

Items for discussion in the 37th National Council meeting

(1) *Implementation of the Supreme Court Judgment 01.08.2018 on regularisation of casual/daily rated/ad hoc labor etc.*

The Supreme Court bench consisting of Hon'ble Justices Sri Madan B.Lokur and Sri Deepak Gupta has issued order on 1.8.2018 in CA No. 7423-29 of 2018 clarifying the order issued by the Supreme Court in Umadevi case. As per this order dated 1.8.2018, "each department or each instrumentality should undertake a one-time exercise and prepare a list of all casual, daily-wage or ad hoc employees who have been working for more than ten years without the intervention of courts and tribunals and subject them to a process verification as to whether they are working against vacant posts and possess the requisite qualification for the post and if so, regularise their services."... "The true effect of the direction is that all persons who have worked for more than ten years as on 10-4-2006 [the date of decision in Umadevi (3)] without the protection of any interim order of any court or tribunal, in vacant posts, possessing the requisite qualification, are entitled to be considered for regularisation". "Under the circumstances, we are of the view that the Regularisation Rules must be given a pragmatic interpretation and the appellants, if they have completed 10 years of service on the date of promulgation of the Regularisation Rules, ought to be given the benefit of the service rendered by them. If they have completed 10 years of service they should be regularised unless there is some valid objection to their regularisation like misconduct etc". The left out casual majdoors and TSMs etc., who have completed 10 years by 30.9.2000 are eligible for regularization against vacancies available. Since the regularization in BSNL is based on the concept of vacancies to be treated as available to the extent of candidates eligible for regularisation and the RM post does not need any educational qualification. Moreover due to retirements/deaths several RM posts are vacant. Since the Supreme Court directed to consider regularisation of the candidates who complete 10 years on the date of the promulgation of regularization rules, accordingly, it is requested to regularize the casual majdoors, TSMs and contract workers etc by framing suitable recruitment rules and those completed 10 years as on 1.10.2000 or by the date of promulgation of recruitment rules.

(2) *Presidential Orders in respect of TSMs appointed as TM after 01.10.2000.*

Those officials who have been conferred with Temporary Status on or before 30.09.2000, and who were directly promoted as Telecom Technician (erstwhile Telecom Mechanic) after 01.10.2000 should be issued with Presidential Orders. They should be treated on par with the TSMs who were regularised after 01.10.2000. This issue was discussed in the 32nd meeting of the National Council held on 16th October, 2015. In that meeting it was agreed that these cases would be forwarded to the DoT for the issuing of Presidential Orders. However, even after the lapse of 3 years, these cases have not been sent to the DoT, on the plea that the requisite inputs are not sent by the circles. It is astonishing to note 25 circles have not furnished the requisite details on this issue. It is demanded that the cases should be immediately forwarded to the DoT for the issuing of Presidential Orders.

(3) *Treating TSMs regularised on or after 01.10.2000 as DoT recruitees for conferment of promotions under Non-Executive Promotion Policy (NEPP).*

As per DoT order, all the officials who were conferred with Temporary Status prior to 01.10.2000 and who were regularised subsequently, should be treated as DoT recruitees. Since these officials are treated as government employees and are granted government pension and GPF, for the purpose of promotion under NEPP also, they should be treated as government employees. The Recognised Union demanded the Management on several occasions that these officials should be given first upgradation under NEPP, on 01.10.2004, on completion of 4 years service in BSNL. But, the Management did not accept this. However, some aggrieved officials filed an OA in the Hon'ble CAT / Chandigarh Bench and the Hon'ble CAT pronounced it's judgement on 16.01.2011 in favour of the petitioners. Against of the CAT order, the BSNL Management appealed in the Hon'ble High Court of Himachal Pradesh, which was dismissed by the High Court. An SLP was filed in the Hon'ble Supreme Court, by the Management, was also dismissed. BSNL Management has implemented the judgement of the courts for the litigants only. Since then, the unions are demanding the Management to implement the judgement in respect of the TSMs regularised

after 01.10.2000. However, the Management, instead of implementing the court order, has asked the Heads of Circles to furnish the details of such employees. More than 2 years have already passed and surprisingly most of the circles have not furnished the requisite inputs to the Corporate Office. As a result, the affected employees are deprived of getting the benefits of NEPP w.e.f. 01.10.2004. Hence, we demand that the TSMs regularised on or after 01.10.2000 should be given 1st upgradation under NEPP on 01.10.2004, i.e., on completion of 4 years service in BSNL.

(4) *Reluctance of the CCA, Himachal Pradesh to take over GPF payment.*

It is very unfortunate that the GPF payment of BSNL employees, in respect of Himachal Pradesh circle, has not yet been taken over by the DoT cell. As a result of this, payment of GPF advance to the employees in Himachal Pradesh circle is being unduly delayed. It is needless to say that this is causing unwarranted sufferings to the employees of Himachal Pradesh. When the GPF payment of all other circles is already taken over by the DoT, it is disturbing to note that the same has not happened in Himachal Pradesh. We learn that the CCA of Himachal Pradesh is wantonly not taking over the GPF payment, since he is unhappy that the Himachal Pradesh circle administration is not fulfilling his demand for the allotment of more office space. Denial to take over the GPF payment of the employees due to this dispute, is totally unacceptable. The delay in the taking over of the GPF payment, by the DoT cell, may lead to staff unrest in Himachal Pradesh circle. Hence, we request to ensure that the GPF payment is taken over by the DoT cell of Himachal Pradesh without further delay.

(5) *Implementation of the judgment of the High Court of Hyderabad for promoting the candidates with Degree qualification obtained directly without 10+2 qualification, who appeared in the JE LICE held on 7.6.2015.*

The Hon'ble High Court of Hyderabad in its order dated 8.6.2018 in WP 18958, 19232 etc of 2016 has directed BSNL to promote the candidates who appeared in the LICE for JE promotion held on 7.6.2015, having degree qualification directly without 10+2 qualification, if they are otherwise found to be eligible. There is no tenable ground for insisting 10+2 even though the candidate got higher qualification of Degree. The very concept of Open University is to encourage citizens to acquire better qualification and as per the Article 51(A) of the Constitution, it shall be the duty of every citizen to "strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavor and achievement. The Supreme Court, in Shaik Mahibulla Sharieff has specifically noted that there was nothing in the rules which makes a degree issued by Dr. B.R.Ambedkar Open University, which is recognized by the UGC, from being considered as equivalent to any other degree. Their promotion to JE is not solely depending upon 10+2. They were required to appear in competitive exam and it was not in dispute that the candidates have qualified there in. In view of all these points, it is imperative to promote them if found otherwise eligible. It is requested to kindly consider and promote them, rather than prolonging the litigation further.

(6) *Seeking permission for acquisition of movable, immovable & valuable property increase in Amount.*

As per CDA Rule 2006 Rule 21 Para 03, the permission is required only if the transaction amount exceeds Rs.100000 in case of non executive category and Rs.200000 for executive category. The said amount was increased during the year 2009. Now as due to increase in inflation rates during the last 09 years and new technology advancements, the price of motor cycle, smart phone, Televisions, old car, gold jewellery etc. are more than Rs.100000 (in some specifications). As the purchasing power of the employees has also increased due to increase in salary. Hence it is demanded to extend the limit.

(7) *Conduct of Internal Examination for Sr. Hindi Translator & Raj Bhasa Adhikari.*

The Internal Examination for the post of Hindi Translator & Raj Bhasa Adhikari has not been conducted in BSNL since long time. As there are many vacant posts available, hence the examination may be conducted as per Ministry of Personnel, PG & Pension Department of Personnel Training New Delhi Letter No. AB-14017/46/2011 – Estt (RR) Dated 19/09/2013.

(8) Counting increment in Pension fixation.

The date of increment is the next day of the superannuation retirement of the employee in many cases. i.e., one employee who is getting superannuation retirement on dated 30/09/2018, but his next increment date is 01/10/2018. In these case employee has completed twelve month of service, but not eligible for increment because he is retiring on dated 30/09/2018. Hence it is requested to fix the pension of the employee by adding the increment amount due on 01/10/2018. As the employee has already completed the 12 months of service and he may be eligible for addition of increment in the pension.

(9) SSA Heads in A.P be authorised for issuing of LoA for employees in A.P Circle for treatment at Hospitals in Hyderabad, without the necessity for permission from CGM AP Circle:

Prior to bifurcation the SSA heads now in AP Circle used to issue LOA s directly for treatment in Hospitals at Hyderabad since both AP and Telangana were in the same Circle AP. After bifurcation, since Hyderabad is in Telangana Circle, for issuing LoAs they have to take permission of CGMT AP Circle since Hyderabad is in another circle. The reputed hospitals having all facilities available in Hyderabad are not there in AP. Much time is needed for the development of Hospitals in AP to reach the standards of hospitals in Hyderabad. Therefore several are preferring treatment at Hyderabad. But there is procedural delay since CGM AP has to give permission for issuing the LoA by the SSAs. It is therefore requested to cause necessary orders enabling the SSAA heads in AP Circle to issue LoAs for treatment in Hyderabad without the necessity for permission from CGMT.

(10) Restoration of connectivity between Guwahati - Itanagar and Northern Side of Assam by OFC line through NETF.

It is observed that the entire Arunachal Pradesh under NE-2 circle, Dibrugarh SSA and Tezpur SSA in Northern Assam circle is facing media problem for a long time. It is found that this problem has arisen due to non-laying of OFC cable for the last 10 years. The connectivity through OFC between Guwahati – Itanagar - Dhemaji and Northern part of Assam circle has been damaged due to road expansion and the NE-II circle as well as Assam circle have taken up the issue with the ETR and NETF for restoration of the OFC but both the organisation could not taken any remedial measures. As a result of which the connectivity from Arunachal Pradesh and Northern part of Assam circle with the rest of the country is disrupted for a very long time and earning of revenue also declined due to non-availability of stable media in those areas. It is therefore requested to take up necessary steps to restore the connectivity in those areas by laying OFC through NETF.
