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No.AIBSNLOA/CHQ/2015/59

Dated: 9<sup>th</sup> July 2015

To  
Shri Md. Ashraf Khan,  
Executive Director (NB) &  
Chairman,  
Committee on CPSU Cadre Hierarchy.

**Sub: AIBSNLOA's views on the issues deliberated by the Committee – reg**

Sir,

We had separately registered our protest against non-inclusion of AIBSNLOA in the Committee considering the HR issues of BSNL Executives by the Management and even requested CMD BSNL to cause inclusion of AIBSNLOA in the committee, so that our valuable views do not go unheard.

2. We would like to highlight the fact that AIBSNLOA alone demanded E2, E3 scales to JTOs & equivalent and SDEs & equivalent right from the moment the Presidential Orders for revision of pay was issued by DoT in March 2009, while BSNL Management and other associations were seeking equivalent pay scales for E1A & E2A. Subsequently AIBSNLOA has been pursuing the issue continuously with the Management at different levels but without any success. All the letters written by AIBSNLOA during the past six years on this issue are enclosed herewith. On the issues of CPSU cadre Hierarchy and first time bound upgradation uniformly in 4 years, we have submitted our views with strong justification. Copies of those letters are also enclosed. However, we are submitting a brief note on all the three issues, explaining our proposals/views with strong justifications.

3. We request you to kindly consider our proposals/views while finalizing the recommendations of the committee. We shall feel obliged if we are granted a personal hearing to explain our proposals in detail.

With kind regards,

Yours sincerely,

(Rakesh Sethi)  
General Secretary

## **BRIEF NOTE SUBMITTED BY AIBSNLOA ON THE TERMS OF REFERENCES FOR CONSIDERATION BY THE COMMITTEE HEADED BY ED (NB)**

- I. Due to non-approval of E-1A and E-2A pay scales by Government to examine the introduction of E2 and E3 pay scales for JTOs, SDEs and equivalent cadres:**
1. After absorption in BSNL, when IDA pay scales were granted to absorbed BSNL employees w.e.f. 1.10.2000, JTOs & equivalents and SDEs & equivalents were not granted E2 and E3 pay scales respectively as was the case in other PSUs where pay revision had already taken place w.e.f. 1.1.1997. Instead JTOs were granted IDA scale of 9850-250-14600 and called E1-A. SDEs were granted IDA scale of 11875-300-17275 and called E2-A.
  2. At the time of pay revision w.e.f. 1.1.2007, BSNL orders dated 5.3.2009 did not mention any pay scale for the pre-revised scales of 9850-250-14600 (E1 A) and 11875-300-17275 (E2A) for JTOs and SDEs and equivalent cadres, but left a foot note that revised IDA scales for E1 A and E2 A will be notified later. Thus JTOs, SDEs and their equivalents were granted pay scales lower than what they were drawing prior to pay revision.
  3. On 16.3.2009, AIBSNLOA wrote to the then CMD BSNL proposing (a) JTOs level : E-2 scale, (b) SDEs level : E-3 scale, (c) Sr SDEs/Sr AOs : E-4 scale, (d) DEs level : E-5 scale and (e) DGMs level : E-6 scale. Sr.SDEs/Sr.AOs had already been granted E-4 scale and DEs had been granted E-5 scale. We had specifically stated that by granting these scales there will not be any additional financial implication since financial benefit will be available only for new entrants at JTO level after 1.1.2007.
  4. Department of Public Enterprises, in its O M No. 2(70)/08-DPE(WC)-GLVII/09 dated 02.04.2009 (vide Para 2.vi), clearly instructed against introduction of anyintermediary scales and further asserted that "If there has been any aberrations, they need to be corrected." But BSNL continued to maintain that it has requested DPE to approve pay scales equivalent to E1 A and E2 A.
  5. On 23.7.2010, DPE in reply to a questions under RTI Act, stated that "DPE has not received any proposal for introduction of intermediary scales equivalent of E1A and E2A from BSNL/Department of Telecommunications". It further said 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."
  6. DoT issued a letter vide No.61-02/2010-SU dated 24th January 2011 on BSNL's proposal for revision of IDA pay scales of E1A, E2A and E9A in respect of BSNL Executives. DoT in its letter observed that, "Case of E1A and E2A scales is not justified."
  7. BSNL, again represented to DPE in the year 2014, requesting to allow BSNL introduce E1 A, E2 A equivalent scales. As expected, DPE has reportedly turned down the request of BSNL.
  8. Therefore, as things stand today JTOs, SDEs and their equivalents are drawing pay in scales lesser than the equivalent pre-revised scales.
  9. At the time of granting IDA pay scales on absorption, BSNL Executives were given pay scales starting with E1 for JTOs, E2 for SDEs and so on. But the MTNL Executives had been given pay scales starting with E2 for JTOs, E3 for SDEs and so on. Lower scales for BSNL Executives were justified on the plea that BSNL employees were eligible for Government Pension under amended Rule 37A of CCS (Pension) Rules, 1972, while the MTNL Executives were eligible for pension under rule 37 of CCS (Pension) Rules, 1972.
  10. But now MTNL employees and executives have been made eligible for pension under Rule 37A similar to BSNL employees by a Cabinet decision on 26.12.2013. During formation of BSNL,

Group B officers of DoT had the choice for opting for MTNL also. But we opted for BSNL only because of Government Pension, although lower scales when compared to MTNL were offered for BSNL Executives. Therefore, there is no justification now for continuing with lower pay scales for BSNL Executives compared to their MTNL counterparts.

11. The Government/DoT seeks to bring parity between MTNL and BSNL executives, by granting reduced pay scales to MTNL executives in the next pay revision. But this will not ensure parity since BSNL executives have been drawing pay in lower scales for the past 15 years. Also, reducing the pay scales for MTNL executives will not be acceptable to them and they will naturally resist any such effort.
12. Even if it is taken that their pay scales are reduced during the next pay revision, the MTNL executives will be drawing higher pay than their counterparts in BSNL, as the pay drawn by them personally cannot be reduced and will get protected.
13. There is a very huge number of retirement on superannuation in BSNL and recruitment for the large number of JTO vacancy has to be done without further delay. E1 scale for JTOs will have a dampening effect on fresh recruitment, when there is an urgent necessity for young blood. When the revised pay scales were implemented for BSNL Executives on the basis of Government decisions on Second PRC, **E6 scale was not offered to any cadre/grade in BSNL.** AIBSNLOA had therefore suggested ***“review of the issue dispassionately and grant of following IDA pay scales to the Executives from JTOs level to Dy GMs : (a) JTOs level : E-2 scale, (b) SDEs level : E-3 scale, (c) Sr SDEs/Sr AOs : E-4 scale, (d) DEs level : E-5 scale and (e) DGMs level : E-6 scale. 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.”***
14. Had E6 scale been given to JAG grade, SG JAG grade would have got E7 scale. Today, a discrepancy exists wherein Group B absorbees are fitted in E6 scale for SG JAG, while those absorbed as Group A have been given E7 scale for SG JAG.
15. Third Pay Revision Committee is likely to be constituted in the short future and therefore there is an urgent necessity to settle the issue of grant of E2 scale to JTOs & equivalent and E3 scales to SDEs & equivalent.
16. After granting E3 scales to SDEs & equivalent, Sr.SDE scale cannot remain the same E3 scale and will have to be E4. Consequently DE scale will have to be E5, JAG scale to be E6 and SG JAG scale to be E7.
17. As explained in Para 13, financial implication will be only in respect of new entrants after 1.1.2007. **Therefore we reiterate our studied stand that the issue can be resolved only by granting E2 scale for JTOs & equivalent, E3 scale for SDEs & equivalent, E4 for Sr.SDEs& equivalent, E5 for DEs& equivalent, E6 scale for JAG grade and E7 for SG JAG grades, with effect from the date of pay revision viz. 1.1.2007.**

## II. To examine introduction of CPSU cadre hierarchy vis-à-vis the present setup:

1. BSNL Executive Promotion Policy circulated vide BSNL letter dated 18.1.2007 provides for time bound financial upgradation upto the level of SG JAG. According to the policy, the first financial upgradation will be due for consideration on completion of four years in the current IDA scale subject to the condition that the Executive's pay in the current IDA scale has reached/crossed the lowest of the higher IDA scale or on completion of six years in the current IDA scale, whichever is earlier. Subsequent upgradation will be due for consideration on completion of five years in the current IDA scale. Consequent to such upgradation there will not be any change in substantive status, designation and duties & responsibilities.
2. According to the policy, post based regular promotion will be regulated as per the RRs already in place or RRs to be notified.
3. The provisions of adhoc/officiating promotions will cease to exist consequent upon completion of the process of absorption of Group A officers and implementation of promotional aspects of Group A officers as well.
4. BSNL MS RR was notified on 14.7.2009, stipulating conditions and method of recruitment for DE and above posts.
5. Management Trainee Recruitment Rules were notified thrice in 2007, 2009 and 2013.
6. A revised Executive Promotion Policy was proposed by this committee on 14.3.2014 after examining the promotion policies of NTPC and BHEL, replacing the present time bound financial upgradation and post-based functional promotions with "promotion of Executives to positions in the next higher grade on the basis of merit, efficiency, number of years of service in a grade and suitability for higher posts." Minimum period of service in a grade (called Eligibility Period) will be 5 years. More stringent benchmarks have been proposed and even after completion of Eligibility Period of 5 years and even after being found suitable by a CPC, promotion will be only to the extent of posts in higher grade to be decided on the basis of the recommendations of the consultant engaged by BSNL to prepare Revival Plan & HR Plan for BSNL.
7. Subsequently a BSNL HR Plan, based on the recommendations of the Deloitte Consultant, has been considered and is being put into practice on experimental basis in a few circles/SSAs.
8. In spite of all these, still adhoc promotions continue to stay and officiating promotion (now renamed as look-on) is the main procedure for filling up vacant posts. Very huge number of executives in all grades are retiring every month without getting their due regular post based promotion. Due to a large number of seniority related court cases, holding of DPCs has become almost impossible. New judgments/orders by various courts result in further questions being raised. Executives have lost morale to an alarming extent due to non-availability of promotion in due time, large scale transfers on promotion and compulsion to officiate in higher posts without any change in status for prolonged periods while they are eligible to be promoted to those higher posts. This low morality is likely to affect their efficiency in the long run.
9. Group B officers of DoT were given an option for absorption in BSNL on 2.9.2003 wherein under "Promotional avenues" it had been assured that, "With a view to motivate Executives in BSNL for achieving excellence in performance and higher productivity, resulting into improved quality of service, customer satisfaction and greater revenues for the Company, Executives in BSNL will be allowed upgradation to the next higher IDA pay scale on a time bound basis, varying between 4 to 6 years, as may be prescribed for each Scale and other attendant conditions, up to the IDA pay scale of JAG Selection Grade, **beyond which it will be depend upon availability of post** and their suitability and selection for promotion, which will be uniformly evaluated in the various streams of discipline." But as per the BSNL Executive Promotion Policy which was later implemented, **post based promotion even upto SG JAG level was separate** from time bound financial upgradation.
10. Hon'ble Principal CAT in OA 1086/2010 on 2.11.2010 observed that, "on a prudent reading and applying the principle of literal and harmonious construction, would indicate that the time bound

scales in IDA were made available to the applicants, which, **now being reflected as per the impugned order dated 18.1.2007, has not conferred upon the status of the promotional post and are only an eyewash for BSNL employees and are not amounting to promotions.** In a promotion, as per the legal methodology, which is a fundamental right of consideration, it is not only the higher pay scale but also assumption of higher post, which are part and parcel of the process of promotion. It would not be a promotion when a person remains in the same post and is only given the scale of the promotion post." "Be that as it may, the question is that once we recognize in law the right of promotion a fundamental right, it would be highly illogical that by virtue of rendering service after absorption on time bound basis, applicants are deprived of holding the post, which carries the duties attached to the higher posts. It is not only the pay scale but also the status, which matters in the matter of promotion, which inclusive of the fundamental right guaranteed to the employee." "If we set aside these rules and the above orders and give an option to the applicants to revert back, this would create such an administrative chaotic situation that administrative exigencies as well as public interest would have to suffer. However, when a policy decision is not in consonance with law and more particularly Articles 14 & 16 of the Constitution of India, we have jurisdiction to direct the respondents to reconsider the entire issue and then decide the promotional avenues to the applicants." The CAT finally ordered that, "we dispose of this OA with a direction to the respondents to reconsider the entire matter regarding promotional avenues to the applicants as promised earlier by them having been implemented and consider their grievances, including the averments now taken before us in the OA and our observations made in the preceding paragraphs. A reasonable and prudent reconsideration as apt in law would culminate into a speaking order to be passed by the respondents within a period of three months from the date of receipt of a copy of this order."

11. After nearly five years after the judgment, BSNL has mooted a change in its policy on 14.3.2014, replacing the present time bound financial upgradation and post-based functional promotions with "promotion of Executives to positions in the next higher grade on the basis of merit, efficiency, number of years of service in a grade and suitability for higher posts." But, the draft policy proposes **minimum eligibility period of 5 years** for promotion to the next grade, **implying it will not be time bound.** Again, the draft proposal says "even after completion of Eligibility period of 5 years and even after being found suitable by a CPC, **promotion will be only to the extent of posts in higher grade** to be decided on the basis of the recommendations of the consultant engaged by BSNL to prepare Revival Plan & HR Plan for BSNL. This draft proposal is therefore completely against the assurances given at the time of absorption.
12. We are of the considered view that **time bound functional promotions upto the level of SG JAG alone will create an atmosphere where seniority related court cases will have become extinct and the morale of the executives will be boosted with timely promotion with change is substantive status, designation, responsibility etc.**
13. We are also of the firm view **there should not be any lateral entry other than from the entry grade, the JTO/JAO. Large scale recruitment at entry level of JTOs/JAOs and providing a faster track promotion for qualified and talented executives from within BSNL will remove the stagnation among the youngsters.**

### **III. To examine the implementation of first time bound promotion uniformly after four years w.e.f. 01.10.2000.**

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.”

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 2<sup>nd</sup> 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 got 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.
3. Therefore, we request 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 uniformly to all executives.**

Finally, it is learnt that, there is an indication by the Management side that resolving of these issues may not be retrospective in nature. We are in complete disagreement with such a notion since, at the time of pay revision w.e.f. 1.1.2007, BSNL orders dated 5.3.2009, while **tabulating revised pay scales effective from 01.01.2007** for other cadres, did not mention any pay scale for the pre-revised scales of 9850-250-14600 (E1 A) and 11875-300-17275 (E2A) for JTOs and SDEs and equivalent cadres, **but left a foot note that revised IDA scales for E1 A and E2 A will be notified later.** Therefore, any revised scale that will be decided now should be effective from 1.1.2007 only. Denial of arrears will be against all norms and legal prudence since it is BSNL who delayed the notification unduly for more than six years and the executives cannot be allowed to suffer on this count. Similarly the executives who have been put to loss because of the condition of touching/crossing the minimum of the higher scale are very small in number with very less financial implication and denying them their due arrears will be gross injustice.



**RAKESH SETHI**

General Secretary,  
AIBSNLOA