Discussion held on 26-11-2010 with the management on the demand of extension of 30% fitment benefit to those appointed after 1-1-2007

Based on the decision taken in the National Council meeting held on 31-8-2010, the management arranged a meeting on 26-11-2010.

Official side: PGM (SPF) Sri Pillai, Sr GM(Estt) Sri D.P.De, Sr GM(SR) Sri MSS Rao, GM(EF) Smt Smitha Chowdhary, and other officers participated on behalf of management.

Staff side was represented by Com P.Abhimanyu GS BSNLEU and Secretary Staff side, Com P.Asokababu Dy GS BSNLEU and National Council member, Com Dhiraj Chowdhary and Com Dharmendra Verma(National Council members)

The staff side pointed out:

a) The official, for example a TTA, appointed on 1-12-2006 and another official(TTA) appointed on 1-2-2007 have drawn the same basic pay Rs 7100/- on 1-2-2007 in the pre revised pay scale. But after wage revision, as on 1-2-2007, the revised basic pay of the TTA appointed on 1-12-2006 became Rs 15590 since he got 30% fitment benefit, whereas the revised basic pay of TTA appointed on 1-2-2007 became Rs 13600/- since he was fixed at the minimum pay of the revised pay scale. Thus those who have done equal work and drawn equal pay before wage revision have become un equal in their pay after wage revision. Since the aim of wage revision was to revise the wages of all employees including those appointed on or after 1-1-2007, the classification of employees into two groups i.e., those appointed before 1-1-2007 and those appointed after 1-1-2007 was an unreasonable classification and it was against the principle of equality enshrined in the Constitution of India in Article 14 and also against the principle of equal pay for equal work enshrined in Article 39(d) of the Constitution of India. This discrimination was also against the law established by the Hon'ble Supreme Court of India in D.S.Nakara case.

b) As a result of this discrimination, many of the officials appointed after 1-1-2007 are facing salary reduction in the revised pay scale compared to their salary in the pre-revised pay scale. The Wage revision agreement and order provided for settling this problem by allowing this difference to be paid as personal pay. But this was applicable only when the difference arose on the date of appointment. But there were several cases where the revised salary was more compared to the pre-revised salary on the date of appointment, but later on the revised salary became less compared to the pre-revised salary. For example a TTA appointed in November 2008 has drawn emoluments (Pay+DP+DA) of Rs 14974/- for November 2008 before wage revision and drawn Rs 15354/- after wage revision. But in October 2009, his emoluments in pre-revised scale was Rs 17696/-, whereas in revised scale, it was reduced to Rs 17555/-, with a reduction of Rs 141/-. In May 2010 his emoluments was Rs 19437/- whereas it was reduced to Rs 18886/-, with a reduction of Rs 551/-. This aspect was not visualized in the wage revision agreement and order.

c) Tamilnadu State Government has amended the "Tamilnadu Revised Scales of Pay Rules, 2009" for avoiding the reduction in the emoluments of those appointed after wage revision by granting the fitment benefit to those appointed between 1-1-2006(Date of effect of Wage Revision) and 1-6-2009(Date of issue of the wage revision order), vide its G.O. Ms. No. 258 dated 23-6-2009, for settling this problem of reduction of salary consequent to wage revision.

d) The BSNL management already decided that the date of appointment is not the lone criterion for extending the benefit of 30% fitment benefit for those appointed after 1-1-2007. It issued Order No. 1-14/2009-PAT(BSNL) dated 16-4-2010 as per which the disparity in the pay of DR JTOs of 2005 batch who joined before 1-1-2007 and those who joined after 1-1-2007 has to be removed by granting Rs 21620/- pay(revised pay equal to the amount arrived at by granting 30% fitment benefit on pre-revised minimum pay Rs 9850) to the post 1-1-2007 appointees. Since 30% fitment benefit was thus allowed to a section of the employees who were appointed after 1-1-2007, it should be extended to all appointed on or after 1-1-2007 in order to settle this problem.

e) This reduction in wages is against Section 12 of EPF Act which says " **Employer not to reduce wages etc:** No employer in relation to an establishment to which any Scheme or the Insurance Scheme applies shall by reason only of his liability for the payment of any contribution to the Fund or the Insurance Fund or any charges under this Act or the Scheme or the Insurance Scheme reduce whether directly or indirectly the wages of any employee to whom the Scheme or the Insurance Scheme applies or the total quantum of benefits in the nature of old age pension gratuity provident fund or life insurance to which the employee is entitled under the terms of his employment express or implied." Since the reduction in emoluments is resulting in the reduction in the payment of the contribution to EPF, it was a violation of EPF Act.

f) Hence it is necessary to settle this reduction in salary issue by extending 30% fitment benefit to the officials appointed on or after 1-1-2007.

The management side replied to this as below:

a) 30% fitment benefit is available to those appointed before 1-1-2007 and not to those appointed on or after 1-1-2007, as per the wage revision agreement and wage revision order. This same rule was implemented for executives also. This same principle was applied in all PSUs. BSNL cannot deviate from this principle.

b) What Tamilnadu State Government has done in this regard is not relevant since BSNL has to follow Public Sector pattern.

c) EPF Act was not violated since the reduction in salary in these specific cases was a problem that arose out of the wage revision methodology and it was not the intended to EPF Act.

d) The reduction in salary arose even after revising the minimum pay from 7100 to 13600/- due to the DA system.

The Staff Side replied as below:

a) In BSNL itself the 30% fitment benefit was extended in case of the DR JTOs of 2005 batch appointed after 1-1-2007, on the plea that even though they should have

been appointed before 2007, since their training was delayed, they were appointed after 1-1-2007. But date of appointment and not the batch to which the official belonged should be the criterion for extending 30% fitment benefit. Therefore when it was possible for BSNL management to extend the 30% fitment benefit to some of the officials appointed after 1-1-2007, it should also be possible for the management to extend this benefit to all appointed after 1-1-2007.

b) Tamilnadu State Government as well as BSNL as a PSU are Government bodies only and hence comparison with Tamilnadu State Government is relevant.

c) It is not the intention of the management to violate EPF Act. Hence continuing the violation of EPF Act (reduction in salary resulting in reduction in EPF contribution) has to be avoided by settling the issue of reduction in salary.

The management side asked the following:

a) Is there any rule that provides for settling this issue of reduction in salary.

The Staff Side replied as below:

a) The clause 6.2 in wage revision agreement and clause 10.3 of the wage revision order assured as below:
"Anomalies/aberrations arising out of this wage revision will be addressed separately"

b) Salary reduction arising due to wage revision was an anomaly/aberration since the intention of wage revision was not to reduce salary. Hence this anomaly/aberration required immediate settlement and it is the responsibility of the management to settle this issue.

c) This anomaly/aberration was to be settled only by extending 30% fitment benefit to those recruited after 1-1-2007 and no other procedure was possible.

The management side asked:

a) Was this a problem in one cadre(TTA) only and what would be the number of officials who were appointed after 1-1-2007

b) Was there any other method available for settling this problem, other than the extension of 30% fitment benefit?

c) Was there any other PSU which extended 30% fitment benefit to those appointed after 1-1-2007?

The Staff Side replied :

a) This problem of reduction in salary was faced by many among those appointed after 1-1-2007, and they belong to the cadres like TTA, Sr TOA, RM, JTO etc and hence the problem should be settled for all these officials irrespective of the cadre.

b) The total number of officials appointed after 1-1-2007 might be around 7000-8000.

c) No method other than extending 30% fitment benefit to those appointed after 1-1-2007, was available for settling this problem.

d) The question whether any other PSU extended 30% fitment benefit or not to those appointed after 1-1-2007 was not relevant since as per the clause 6.2 in wage revision agreement and clause 10.3 of the wage revision order it was the responsibility of the management to settle this anomaly/aberration of reduction in salary due to wage revision. Moreover BSNL management itself extended 30% fitment benefit to DR JTO 2005 batch appointed after 1-1-2007.

The management side then asked:

a) What could be the cutoff date for extending the fitment benefit, assuming that it was agreed and on what basis it was to be decided?

The Staff Side replied as below:

a) The cutoff date could be 7-5-2010 i.e. all the officials appointed before 7-5-2010 should be given the benefit of 30% fitment.

b) This was because those appointed after 7-5-2010(Date of the wage revision order) would draw salary in the revised pay scales only and not in the pre-revised scales and hence for them the question of reduction in salary was not there. On the other hand, those appointed before 7-5-2007 have drawn salary both in pre-revised and revised scales and hence facing the problem of reduction in salary.

c) Tamilnadu State Government extended the fitment benefit similarly i.e. until the date of issue of wage revision orders.

The management side told that based on the inputs given by the Staff Side they would examine the issue and take decision.

The Staff side requested the management side to take decision as early as possible, at least before 15-12-2010.

The Staff Side put forth the best possible argument in favor of extension of 30% fitment benefit to those recruited after 1-1-2007. We hope the management side would take a positive decision for settling this problem of reduction in salary in case of those appointed after 1-1-2007.