

BSNL CASUAL & CONTRACT WORKERS' FEDERATION

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BSNLCCWF/CLC/2018

17/04/2018

To

The Assistant Labour Commissioner (Central),
O/o the Deputy Chief Labour Commissioner (Central)
Jeevandeep Building (4th Floor)
Sansad Marg, New Delhi – 110001.
New Delhi.

Sir,

Subject:- ID between the Management of BSNL and BSNL Casual & Contract Workers Federation regarding Strike Notice under Section 22 of the ID Act.

Ref. No BSNL File No.2-1/2017-LE dated 22/02/2018

Kindly referred to our representation on the issue of non implementation of Government Order by the BSNL Authority in respect of revision of wages to the Casual Labourers/ TSM and also other issues, the letter from BSNL Corporate office vide **File No.2-1/2017-LE dated 22/02/2018**, New Delhi, as mentioned above, in this connection we may be allowed to submit following for your favourable consideration.

We humbly request you to kindly pass necessary order so the Govt. order is implemented in favour of Casual Labourers for there wages revision and other issues.

Point No. 3 :- Payment of monthly wages to the Casual Labourers based on the recommendation of the 7th CPC.

In BSNL, there are approximately 4000 casual labourers who have been engaged by Department of Telecommunication (DOT), Government of India. They have been continuously working performing the same nature of jobs as regular employees since 25 to 30 years i.e. prior to formation of the BSNL. On the eve of corporation of DTO/DTS , the Department of Telecommunications Order No.269-94/1998-STN-II dated 29.09.2000 (**Annexure – I**) which regularization of al Casual Labourers including those who have been granted Temporary Status are envisaged. These instructions were issued as a result of a strike agreement reached between DOT and Unions when corporation of DTS/DTO by forming BSNL of is being considered.

- **Casual Labourers in BSNL are being paid the wages on the basis of the CDA Pay Scale since last 25 to 30 years.**
- **Non-Executive employees of BSNL are getting the salary on the basis of the IDA pay scale.**

- Prior to formation of the BSNL i.e. DOT period, casual labourers were being paid the wages on the basis of the 1/30th of the relevant pay scale of the Non Executive Employees of the Department of Telecommunication (i.e. the minimum of the CDA Pay Scale).
- But after formation of the BSNL, minimum Pay Scale of the Non Executive Employees had been revised from minimum CDA pay scale Rs.2550/- to the minimum IDA pay scale Rs.4000/- at the time of formation of BSNL i.e. 01-10-2000, but Casual Labourers wages had not been changed from CDA pay scale to IDA Pay Scale. BSNL will continue the wages pattern to casual labourers on the CDA pay scale till date.
- Though, Department of Telecommunication (DOT) has decided that as per the decision of the Hon'ble Supreme Court Judgement, *"All the casual labourers engaged on casual basis are to be paid wages worked out on the basis of the minimum pay in the pay scale of regularly employed workers in the corresponding cadre but without any increment, with effect from 5th February, 1986. The Casual labourers will also be entitled to DA and ADA if any on the situation of at pay scale other allowance to be paid."* Letter No.10-13/87-Rates dated 23rd February, 1988" (Annexure-I).
- *"As per the guide lines laid down by the DoPT, vide it's OM No. 49014/2/86 Estt. (C) dated 07-06-1988 and the Ministry of Labour, Government of India's OM No.532021/16/WC(MW) dated 23/08/1988, the daily wages of casual labourers engaged for work of regular nature has been fixed at the rate of 1/30th of pay at the minimum of the relevant pay scale plus Dearness Allowance"*[After 5th CPC recommendation] (Annexure-II)
- *The BSNL Management has decided to revise the wages of the casual labourers and orders were issued vide order vide No. F No.269-11/2009-Pers-IV/II dated 01-01-2010. According to that order it stated that "Wages of causal labourers engaged for work of regular nature shall be revised to 1/30th of the minimum of pay plus Dearness Allowance on the basis of the CDA pay scales for Group-D cadre (1S Pay Band) notified by the Government of India vide G.S.R. No.622 (E) dated 29/08/2008 [Central Civil Services Revised Pay Rules, 2008]"* (After 6th CPC recommendation)
- After 17 years formation of the BSNL, BSNL Management can not link with the Non-Executive Employees of BSNL regarding the revision of the wages to the casual labourers. The payment of the casual labourers has been fixed as per the decision of the Hon'ble Supreme Judgement and subsequently order has been issued by DOPT/ DOT time to time.

In this connection, we are further submitting the following reply in Lok Sabha and Rajya Sabha by the Ministers.

- In reply the Unstarred Questions No. 365 dated 19-07-2017 raised in the Rajya Sabha by the Minister of State for Heavy Industries and Public Enterprises regarding the disparity in payment of wages in PSEs that the instructions regarding equal pay admissible to casual workers already exists in terms of DoPT OM No. 4901/2/86 Estt (C) dated 07.06.1988. He has also stated in his reply that CPSEs are under the administrative control of their respective Ministries/ Departments and CPSEs are required to follow the various statutory Provisions/ Court Orders/ Government instructions including instructions on wages related issues of various categories of employees wherever applicable.

In reply the Unstarred Question No.5000 dated 26.03.2018 raised in the Lok Sabha by the Minister of Labour and Employment, Gol regarding the Equal Pay for Equal work that “*In civil appeal number 213 of 2013 the issue for consideration of the Hon’ble Supreme Court was as under:*”

- **“whether temporarily engaged employees (daily –wage employees, ad-appointees, employees appointed on casual basis, contractual employees and the like), are entitled to minimum o the regular pay scale, along with dearness allowance (as revised from time to time) on account of their performing the same duties, which are discharged by those engaged on regular basis, against sanction posts.”**
- **The stand of the BSNL it its letter that the CLs are being paid more than the wages applicable as per minimum wage Act is not correct as the wages paid to the Casual laboures employed in BSNL based on the guidelines issued in DoT period for doing the similar nature of job entrusted to similarly placed regular employees in DOT/BSNL. The wages notified under the Minimum Wage Act/ State Labour Commissioner is applicable to the employees employed as per the scheduled employment annexed to it. Therefore, the same should have not been mixed up and confused. Rather, with due respect, it is submitted that the CLs/TSMs are getting less wages compared to Identically/ Similarly placed CLs/TSMs other organizations under the same Principal/Policy.**

Point No.5:- Ensured implementation of Gratuity and payment of bonus to all the Casual and Contract Labourers

- **As per the standing labour act, a labourers who works continuously for five years in an establishment is entitled to get Gratuity. But there are a good number of casual and contract labourers who worked in BSNL more than 25 to 30 years died in harness and retired after attaining the 60 years of age. These labrouers have not been paid the gratuity. The matter has been brought to the notice of BSNL authority but they did not take any positive action for providing gratuity. Rather they have taken a delaying tactics. BSNL Management is dragging the issue from year 2014. Instead of settling the issue, the BSNL HQ is only asking for date of casual labourers from field units. In respect of contract labourers, the BSNL Management is not issuing any order of providing gratuity to them.**

We think this type of practice is nothing but a violation of labour rule and we solicit your intervention so that the low paid casual and contract labourers who are now almost starving may get gratuity and save their families.

Point No.6:- Implementation of a scheme for the regularization of the Left out casual labourers.

- **The question of regularization of left casual labourers is long pending one. At the time of formation of BSNL on 01-10-2000, about 9700 casual labourers were left out who could not be regularized. At that time, an agreement was made between union and DOT that these left out casual labourers will be regularized. Out of them, about 6000 casual labourers have been made regularized by the BSNL. But left out casual labourers has not been regularized by BSNL on an unjustified plea of Uma Devi court case judgement. But inspite of the Judgement is in force a good number of casual labourers have been given Temporary Status (TSM) who are enjoying the benefits like a group D staff having pay, CDA, increment, HRA, CCA etc. in the year 2009 and 2010 etc. as per the judgement of Hon’ble Supreme Court. In the other Central Government department where casual labourers exist, they also been regularized after the judgement of Uma Devi Court case.**

The issue was taken in as an agenda in the National Council Meeting by BSNL Employees Union in the year 2008. So many discussions and correspondences have been made and the BSNL authority was agreed to make a scheme for regularization the left out casual labourers but till date on the plea of Uma Devi court case judgment, they have neither provided the benefit of DOT scheme 1989 for giving Temporary Status nor not making any new scheme for regularization. In this connection, it is mentioned that the authority of Rajya Sabha has framed a scheme, 2017 for grant of Temporary Status to their casual labourers (Annexure-II)

Point No.8:- Implement the Judgement of the Hon'ble Supreme Court, on payment of equal wage for equal work.

- In BSNL, there are approximately 4000 casual labourers who have been engaged by Department of Telecommunication (DOT), Government of India. They have been continuously working performing the same nature of jobs as regular employees since 25 to 30 years i.e. prior to formation of the BSNL. On the eve of corporation of DTS/DTO, the Department of Telecommunications Order No.269-94/1998-STN-II dated 29.09.2000 (Annexure – I) which regularization of all Casual Labourers including those who have been granted Temporary Status are envisaged. These instructions were issued as a result of a strike agreement reached between DOT and Unions when corporation of DTS/DTO by forming BSNL is being considered.

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Thanking you

Yours faithfully



(Animesh Mitra)
Secretary General