requesting that a separate DPC may be conducted for these officers and they may be promoted as AGM/DE (T). We reiterated these requests repeatedly in writing as well in meetings with Sr.GM (Pers). Then a proposal to fill up 1300 posts was mooted by the Personnel Section.

13.9 Meanwhile after strenuous efforts by BSNL as well as an impleading individual applicant to whom we had supplied all the materials to fight the case, the OA pending in Hon'ble CAT, Jabalpur was dismissed. While we thought that the legal hurdle for the promotion has been cleared, the Management Committee of BSNL took a stand not to order any promotion on officiating or adhoc basis in DE/AGM grade and we learnt that CMD himself was not convinced in diverting the MT quota vacancies. We immediately drew the attention of the management to the facts that Para II (vi) of BSNL Executive Promotion Policy which stipulates that, "The provisions of Adhoc/officiating arrangements will cease to exist in the company consequent upon completion of Group "A" absorption and implementation of Promotional avenues in respect of Group "A" officers as well." Since the process of Group A absorption has not been completed yet, there is no justification in the management deciding against promotion on officiating or adhoc basis. The foot Note-4 under Schedule I-A of BSNL MSRR also provides for filling up the posts remaining unfilled at STS level after actions mentioned in Foot Note-3 and Schedule IA-1 (a), by promoting eligible Group B (SDEs and equivalent) level executives on adhoc basis, *if deemed necessary by the Management*. Since recruitment of Management Trainees is not possible in the near future, there cannot be any reason for the Management to decide against adhoc promotion to unfilled STS level posts.

13.10 Meanwhile an appeal was filed in Madhya Pradesh High Court by the applicants in Jabalpur CAT but we ensured that no stay was granted. But, in January 2013 Chennai CAT stayed even the preparatory work for promotion to DE (Adhoc). We met CMD on 26.3.2013 and requested CMD that 2000 posts (instead of the proposed 1300) may be diverted from MT quota to seniority cum fitness quota so that all the eligible SDEs may get their long due promotion. We explained that since there is stay on STS promotion till 8.4.2013, the next date of hearing in Hon'ble CAT Chennai, BSNL will not be able to issue promotion orders for STS till then. In case stay is vacated then all the eligible SDEs can be promoted because ACR of all the eligible SDEs are with BSNL CO. By doing so chances of further court cases may also reduce. CMD BSNL agreed with our proposal and assured to take action.

13.11 Since the stay was prolonging, Com. K. Rajasekaran, CS, Tamilnadu along with three other SDEs filed a Miscellaneous Application in M.A.176/2013 impleading as private respondents seeking vacation of stay in Chennai CAT. They had also decided to fight the case in their individual capacity and not to use the name of the associations they belong to, obviously on the grounds that the issue affects all SDEs in general irrespective of association affiliation and there is no need for one-upmanship in this issue. That is why AIBSNLOA Tamilnadu Circle, while updating the progress of the case in its site never once mentioned Com.K.Rajasekaran as its Circle Secretary. The senior

counsel representing these private respondents started arguing the case wonderfully, strengthening hopes for an early and positive decision. Immediately the Tamilnadu unit of one Executive Association suddenly claimed that it was impleaded in the case, which was far from the truth. Although the other three of the private respondents were its members, the association had nothing to do with the application. Not to be left behind, Tamilnadu unit of another Executive Association reported that it got impleaded in the case through an individual and that its CHQ gave the amount required. Since none of the four comrades who had filed the M.A. in 176/2013 was a member of that association, every one wondered as to whom its CHQ gave the amount. Subsequently the CHQs of these two associations also claimed that they have impleaded in the case. All these claims only reminded us of the **famous quotation of George Fernandez that 'Victory has a hundred Fathers; but defeat is always an orphan.'**

13.12 On 5.6.2013, the Chennai CAT pronounced orders in OA 1171/2012 & MA 176/2013 closing the applications and the related contempt petition by directing the respondents to approach Hon'ble High Court of Madras which had earlier given an interim order of status-quo in this matter, removing the hurdle for holding of DPC. The same day we met Sr.GM (Pers) and requested him to ensure early conduct of DPC for promotion to DE (Adhoc) in view of Chennai CAT disposing the cases. Sr.GM (Pers) assured us that after examining the orders of CAT Chennai, further action will be initiated. We again requested Sr.GM (Pers) to cause diversion of more number of posts from MT quota so that all the existing DE vacancies can be filled up.

13.13 When the DPC work was nearing completion, the respondents in the above case again filed a review petition in Madras High Court. Suspense continued till the last minute and CHQ places on record the tireless work of Com.K.Rajasekaran, CS, Tamilnadu during the last few days till it was ensured that no further legal hurdle was created.

13.14 Finally orders were issued on 20.7.2013 promoting 1587 officers to DE (Adhoc) grade. The CPC was conducted to fill up 1860 DEs Posts (OC =1445, SC= 293, ST= 122). Promotion orders have been issued to 1587 officers (OC=1240, SC=249, ST=98). Remaining cases are either unassessed or VC pending cases.

13.15 But without filling the 100% vacancies in circles like Chennai Telephones, Tamilnadu, Karnataka, UP (E) and STR, most of the promoted officers were posted outside their parent circles. We took up the cases of officers promoted in the year 2010 and posted outside but could not join then due to personal and family circumstances, who have again been posted outside, cases of female executives and those with medical problems. Although we succeeded in our efforts partially, the case of senior executives who could not accept the promotion in 2010 and again facing the same situation remain unsettled. We met CMD, Director (HR) and Sr.GM (Pers) along with Com.V.Gurumoorthy, CHQ FS and Com.Badrinarayanan, ACS CHTD and later along with AGS Com.P.Udayasuriyan and have requested for retaining these seniors in the parent circles.

13.16 Similarly there was abnormal delay in holding DPC for promotion to DGM (T) on adhoc basis due to a case pending in Kerala High Court, although there was no stay for holding the DPC. Even after the case was disposed of there was delay in releasing the list. We had to meet the Sr.GM (Pers) and also had to take up the issue with the CMD before orders were issue finally.

13.17 Preparatory exercise for All India Eligibility List of JTOs (T) with BSNL CO asking circles on 17.9.2012 to prepare and send the screening committee reports and assessment sheets in respect of all OC/SC eligible JTOs upto recruitment year 2001 and ST JTOs upto the recruitment year 2005. As in the case of promotion to other cadres, promotion to SDE (T) was also held up due to court cases in Chennai. Even the promotions ordered by the previous DPC in the year 2011 could not be fully

implemented due to 'status quo' orders by Madras High Court. The case was dismissed on 6.4.2013, which enabled those who had not joined as SDE earlier to assume charge as SDE. But immediately afterwards, another case has been filed, causing hurdle for further promotion to SDE under seniority cum fitness quota.

14.0 AMENDMENT TO RR OF SECTION OFFICERS (NOW DEPUTY MANAGERS) AND PRIVATE SECRETARIES IN BSNL CORPORATE OFFICE:

14.1 The Recruitment Rules of Section Officer (now re-designated as Deputy Manager) of CSS Cadre and Private Secretary of CSCS Cadre had been forwarded vide BSNL C.O. letter No. 27-1/2001-CSS dated 04/07/2003. As per the provisions of the said Recruitment Rules, the 75% of the posts of Section Officer and Private Secretary were to be filled up by promotion from amongst Assistants (now re-designated as Assistant Manager) and Personal Assistants with three years of regular service in the grade and 25% by Limited Internal Competitive Examination (LICE) in which the Assistants and Personal Assistants with three years of regular service are eligible to appear.

14.2 Subsequently, vide BSNL C.O. letter No. 400-61/2004-Pers.I/308 dated 18/01/2007 BSNL Executive Promotion Policy had been implemented. As per point no. II (iii) of the aforesaid letter, it had been ordered that the present quota of 25% earmarked for promotion of JTOs (Telecom) (now re-designated as Assistant Manager) to the grade of SDEs (Telecom) (now re-designated as Deputy Manager) through LDCE in existing BSNL RRs of various streams is increased to 33%. The relevant SDE (Telecom) Recruitment Rules stand modified to this extent.

14.3 In accordance with the instructions contained in the letter dated 18/01/2007 immediate action should have been taken to increase the provision of 25% quota earmarked for promotion of Assistants (now Assistant Managers) and Personal Assistants to the grade of Section Officer (now Deputy Manager) and Private Secretary through LICE, to 33% by suitably modifying the aforesaid provisions in the Recruitment Rules of Section Officer and Private Secretary.

14.4 Management Committee of BSNL Board was said to have already approved the proposal for amendment in Recruitment Rules in the grade of Deputy Manager (then Section Officer)/Private Secretary to the extent of modifying the LICE Quota from 25% to 33% and the Seniority Quota from 75% to 67%. The proposal had also been submitted for approval of the BSNL Board. However, even though nearly 5 months had lapsed, the proposal was yet to be discussed and approved by the BSNL Board. Therefore we took up the issue on 23.8.2012 for early approval by the BSNL Board, so that LICE may be notified early for the posts of Deputy Manager and Private Secretary.

14.5 On 19.9.2012, BSNL notified the amendment modifying the LICE Quota from 25% to 33% and the Seniority Quota from 75% to 67%.

15.0 Grant of Time Bound Financial Upgradation from due date under EPP 2007 to the BSNL Executives against whom no Vigilance Case was pending as on the due date:

15.1 CHQ wrote to CMD BSNL on 9.9.2012 requesting grant of Time Bound upgradation under BSNL Executive Promotion Policy to the executives from the due date for their upgradation without denying upgradation on the plea that either disciplinary case was pending against them or punishment was in currency at the time of consideration by the Screening Committee at a much later date. Our request emanated from a case reported by UP West Circle. Shortly after that, on 20.9.2012, BSNL issued orders accepting our request and ordering that disciplinary cases of minor penalty emanating beyond the due date of time bound upgradation may not affect the grant of time bound upgradation. However the order raised question about major penalty

emanating beyond the date. We have been pursuing the issue since then for issue of clarificatory orders. On our continuous persuasion, now, major penalty cases are being examine by Pers. I section on case to case basis.

16.0 AMENDMENT IN BSNL MS RR IN RESPECT OF CIVIL/ELECTRICAL/ARCHITECT WINGS FACILITATING NON-GRADUATES ELIGIBLE FOR PROMOTION TO STS GRADE:

16.1 According to the BSNL MS RR, only Engineering graduates were initially made eligible for promotion to STS grade, although in other streams, relaxation was given to all the existing incumbents. After we pursued the issue, relaxation was extended to Civil/Electrical/Architect disciplines also vide BSNL letter dated 2.7.2010, wherein it was decided to append the existing Note 2 below Schedule IB thus: "However the existing incumbent holding the post of Sub Divisional Engineer or equivalent on a regular basis on the date of notification of P&T BW (Group A) Service Rules 1994 i.e. 06.08.1994 shall continue to be eligible for promotion to the post of Executive Engineer or equivalent STS level post in BSNL, if they possess a Diploma in Engineering in their respective branch from a recognised University/Institution or equivalent." Although this gave relief to some of the diploma holders, the diploma holders who became SDE in these disciplines after 6.8.1994 are being denied the opportunity to be promoted as EEs, which is a clear case of discrimination vis-à-vis the Executives of other streams.

16.2 We wrote to the CMD on 29.5.2013 wherein we had drawn his attention to DoPT guidelines vide No. AB 14017/12/87-Estt.(RR), dated 18th March 1988 which states that, ***"Sometimes the qualifications for junior Group "A" and Group "B" posts may not be insisted upon in full but only the basic qualification in the discipline may be insisted upon, for example, if a degree in Civil Engineering is the qualification prescribed for direct recruits, the promotees may be required to possess at least a diploma in Civil Engineering. In such case, the entry under this column may be edited as "Educational Qualification: No but must possess at least", and also requesting to render justice to the diploma holder Executives who represent 50% of the total Executives in Civil/Electrical/Architect wing, by extending the relaxation being given in qualification to all the other streams, for their promotion to Executive Engineer Grade.***

16.3 Although the DoPT instructions as quoted above, are clear, no action has been taken as yet by BSNL for modify the condition of qualification for promotion to Executive Engineer grade in respect of Civil/Electrical/Architect wings. Recently, the Hon'ble PCAT, Delhi, in OA-2651/2012 has delivered a judgment on 26.4.2013 that the applicants in the OA may be considered for grant of the benefit **in terms of Government of India Instructions dated 26.05.1977 by which diploma in Engineering with ten years technical experience has been recognized as equivalent to degree in Engineering.**

The Hon'ble PCAT Delhi has relied on the instructions of Ministry of Education & Social Welfare (Deptt. Of Education Technical) New Delhi issued on 26.05.1977, which reads as under:-

Sub : Recognition of Technical & Professional Qualifications.

"On the recommendation of the Board of Assessment for Educational Qualifications and recommendation of Defence Director (Tech.), the Government of India have decided to recognize a Diploma in Engineering in appropriate discipline plus total ten years of technical experience in the appropriate fields is recognized as equivalent to Degree in Engineering. It is considered valid for the purpose of selection to Gazetted posts and services under the Central Government or State Government.

"According to these instructions, a diploma in Engineering with ten years of technical experience in the appropriate field is recognized as equivalent to degree in Engineering."

16.4 We have requested the management to take cognizance of the DoPT letter dated 18th March 1988 mentioned in our earlier letter as well as the above said instructions of Government of India and issue amendment to BSNL MS RR providing relaxation in Educational Qualifications to the SDEs of Civil/Electrical/Architect wings for promotion to Executive Engineer grade.

16.5 Another issue pertaining to Civil/Electrical is an anomalous position that has been created due to several interim orders issued by the BSNL Corporate office resulting in withdrawal of the benefit of 2nd financial upgradation under ACP scheme granted to the SDE Civil/Electrical and consequent re-fixation of pay thereof for non-fulfilling of eligibility criterion.

16.6 A DOT order dated 30.03.07 granted relaxation to the incumbent SDEs irrespective of qualification who completed 24 years of service and are absorbed in BSNL/ MTNL as a one time relaxation and allowed benefit of 2nd ACP upto 20-02-2004. However, in practice, in many Circles, the BSNL authorities have ordered 2nd ACP following the same principle of DOT in favor of the left out candidates **on completion of 24 years of service up to 01.10.2004**. Only a very few candidates, who have completed 24 years of service between 21-02-2004 and 01-10-2004 (both days inclusive) have been left out. We have been pursuing this issue for more than two years requesting to settle the issue once for all by granting one time relaxation to extend the benefit of second ACP upto 1.10.2004 by adopting the same principle envisaged in DOT orders cited above, but without success.

16.7 We also had discussions on this issue with Addl.GM (BW) who said that the issue has to be decided only by DoT and assured that the issue will be taken up with DOT based on our submissions.

17.0 REVISION OF PAY SCALE OF RAJBASHA ADHIKARI AND AUGMENTATION OF RA POSTS:

17.1 A committee had been constituted long back to study and recommend restructuring of Hindi cadres in BSNL. The previous committee, in the year 2008, had recommended drastic reduction in RA/SHT/JHT posts without observing the guidelines on the subject matter from DOT/DOL etc. The posts connected with Hindi are created essentially for fulfilling the statutory obligations. If Hindi posts are downsized in the name of economy in expenditure, it would be a set-back to the implementation of Official Language Policy of the Government of India.

17.2 As per the norms for creation of minimum number of Hindi posts issued by DOL on dated 22/07/2004, the number prescribed as minimum posts are provided on the basis of the number of the employees and the Regions where the office is located without any work study so that the implementation of Official Language policy is not adversely affected. These norms are framed by DOL and endorsed by DOT/DPE etc. for implementation in all PSU/PSE etc. Further it has been clarified that the posts of Translator etc. which have already been created in an office on the basis of the earlier norms shall not be abolished on the ground that those are more than the number required according to revised guidelines. There is no ban from the Ministry of Finance on creation of Hindi posts as per guidelines issued by DOL. Hindi posts cannot be abolished without prior consent from DOL. But it is regretted to note the BSNL has abolished most of the Hindi posts in all Circles without any approval from DOL/DOT/DPE etc. Therefore order for re-fixation of sanctioned strength of Hindi posts issued by BSNL on 05/03/2008 is against the spirit of the guidelines dated 22/07/2004 issued by DOL.

17.3 Therefore, we expect the committee to recommend creation and filling up of adequate number of Hindi posts in BSNL so as to implement the Official Language Policy of Government of India in its true spirits. We have submitted our views to the committee and have also met the senior officers in the committee several times. We are pressing for early submission of report by the committee.

18.0 LDCE FOR PROMOTION TO SDE (T) HELD IN THE YEAR 2012:

18.1 On 28.6.2013, in pursuance of Hon'ble Principal Bench, CAT, Delhi order dated 21st and 22nd May 2013 in OA 207/2013 with OA 2574/2012 and others, the revised lists of candidates who are successful in the LDCE for promotion to the grade of SDE (T) under 33% quota held on 4.3.2012 were released by BSNL. The earlier result declared vide BSNL letter No.5-4/2012-DE dated 4th July 2012 had been held as cancelled.

18.2 As per the revised results, names of 119 JTOs who had been declared successful vide BSNL letter dated 4.7.2012 were not finding a place in the revised results, while 22 JTOs had been declared successful anew. AIBSNLOA came to the rescue of the 119 affected JTOs.

18.3 We were aware that the revised lists had been arrived at based on the Hon'ble CAT, Principal Bench, Delhi direction "to re-evaluate all the answer sheets of all the candidates based on the aforesaid principles and parameters and prepare a fresh list of qualified candidates. Since the examination was held on 04.03.2012 and candidates are awaiting for their promotion for over an year, the Respondent-BSNL shall ensure that the fresh list of qualified candidates is published as early as possible, preferably within 2 months from the date of receipt of a copy of this order."

18.4 We observed that while implementing the direction of Hon'ble PCAT, Delhi, **BSNL had lost sight of a very important and crucial point discussed in the judgment**, citing the case of Manish Ujwal and Others Vs. Maharishi Dayanand Saraswati University and Others JT 2005 (8) SC 382. In this case the Hon'ble Supreme Court of India, while upholding a judgment of Hon'ble Allahabad High Court of Allahabad, under Para 78 of the judgment has observed that, "Now, the point for consideration at this stage is how is this reevaluation to be done? **We must make it clear that the 276 candidates who have been declared as qualified for the DJS Main Examination (Written) are not before us and, therefore, it would not be fair to disturb their status as qualified candidates.**" [Emphasis added] Under Para 81 of the said judgment, Hon'ble Supreme court had observed that,

"We must harmonize the requirement of the second condition with the requirement of not disturbing the candidates who have been declared as qualified as also with the requirement of justice, fairness and equity insofar as the other candidates are concerned. We feel that this would be possible:

(1) by re-evaluating the OMR answer sheets of all the general category candidates on the lines summarized in the table set out above;

(2) by selecting the top 230 candidates in order of merit subject to the minimum qualifying marks of 112.8; and

(3) by adding the names of those candidates, if any, who were earlier declared as qualified but do not find a place in the top 230 candidates after re-evaluation.

In this manner, all persons who could legitimately claim to be in the top 230 would be included and all those who were earlier declared as having qualified would also retain their declared status. [Emphasis added]

18.5 The Hon'ble PCAT, Delhi, while rejecting the prayer for conduct of the LDCE afresh, had also cited another case of Rajesh Kumar and Others Vs. State of Bihar and Others Civil Appeal Nos. 2525-2516 of 2013 decided on 13.03.2013 by the Hon'ble Supreme Court, wherein the Court had observed that,

*“There is considerable merit in the submission of Mr. Rao. It goes without saying that the appellants were innocent parties who have not, in any manner, contributed to the preparation of the erroneous key or the distorted result. There is no mention of any fraud or malpractice against the appellants who have served the State for nearly seven years now. In the circumstances, while inter-se merit position may be relevant for the appellants, **the ouster of the latter need not be an inevitable and inexorable consequence of such a re-evaluation.**”[Emphasis added]*

18.6 The Hon’ble PCAT Delhi orders had not issued any direction to remove the names of the candidates who had been declared successful in the first instance but could not make it in the revised list. It is very much unfortunate that BSNL has left the fate of such candidates high and dry without having any empathy towards them. This may also give room to another round of litigations which is not in the interests of anyone.

18.7 Therefore we requested the management to cause inclusion of the names of 119 JTOs who had been declared successful vide BSNL letter dated 4.7.2012 and are not finding a place in the revised list of successful candidates circulated vide BSNL letter dated 28.6.2013 and to thus render justice to them. We also met GM (Rect) on 1.8.2013 and discussed the issue in detail. He informed us that before declaring the revised result, all the precautions have been taken to comply with the PCAT orders. We requested GM(Rect) to examine our request based on the two Supreme Court Judgments. GM(Rect) agreed to issue necessary direction for examining the points raised in our letter.

19.0 RESTORATION OF FACILITIES SUCH AS LTC, MEDICAL ALLOWANCE, TELEPHONE FACILITIES WITHOUT RESTRICTION:

19.1 BSNL vide its letter dated 5.9.2011 had frozen All India LTC for two years citing expenditure control in BSNL. However exemption had been granted to employees and officers who are retiring during the two years period. Later, it was clarified that “All India LTC is available only to those employees who are retiring on attaining age of superannuation before 5.9.2013.” We believed that BSNL intended to keep All India LTC frozen only for two years upto 5.9.2013 and therefore fixed the same deadline for retiring employees also. So we were hopeful that orders will be issued at the earliest to restore All India LTC from September 2013, which did not happen. But even then, the employees who were to retire in a few months after 5.9.2013 will be put into disadvantage as they cannot plan in advance and book tickets for their journey.

19.2 Therefore, on 6.5.2013, we requested that suitable modification may be issued immediately permitting retiring employees to avail All India LTC ‘during the last two years before their retirement on superannuation’. On 11.5.2013 BSNL issued orders (although the date of the orders was shown as 6.5.2013) permitting retiring employees to avail All India LTC ‘during the last year of their retirement’.

19.3 BSNL issued a letter dated 4.1.2013 proposing to restrict service telephone connections to the minimum and permit calls within the LSA, barring STD calls outside the circle on selected service numbers. This decision is said to have been taken to reduce expenditure towards IUC. We immediately reacted stating that **“already there is a limit for monthly usage prescribed for service connections at residences depending on the Group/Grade of the officers. The officers are to pay for the excess calls above the prescribed limits. Also, only a fraction of calls from service connections are made to customers of private operators. Similarly customers of private operators also call our service numbers. Thus IUC paid by BSNL will be neutralized by the IUC paid to BSNL by the private operators for their calls terminating at these service numbers.** Therefore we fail to understand as to how the decision of BSNL to place further restriction on number of service connections and barring STD calls outside the circle is going to save expenditure towards IUC.”

19.4 Although the above said letter of BSNL only wanted circles to have a plan to restrict expenditure on this account, some circles over-acted and denied off-net calls to the Executives. We again took up the issue on 27.5.2013 pointing out that most of the executives have to interact with representatives of private operators, vendors, franchisees, state and central government authorities, during their daily routine, who do not carry BSNL landlines or mobiles and hence curtailing off-net calls would only be counter-productive. Circle Secretaries are requested to submit specific cases if any in their circles which still require to be settled.

20.0 ANTE-DATING OF PROMOTION IN SDE (T) GRADE PROMOTED THROUGH LDCE 2002:

20.1 On 26.4.2010 Hon'ble CAT, Bangalore passed an order regarding ante-dating of promotion in SDE (T) grade under competitive quota based on LDCE 2002 w.e.f.23.1.2002 in respect of the applicants. BSNL filed a review petition in the High Court of Karnataka with RP No.315/2011 in W.P.No.37322/2010. Due to the pendency of the review petition, no action was taken on the representations from SDEs (T) for ante-dating of promotion in the SDE grade. Later the Hon'ble High Court of Karnataka upheld the order of the Hon'ble CAT, Bangalore. Then the Hon'ble CAT, Jabalpur in TA 14/2010 also passed a similar order as that of Hon'ble CAT, Bangalore allowing the benefit to the applicants in the case. Therefore we had requested that a general order is issued by BSNL allowing the benefit to all similarly placed SDEs, instead of forcing these officers to knock the doors of various courts in the country. BSNL management is not inclined to issue a general order, preferring to act only in specific cases ordered by the courts.

21.0 FIRST TIME BOUND UPGRADATION UNDER EXECUTIVE PROMOTION POLICY ON COMPLETION OF 4 YEARS IN THE CURRENT IDA SCALE:

21.1 BSNL Executive Promotion Policy under Para 3.1 has stipulated that, "The FIRST UPGRADATION OF IDA scale of individual Executive will be due for consideration on completion of 4 (four) years of Service in current IDA scale subject to the condition that the Executives' basic pay in the current IDA 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."

21.2 This stipulation particularly affected JTOs/JAOs and equivalent cadres drawing minimum of pre-revised E1A scale of Rs 9850 on 1.10.2000. Subsequently, after implementation of 2nd Pay revision for BSNL Executives, in the absence of revised E2A, it was decided vide BSNL order No.400-61/2004-Pers.I (Pt.II) dated 18.3.2010 that for the first IDA pay scale upgradation, the executives working in revised E1A pay scale will be provisionally placed in revised E2 pay scale as per the attendant conditions of EPP, subject to further revision of scale of E1A/E2A if any agreed to by BSNL Management in this regard at a later date. Therefore, those Executives in the minimum of E1A scale as on 1.1.2002 and 1.1.2003 got their first financial upgradation on 1.1.2007, i.e. in five years and four years respectively. Thus, all JTOs/JAOs appointed after 1.1.2003 are getting their first financial upgradation in four years. Thus it may be seen that the JTOs/JAOs appointed prior to 1.1.2003 alone have been affected by the stipulation under Para 3.1 of the EPP.

21.3 Therefore, we have requested that the stipulation of crossing/touching the minimum of the higher scale may kindly be removed and the first time bound upgradation be allowed on completion of four years in the current IDA scale to all executives, so as to end the discrimination between the comparatively small number of JTOs/JAOs appointed prior to 1.1.2003 and those appointed later.

22.0 RESOLUTION OF VARIOUS ANOMALIES ARISING OUT OF IMPLEMENTATION OF BSNL EXECUTIVE PROMOTION POLICY:

22.1 Cases wherein senior Executives are getting lower pay than their juniors due to getting of adhoc promotion in the next IDA pay scales before the date of their IDA pay scale upgradation under Executive Promotion Policy: In response to BSNL letter dated 16.6.2011 seeking our views on this issue, we had submitted our views on 29.6.2011 that **"We believe that the only solution to this case, which will not lead to further anomalies, is stepping up the pay of the senior to an amount equal to the pay of his junior from the date the junior was given the adhoc promotion, based on a claim by the senior comparing his junior."**

22.2 Later, expressing the same view, the Hon'ble CAT, Ernakulam Bench, in OAs 109/2011, 110/2011 & 236/2011 had ordered that, "The respondents are directed **to step up the pay of the applicants to the level of pay of their juniors with effect from the date of arising of the anomaly of seniors drawing less pay than their juniors** in respect of each of the applicants within a period of 3 months from the date of receipt of a copy of this order. However, this order will not stand in the way of the Committee set up to deal with the issue under consideration in these O.As, giving a more beneficial recommendation for the applicants."

22.3 Quoting the orders of the Hon'ble CAT, Ernakulam Bench, we had requested that, without restricting the benefit of such stepping up of pay to the applicants only, the Committee set up for the purpose may decide to step up the pay of the seniors and consequently a common order to benefit all such seniors may be issued. Contrary to our expectations, the Committee decided against providing any relief to the seniors who are getting lower pay than their juniors. Also, BSNL filed a petition in Hon'ble High Court of Kerala, challenging the orders of the Hon'ble CAT, Ernakulam Bench.

22.4 In August 2012, the Hon'ble High Court of Kerala had confirmed the orders of Hon'ble CAT, Ernakulam Bench and we immediately requested that a general order may be issued allowing stepping up the pay of the senior to an amount equal to the pay of his junior in all cases of such anomalies arising out of the provisions of BSNL Executive Promotion Policy. We also had discussions a few times with the senior officers on this issue. The issue is to be pursued further.

22.5 Issue of treating promotion to the grade of AAO and Sr.AO as first time bound up-gradation in IDA pay scale: The issue regarding recovery of excess pay as per clarification dated 19.2.2010 was referred to a high level committee by BSNL. The recommendations of the committee conveyed vide Corporate Office letter dated 23.4.2012 was that the clarification dated 19.2.2010 substantiated the basic guidelines of the Executive Promotion Policy. However the committee recommended that excess pay drawn need not be recovered by the circles.

22.6 We immediately took up the issue with the Sr.GM (Pers) stating that the decision of the committee is in violation of the undertaking given under para (7) (a) of General terms and conditions for absorption of Group B officers in BSNL circulated vide No.BSNL/11/SR-2001 dated 14.1.2002, wherein it has been specifically mentioned that ***'the existing rule of promotion to higher grades of parent department shall continue till BSNL formulates its own rules and regulations.'*** The post based promotion orders i.e. from JAO to AAO as well as from AO to Sr. AO, were issued by DOT during the period, when these officers were working on deemed deputation basis and was covered under DoT Recruitment Rules and related orders.

22.7 The post based promotion which has been given to the Executives before introduction of EPP in BSNL, ***cannot be considered as 1st upgradation.*** Moreover, The decision of the committee as approved by BSNL, takes away the post based promotion

granted to the AAOs by the DoT retrospectively, which is highly arbitrary. The benefit accorded under a statutory provision cannot be taken away by an administrative order, which results in recurring financial loss for the Executives, if post based promotion is considered as 1st up-gradation, which will consequently affect their pension also, although the order and reference says that the excess pay drawn need not be recovered. We have requested Sr.GM (Pers) to take a fresh look in the issue and explore the possibility of giving at least a **one-time option** to the aggrieved executives for retaining their post-based promotion and to count the residency period in that grade for first time bound up-gradation under EPP, if it is advantageous to them. We believe that our proposal for one time option is under active consideration by the management.

23.0 ABSORPTION OF GROUP A ITS OFFICERS IN BSNL:

23.1 After Hon'ble CAT, Principal Bench, New Delhi passed orders dated 1.6.2011 directing BSNL "not to give any further opportunity to the officers of the Department of Telecommunications, who continue on deemed deputation to BSNL and **to repatriate them to the parent Department**", options were called for again on 22.9.2011 with the same terms and conditions which were offered during the year 2005 for absorption of ITS Group A officers in BSNL. DoT issued an order dated 3.11.2011 clearly stating that, **"With the expiry of last date prescribed for exercising option (8.11.2011), the period of deemed deputation will end.** As such, the officers who have either not exercised their option or have opted for Government Service or have exercised conditional option, therefore, **stand reverted to Government."** But only a handful of the ITS officers submitted their option for absorption in BSNL. Subsequently BSNL relieved around 400 non-optee ITS officers on repatriation to DoT in two batches. BSNL's efforts to recruit back the unwilling ITS officers through Special Lateral Direct Recruitment in Sr.DGM and GM/PGM grades also failed, since the ITS officers wanted their inter-se-seniority in ITS grade to be maintained even after their recruitment in BSNL. The remaining non-optee ITS officers were however not relieved from BSNL.

23.2 Meanwhile, while disposing off a batch of petitions, the hon'ble High Court of Delhi, on 17.4.2012 ordered relieving of the non-optee ITS Group A officers within four weeks of its order. BSNL filed a Miscellaneous Petition seeking extension of the time by 25 months. After hearing the arguments, the Hon'ble High Court of Delhi ordered completion of the relieving before 30th September 2012 and later extended the deadline to 31st October 2012. But at the instance of BSNL, DoT prepared a note for consideration by the Committee of Secretaries proposing further extension of deputation of ITS Group A officers. AIBSNLOA strongly opposed this move and wrote to the MoC, the Cabinet Secretary and the Prime Minister.

23.3 AIBSNLOA's call for observing 17th September 2012 as Protest Day urging the authorities to end deputation of non-optee Group A officers in BSNL and to implement Delhi High Court orders by relieving them immediately received very good response from the Executives all over the country. The response was overwhelming in BSNL Corporate Office with more than 350 Executives joining the protest by wearing the protest badges.

23.4 On 7.11.2012, after hearing the counsels of different parties, the court allowed time upto 15th December 2012 for relieving the repatriated officers, without prejudice to any new proposal of DoT being considered by the COS and later by the cabinet. The case was posted for 18th December 2012. The Additional Solicitor General appearing for the Union of India (DoT) sought further extension of time on the plea that the Cabinet is to take a decision on the CoS Minutes. The Hon'ble Delhi High court further granted time upto 1st February 2013, posting the matter for 1st February 2013. On 6.2.2013, dismissing the BSNL application for allowing of non-optee ITS Group A officers on continued deputation in BSNL, the Hon'ble Delhi High Court directed BSNL to relieve those who have opted to revert to Government service within six weeks.

23.5 On 11.3.2013, DoT issued orders repatriating to DoT with immediate effect the remaining ITS Group A officers on deemed deputation to BSNL and MTNL but not had opted for absorption in these organisations. In the same breath, DoT issued another order 'deploying' the ITS Group A officers who stand repatriated to DoT, in BSNL for a period of 10 years on diminishing basis, based on the cabinet approval on the issue. DoT also declared that with these orders the process of absorption of Group A Officers in BSNL has been completed. The Delhi High Court has neither revoked its earlier order for relieving these officers within six weeks from 6.2.2013 nor has passed any judgment against DoT's orders till this date.

23.6 AIBSNLOA reacted by writing to DoT that 'the decision to allow deputation to the unabsorbed ITS Group A Officers for a further period of 10 years will cause serious demoralization, frustration and de-motivation to the BSNL's own Officers, since the deputationists will occupy the posts sanctioned against BSNL's assets which otherwise are the promotional posts of BSNL Officers. **In case of JAG level posts alone, 181 number of posts of DGM are being held by the deputationists** - thus blocking the promotion avenues of the eligible BSNL Executives. If fact, the career advancement of the absorbed/BSNL recruited Executives will be seriously affected by the above decision.'

23.7 Later, on 29.4.2013, DoT called for option from amongst ITS Group A officers working in DoT for their deputation in BSNL/MTNL on the terms and conditions laid down in DoT letter dated 11.3.2003. DoT's action having failed to evoke required response, BSNL called for applications for recruitment of CGMs, GMs and DGMs in BSNL on immediate absorption basis under Rule 37 of CCS (Pension) Rules 1972. It is learnt that only a handful of ITS officers have applied for recruitment to CGM/GM level posts.

23.8 Thus a long winding story of the absorption of ITS Group A officers has ended with these officers continuing in BSNL on 'deployment' with the approval of the Cabinet, the Government itself throwing to the winds its own decisions and instructions on the issue of deputation of Government Servants to PSUs. The two Executive Associations which all along supported and worked for the cause of the ITS officers while making empty noises to fool their members, remain satisfied with filing a miscellaneous petition in the court. **The ITS officers themselves have not gained anything but the loss is to BSNL which has seen only mismanagement all these years.**

24.0 SURVIVAL AND GROWTH OF BSNL:

24.1 Government of India constituted a Group of Ministers under the Chairmanship of Finance Minister P.Chidambaram in April 2013 tasked with looking at ways to revitalize BSNL and MTNL. "The GoM will, keeping in inter alia in view national and strategic interest, consider and recommend measures that could be taken in the short, medium and long term for revival and revitalization of BSNL and MTNL," said the official note from the Cabinet Secretary, on the formation of this panel.

24.2 AIBSNLOA wrote to the Chairman of the GoM on 7.6.2013, highlighting important points, making it clear that "Highlighting these issues should not be seen as seeking any favour from the Government for improving BSNL's finance. It is the responsibility of the Government to ensure that BSNL is duly compensated and protected as BSNL alone implements the social obligations of the Government of India and only because of BSNL's presence in the arena, the private operators are providing the customers with the telecom services at affordable rates."

I. IMPLEMENTATION IN LETTER AND SPIRIT OF THE MOU BETWEEN DOT AND BSNL: The Memorandum of Understanding between DoT and BSNL for the year

2012-13 pinpoints the Government's commitment towards the following. These commitments were available in the MoU for the year 2011-12 also but have remained in the paper. Atleast now the Government should endeavor to implement the commitments in letter and spirit:

- i. Re-imbursement of deficit on account of commercially non-viable services:
 - a. Rural Wireline
 - ii. Refund of upfront BWA spectrum License fee.
 - iii. Center/State governments and PSUs should give priority to BSNL for their telecom service requirement.
 - iv. Pension Contribution is collected on the maximum of the scale in IDA instead of on actual pay drawn which is contrary to the procedure followed in respect of CDA scales.
 - v. Funding Support for VRS
 - vi. No levy of charges towards additional spectrum, as recommended by TRAI.

II. AUTONOMY IN DECISION MAKING:

One of the key issues for dismal performance of any PSU in changing their business effectively has been lack of needed autonomy, which in turn has led to not being able to put in place an effective accountability mechanism. For, accountability will be meaningful only when the respective domains of the Government (DoT) and BSNL are clearly defined and sufficient powers are provided to be exercised by BSNL.

III. PAYMENT OF ELECTRICITY CHARGES BY BSNL UNDER INDUSTRIAL TARIFF INSTEAD OF COMMERCIAL TARIFF:

Next to staff salary, expenditure towards electricity and fuel is the highest on the list of BSNL's finance statement. Therefore we request that the GoM may make recommendations so as to ensure that BSNL is charged only under industrial tariff.

IV. PAYMENT OF SERVICE TAX:

BSNL is now paying service tax on the amount for which bills have been raised. It is a known fact that all the bills raised do not end in realization of the amount billed. Thus BSNL has to pay more than the service tax it collects from its customers. Hence it should be ensured that BSNL pays service tax only on the amount realized through bills.

24.3 In the first meeting of the GoM held on 12.6.2013, DoT made a presentation proposing refund of Rs 12,846 crore to BSNL and MTNL for surrender of BWA spectrum and made a case for sharing a large chunk of MTNL's Rs 7,500-crore pension liability to ease the telcos currently reeling under financial pressure. Other proposals for revival in the short-term include assistance of Rs 10,117 crore for one-time levy for spectrum beyond 4.4 Mhz (GSM) and beyond 2.5 Mhz (CDMA), preferential treatment for BSNL and MTNL services in government and PSUs and operational level synergy between the two telcos. More medium-term proposals include setting up of a separate telecom infrastructure and creating a separate land development and utilisation company for management and monetisation of land assets held by the two. In the second meeting of the GoM broad contours of pension liability of MTNL were discussed but no decision was taken. In its third meeting held on 12.9.2013, the GoM decided to refund the money paid by BSNL and MTNL for surrendering BWA spectrum worth more than Rs 11,000 crore. It also took a decision on providing pension to MTNL employees, which is likely to cost about Rs 570 crore a year. "The Group of Ministers took firm decisions, one in relation to pension of MTNL employees, the second in relation to the spectrum that was allocated both to BSNL and MTNL in the 2.5 GHz band and one other small issue," Telecom Minister Kapil Sibal told reporters here. He said the decision will now be taken to the Cabinet for approval.

24.4 Apart from this we intend to take up with the BSNL Management the issue of non-availability of stores and non-allotment of funds for repair and maintenance of our outdoor system, which has resulted in accumulation of faults causing customer

dissatisfaction and surrender of landlines and broadband. It should not be forgotten that BSNL is still number one in landlines and broadband and this strength should not be allowed to be weakened by 'penny wise pound foolish' decision of non-spending towards repair and maintenance of the cables and lines.

25.0 CHQ WEBSITE:

25.1 AIBSNLOA's strength lies in its ability to analyse issues dispassionately and deeply, reporting only the facts, representing repeatedly to the Management with clear presentation of the points, pursuing issues with the senior officers relentlessly and its braveness in standing alone and standing tall when others perform gimmicks and publicity stunts to befool their members. AIBSNLOA CHQ's site is the face of such uniqueness which has viewership largely outside our membership. The site has been re-designed by our AGS Com.R.R.Balasubramanian, using latest HTML-5 and CSS codes giving it a more attractive look and making it easier in browsing through. The newly designed site will be launched in the open session of this CWC meeting.

26.0 MEMBERSHIP VERIFICATION:

26.1 Our continuous efforts to get minimum trade union facilities as have been extended to two other associations succeeded partially in December 2011. While admitting that no association in BSNL has been recognized and that two associations have been granted minimum facilities, the SR section has been denying equal facilities to other associations like ours, without any valid reason. We have already exposed the emptiness of the claim by the SR section that the two associations were granted the facilities as they were having the facilities during the DoT period and the facilities are continuing. Both are new associations formed after formation of BSNL and the fact has been established by us through various documents in our earlier submissions. In the absence of membership verification, extending facilities to these associations is a clear case of discrimination.

26.2 In November 2009, BSNL had circulated the extract of the recommendations of the Committee constituted for framing rules & regulations governing conduct of membership verification of executive employees association in BSNL. But subsequently there was silence on the issue. Now, BSNL has circulated the draft notification of BSNL (Recognition of Executive Association) Rules 2013 and called for the comments/views of all Executive Associations. The salient points of the rules are that the verification will be conducted through check off system, recognition of one association securing majority of the votes subject to a minimum of 35%, status of support association to one other association securing the second majority of votes but not less than 15% and 3 years will be the periodicity of recognition. Other terms and conditions are based on the DPE guidelines for recognizing the service associations.

26.3 Apart from some modifications required in the terms and conditions, we have submitted the following vital points for incorporation in the draft:

- a) Verification must have to be on **secret ballot basis** as in the case of the non-Executive Employees. This only will allow free and fair exercise of mandate. Otherwise, the Executives will always be subject to coercion and intimidation.
- b) Associations securing **2% votes** should be extended minimum trade union facilities as in the case of non-executives.
- c) All participating associations should be extended equal facilities with the two associations already enjoying the facilities at least for **one year** prior to the date of verification through secret ballot. This is for the sake of equality and justice and also to allow level playing field to all. Otherwise, it will be an uneven competition.
- d) No separate Association should be allowed for the absorbed Group A officers, since there is no categorisation as Group B and Group A in any CPSE.
- e) Para (6) under Para 4 of the draft notification that, "With a view to develop leadership

in the associations, the Executives shall hold any post of President, Vice President, General Secretary, Assistant General Secretary or the Financial Secretary (Treasurer) in the Associations for maximum number of four tenure, with hiatus of atleast one tenure, after any two consecutive tenures. The Circle level and SSA level bodies shall also be governed by these guidelines” needs to be removed. **The right of the members to elect the office-bearers of their choice cannot be taken away by the Management.**

f) Number of office-bearers at Circle and SSA level should be allowed to be not more than 15.

g) Immunity from transfer should be applicable to the President also at all levels.

26.4 This CWC meeting should draw up our strategies for getting the desired modifications in the draft notification, particularly the conduct of verification through ‘secret ballot’ and the work plan for facing the process of verification. A threadbare self-analysis has to be done and detailed guidelines are to be formulated for helping the circles and branches to successfully approach the process of verification.

27.0 FINANCIAL STATUS:

27.1 Financial Report by CHQ Finance Secretary is enclosed herewith. As it may be seen CHQ is functioning with a lot of financial constraints. In addition to paying the quota to CHQ regularly, Circle Secretaries are requested to collect donations from members and well wishers so that CHQ can plan to bring out a journal. Legal expenses may become a major drain of our limited resources in the near future to ensure fair and free membership verification. This CWC meeting needs to take a decision on the methodology for meeting the legal expenses.

28.0 CONCLUSION:

28.1 Dear Comrades. We know that we are fighting against odds with the determination to set things right both for BSNL as well as its employees. In the prevailing situation where money power and muscle power have the say, where truth is overshadowed by falsehood, where hypocrisy over shines sincerity, where deceit overpowers honesty, we may feel alone because we are genuine, we are truthful, we are sincere and we are honest. We know that we have chosen a less trodden path, full of difficulties. If there were no difficulties there would be no success. If there were nothing to struggle for, there would be nothing to achieve. We are facing the right direction; Let us keep on moving.

28.2 Let me conclude with the famous quote by Rabindranath Tagore:

“I have become my own version of an optimist. If I can't make it through one door, I'll go through another door - or I'll make a door. Something terrific will come no matter how dark the present.”

Yours fraternally,

29.9.2013

**(Rakesh Sethi)
General Secretary**