



Corporate Office
Personnel-IV Section
No. 3-8/2010/Pers-IV

BHARAT SANCHAR NIGAM LIMITED
(A Government of India Enterprise)
5th flr. Bharat Sanchar Bhawan, Janpath,
NEW DELHI-110001
Website: www.bsnl.co.in
Dated: 30th April, 2013

MOST URGENT
COURT CASE

To
All Heads of Telecom Circle/Districts,
Chief General Manager, NTR,
Bharat Sanchar Nigam Limited,

**Subject:- SLP(C) No.4553/2012 in OA No. 1282/2010 filed by
BSNL Officers Association Vs CMD BSNL & Ors in CAT
Principal Bench, New Delhi-reg**

An OA bearing No.1282/2010 was preferred by BSNL Officers Association before Hon'ble CAT, Principal Bench on 6th May, 2010, seeking parity with the officiating JTO of Kerala circle for fixation of the pay of it's member JTOs under FR 22(1)(a)(i) without restriction of FR 35. The OA was admitted by the Hon'ble Principal Bench which vide it's order dated 26th August, 2010 ordered as under:-

"...For parity of reasons, we allow present OA in terms of the decision of Ernakulam bench of this Tribunal in the matter of M.V.Salilakumar & Ors. Vs CMD & Ors.(supra). However, we make it absolutely clear that the fate of the applicants herein would be dependent upon the writs filed by the respondents in Kerala High Court. That being so, if the writs allowed, the respondents may withdraw the benefits given to the applicants and, therefore, there will be no need for the respondents to file separate writ in this case."

The WP No.1339 of 2011 filed against the above order of the Hon'ble CAT, Principal Bench was dismissed by the Hon'ble High Court of Delhi, which upheld the decision of the Principal Bench. A SLP(C) bearing No.4553/2012 was preferred before the Hon'ble Supreme Court of India, which upheld the orders of the Principal Bench and observed as under:-

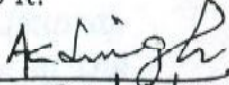
"It goes without saying that in the light of the observations made by the Tribunal and those made by the High Court if the Writ Petitions filed by the petitioner/corporation before the Kerala High Court are eventually allowed and the judgement of the Ernakulam Bench and the CAT is set aside, any benefit which the petitioner - corporation may have extended to it's employees pursuant to the said judgement can be reversed not only qua those who are parties to the said case but also qua

A. Singh

all such employees as have on the analogy of said order obtained benefit from the petitioner/corporation with or without intervention of the CAT or the High Court."

In view of the above judgement of the Hon'ble Apex Court, it has been decided by the competent authority to implement the orders dated 26th August, 2010 of the CAT, Principal Bench. The implementation will be effective from 26th August, 2010 i.e. the date of the orders of the Hon'ble CAT, Principal Bench and will be limited only to those officials who were members of the BSNL Officers Association on 6th May, 2010 i.e. the date on which OA No.1282/2010 was filed before the Hon'ble Principal Bench. The implementation will be subject to the outcome of the fourteen WPs arising out of TA No.84 to 97/2008 pending before the High Court of Kerala at Ernakulam. As clarified by the Hon'ble Supreme Court of India, in the event of the success of the fourteen WPs filed before the Hon'ble High Court of Kerala at Ernakulam, the amount so paid to the members of the BSNL Officers Association as well as other officials who have been extended the benefit with or without intervention of any CAT or High Court will be recoverable from the beneficiaries.

All Heads of Telecom Circles/NTR/Districts are further advised to take appropriate steps for recovery of the amount paid to those of the officials who may retire in the intermittent period i.e. before the pronouncement of the final verdict of the Hon'ble High Court of Kerala at Ernakulam in the fourteen WPs pending before it.


30/9/2013
(A.K.SINGH)

Assistant General Manager (Pers-IV)
Ph. 23734152 & Fax: 23734051



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BHARAT SANCHAR NIGAM LIMITED

(A Government of India Enterprise)

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NEW DELHI-110001

Corporate Office
Personnel-IV Section
No. 3-8/2010/Pers-IV

Website: www.bsnl.co.in

Dated: 1st January, 2014

To
All Heads of Telecom Circle/Districts,
Chief General Manager, NTR,
Bharat Sanchar Nigam Limited,

Subject : Clarification regarding implementation of judgment in OA No. 1282/2010 filed by BSNL Officers Association Vs CMD BSNL & Others in CAT Principal Bench, New Delhi-reg.

Ref : This office letter no.3-8/2010/Pers-IV dated 30.04.2013

This has reference to this office order no.3-8/2010/Pers-IV dated 30.04.2013, regarding implementation of judgment in OA No.1282/2010 filed by BSNL Officers Association. The matter regarding whether the CAT order has to be implemented from the date of Hon'ble PCAT, New Delhi order dated 26.08.2010 or from the date the applicant become eligible for pay fixation, has been examined in consultation with legal cell, BSNL CO.

It is hereby clarified that the relief sought by the applicants be granted from the date they become eligible for pay fixation and not from the date of order of Hon'ble PCAT, New Delhi in OA No.1282/2010(i.e 26.08.2010).


1/1/14
(A.K.SINGH)

Assistant General Manager (Pers-IV)

Ph. 23734152 & Fax: 23734051

Central Administrative Tribunal
Principal Bench

OA 1282/2010

New Delhi, this the 26th day of August, 2010

Hon'ble Mr. Justice V.K. Bali, Chairman

Hon'ble Mr. L.K. Joshi, Vice Chairman (A)

1. BSNL Officers Association (Regd)
Through its President Rudrapal Sharma,
O/o T-15, Atul Grove Road,
New Delhi 110 001.
2. N. Kabir Das s/o Late N. Narayana,
O/o SDOPI CMR, Charminar,
Hyderabad 500 002.Applicants

(By Advocate: Mrs. Rani Chhabra)

Versus

1. BSNL (a Government of India Enterprises)
Corporate Office, Personnel Branch,
5th Floor, Bharat Sanchar Bhawan,
Janpath, New Delhi.
2. Chairman-cum-Managing Director,
BSNL (a Government of India Enterprises)
Corporate Office, Personnel Branch,
5th Floor, Bharat Sanchar Bhawan,
Janpath, New Delhi.

3. Assistant General Manager (Personnel)
BSNL (a Government of India Enterprises)
Corporate Office, Personnel Branch,
5th Floor, Bharat Sanchar Bhawan,
Janpath, New Delhi.Respondents.

(By Advocate: Mr. Sameer Aggarwal)

ORDER (ORAL)

Justice V.K. Bali, Chairman:

BSNL Officers Association (Regd) and Mr. N. Kabir Das have filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 seeking to quash order No.3-2/2009-Pers-IV dated 05.01.2010, and consequent on setting aside the order aforesaid to direct the respondents to extend the same benefits of fixation of pay and allowances under Rule 22 (1)(ia) of the Fundamental Rules to **the Members of the applicant-Association** as admissible to JTOs, as they have been officiating on the said posts for the last more than five years.

2. Inasmuch as, present matter is covered in favour of the applicants by the decision of Ernakulam Bench of this Tribunal in the matter of M.V. Salilakumar & Ors. V/s. The Chairman & Managing Director & Ors., (TA No.84/2008 and other connected TAs decided on 15.07.2009), there will be no need to give facts in detail.

3. We have gone through the judgment passed by Ernakulam Bench of this Tribunal and are in respectful agreement with the same. We are, however, informed that against the judgment aforesaid, respondents have filed two writs in the Hon'ble High Court of Kerala and the same have been admitted, but in none of these two writs, stay has been granted. If perhaps, the respondents would have obtained the stay, we may have adjourned this case sine die. But, inasmuch as, once there is no stay and, therefore, the applicants in TAs are getting the relief granted to them, there will be no need whatsoever to stay the proceedings of this case.

4. For parity of reasons, we allow present Original Application in terms of the decision of Ernakulam Bench of this Tribunal in the matter of M.V. Salilakumar & Ors. V/s. The Chairman & Managing Director & Ors.(supra). However, we make it absolutely clear that the fate of the applicants herein would be dependent upon the writs filed by the respondents in Kerala High Court. That being so, if the writs are allowed, the respondents may withdraw the benefits given to the applicants and, therefore, there will be no need for the respondents to file separate writ in this case.

(L.K. Joshi)

Vice Chairman (A)

(V.K. Bali)

Chairman