

BSNL EMPLOYEES UNION

Recognised Union in BSNL

(Registered Under Indian Trade Union Act 1926. Regn.No.4896)

CHQ:Dada Ghosh Bhawan, Opp. Shadipur Bus Depot., New Delhi – 110008

Email: chqbsnleu@sify.com, website: bsnleuchq.com

V.A.N. Namboodiri
General Secretary

Phone: (O) 011-25705385

(R) 011- 23342848

Fax: 011- 25894862

BSNLEU/522(CL)

26.10.2009

To

Shri Kuldeep Goyal,
CMD, BSNL
Bharat Sanchar Bhawan,
New Delhi – 110 001

Sir,

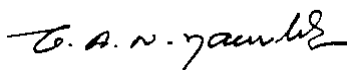
Sub: - *Regularization of the left out casual labor – reg.*

- 1) On the eve of formation of BSNL, as per the assurance given by the Cabinet and as per the strike agreement, orders were issued by DoT vide No.269-94/1998-STNII dated 29-9-2000 for regularization of the left out casual labour.
- 2) Accordingly the BSNL management sanctioned posts equal to the number of casual labour eligible for regularization as per the above said orders, to facilitate their regularization. In this process, a considerable number of eligible left out casual mazdoors were regularized by BSNL. At the same time, a considerable number of the left out casual laborers were not regularized due to delay of more than six years after formation of BSNL, in verification of their records etc which was an administrative lapse, for which the concerned casual labour were no way responsible.
- 3) While this was so, the constitutional bench of the Hon'ble Supreme Court gave its judgment on 10-4-2006 in Umadevi case in CA No 3595-3612 of 1999 and the BSNL management took the stand that as per this judgment, the scheme of regularization of casual labor announced vide the above said DoT order was untenable and hence it was not possible to regularize the remaining casual labor as per this scheme.
- 4) In this connection this is to request your kind attention to the following instruction issued by the DoP&T vide its No. 49019/1/2006-Estt (C) dated 11-12-2006:-

“A Constitution bench of the Supreme Court in civil appeal No.3595-3612/1999 etc. in the case of Secretary State of Karnataka and Ors. Vs. Uma Devi and others has reiterated that any public appointment has to be in terms of the Constitutional Scheme. However, the Supreme Court in para 44 of the aforesaid judgement dated 10-4-2006 has directed that the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one time measure the services of such irregularly appointed, who are duly qualified persons in terms of the statutory recruitment rules for the post and who have worked for ten years or more in duly sanctioned posts but not under the cover of orders of courts or tribunals. The Apex Court has clarified that if such appointment itself is in infraction of the rules or if it is in violation of the provisions of the Constitution, illegality cannot be regularized.”

- 5) Based on the above circular of DoP&T, a large number of casual labourers were regularized in the Central Government Departments like Customs, Central Excise, Income Tax, Ministry of water resources, and in PSUs like NTPC, Indian Mineral Corporation etc. Unfortunately, this was not done in BSNL despite the assurance of the management to take necessary action for restarting this process of regularization.
- 6) We believe that the BSNL management is duty bound to implement the solemn assurance given by the Cabinet on the eve of Corporatisation that the left out casual labour would be regularized. While BSNL management is not refusing this responsibility, and in the National Council meeting agreed with us for sorting out and settling this issue, it is being inordinately delayed, for years together. In the last meeting of the Standing Committee of the National Council held on 12-8-2009, it was informed to us that the report of the Consultant on the opinion of ASG was received and a High Power Committee was appointed to consider the recommendations of the Consultant etc. This is resulting in further delay. Instead of resorting to such a lengthy procedure, a way out is to be found for their regularization, by utilizing the DoP&T circular mentioned above, as was done by Govt. department and the managements in the above cited cases. It is not out of the way to submit to you in this connection that the left out cases are there only in a few circles like West Bengal, Assam, NE-I, NE-II, AP and Orissa for which the concerned CGMs have already sought permission from Corporate Office for their regularization, without much delay, since there is so much of unrest amongst the staff on this issue.
- 7) Further, among these leftout casual labour, a good number are eligible for TSM status as on 1-8-1998. It was denied by the management initially in the name of the ASG's opinion on the above said Supreme Court judgment. But the same Supreme Court refused to grant stay on the Orissa Highcourt's judgment for *granting TSM status to some such casual labor and directed to implement the Orissa High Court Judgment. BSNL Corporate Office issued orders for granting TSM status to the petitioners.* It is requested that instead of confining this to the petitioners alone, the TSM status be extended to all eligible casual labor, in order to avert further court cases.
- 8) We request your kind and personal attention and direction for sorting out and solving these problems without any further delay. We shall be very much thankful to you for considering this request and for helping the poor, suffering left out casual labor in BSNL who all for long years have been engaged and working for the development of telecom services.

Yours Sincerely



(V.A.N.NAMBOODIRI)
General Secretary

Copy to: Com. Tapas Ghosh, Secretary General, BSNL C& CWF, Kolkata.