



SANCHAR NIGAM EXECUTIVES' ASSOCIATION KERALA CIRCLE

(Recognised Majority Association of Executives in BSNL)
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No:- SNEA/KLA/CGM/2016-17/93

dtd at TVM, the 27-1-2017

To

Chief General Manager Telecom,
BSNL, Kerala Circle,
Thiruvananthapuram.

Respected Sir,

Sub:- Pay fixation of officiating JTOs on regularization reg.

Ref: 1.GI MF OM No: F.3(4)-E.III(B)/71,dated the 5th February,1972.

2. F.No. 18/03/2015-Estt. (Pay-I)Government of India.Ministry of Personnel, Public Grievances & Pensions.Department of Personnel & Training, New Delhi, the 2nd March, 2016

It is reported that pay of officiating JTOs on their regularization is being refixed to an amount less than that they were drawing during the officiating period. Further it is reported that huge recovery has been done from these officers who were retired from service and their retirement benefits are not settled. Attempt for recovery from pay of serving officers are being initiated by the finance wing.

In this connection your kind attention is invited to the following facts.

1. As per Government of India, Ministry of finance OM No. vide referred (1) above, it is stated as follows: "It may sometimes happen that the pay of an employee, permanent in post 'A' but officiating in Post 'B' and subsequently transferred/promoted to post 'C', fixed with reference to the officiating pay in post 'B' may work out to be less than the pay fixed with reference to the substantive pay in post 'A'. In order to remove this anomaly, it has been decided that in such cases pay should be fixed under FR-22C [now FR 22 (1) a (1)] with reference to the substantive pay or the officiating pay, which ever may be beneficial to the Government servant."

From this it is clear that pay is to be re-fixed considering this OM and protecting the pay drawn on officiating period.

2. As per the O.M under reference 2 which is also endorsed by BSNL the recovery of excess pay due to wrong fixation (**even in case of wrong fixation**) from an employee is impermissible in law under following category .

(i) Recovery from employees belonging to Class-III and Class-IV service (or Group 'C' and Group 'D' service).

(ii) Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.

(iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.

(iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.

(v) In any other case, where the Court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.

In the light of above rule positions it is requested that:

1. The pay of the officiating JTOs on their regularization may be fixed not less than pay they were drawing during the officiating period.

2. Any attempt to effect recovery on the pretext of wrong fixation may be stopped forthwith since all of them are covered under category which is impermissible in law as per the O.M. under reference issued based on the judgment passed by Hon'ble Supreme Court of India.

Sincerely Yours



T Santhosh Kumar
Circle Secretary
SNEA, Kerala Circle

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