



ALL INDIA BHARAT SANCHAR NIGAM LIMITED RETIRED EXECUTIVES' ASSOCIATION

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No. AIBSNLREA/CHQ/2020/88

Dated: 24.08.2020

To

Shri D K Mishra,
Chief General Manager Telecom,
Bharat Sanchar Nigam Limited,
Karnataka Telecom Circle,
Bangaluru- 560008.

Sub: Release of Leave encashment to Shri B M Nyamati, Retd CAO, Bangaluru Telecom District (HR No.198311455)

Ref: (1) BSNL Office letter No. BSNLCO-EB-I/11(20)/5/2020-ESTAB dated 06.05.2020.

(2) BSNL Office letter No. 1-15/2019-PAT(BSNL) dated 04.11.2019.

Sir,

We would seek to draw your kind attention to be above mentioned case in which Shri B M Nyamati, Retd CAO of Bangaluru Telecom District, who retired under BSNL VRS-19 on 31.01.2020, is yet to receive his leave encashment even after long seven month's waits. His personal representation requesting to release his leave encashment failed to receive positive response.

2.1 Shri B M Nyamati, Retd CAO Officer was issued a charge-sheet on the previous day of retirement on the alleged inaction on his part in carrying out his designated duties which thus resulted in causing wrongful gain approximately to the tune of Rs. 8,48,720/- to one agency and also approximately Rs. 5,20,424/- to another agency. Similar charges have been made to several others in the same case when all of them were working in Mehsana Telecom District of Gujarat Telecom Circle some 13 years back.

2.2 Though the total amount involved in the case for which many others have also been made accountable for the stated total loss to the tune of less than Rs. 14 lakhs, Shri Nyamati, Retd CAO has not been paid even his leave encashment besides his gratuity and Ex-gratia.

2.3 While notifying BSNL VRS 2019, BSNL vide its letter No.1-15/2019-PAT(BSNL) dated 04.11.2019, had categorically stated under Clause 7(ii) of Annexure-I that "VRS option of employee(s) facing Departmental/Judicial proceedings shall be accepted and Earned Leave Encashment, Transfer Grant, GPF/CPF and pension will be released provisionally as per Rule-69 of CCS Pension Rules, 1972. Provided that the payment of Ex-gratia shall be released only on conclusion of and based on the outcome of Vigilance/Disciplinary proceedings" **[Relevant pages of the Orders placed at Annexure-I]**

2.4 Further, vide its F. No. BSNLCO-EB-1/11(20)/5/2020-ESTAB dated 06.05.2020, BSNL Corporate Office has clarified under Para 2 of the said letter that *"The issue of payment of leave encashment, in cases where vigilance clearance is withheld, has been examined in consultation with EF branch of BSNL Corporate Office vis-à-vis the relevant provisions of the BSNL VRS 2019 and Rule 39(3) of CCS (Leave) rules. It is clarified that the competent authority for sanctioning the amount of encashment of EL/HPL is required to examine each case individually to find out whether withheld Ex-gratia and Gratuity will be insufficient for adjustment of the amount recoverable from the retired employee on conclusion of the disciplinary proceedings pending against him and thereby requiring adjustment of remaining amount from leave encashment. In other words, only in such cases where the amount recoverable exceeds the amount of gratuity and ex-gratia withheld, withholding of leave encashment will be necessitated"* [Copy of the Order placed at Annexure-II]

2.5 Since according to the charge sheet issued, the alleged wrongful gain to the said agencies together would only be approximately Rs.13,69,144/- only and if the charges are finally proved, the said amount will also have to be recovered on sharing basis from other charged officers who have also been charge-sheeted for the stated loss of same amount. Otherwise also, as the Ex-gratia due to Shri B M Nyamati is Rs.20 lakhs and dues on account of Gratuity would be around Rs.17 lakhs, which are already withheld, the release of leave encashment will not come in the way of recovery of entire amount, if finally ordered, on conclusion of the case. Thus, release of leave encashment to Shri B M Nyamati, Retd CAO will be very much in the spirit and scope of the above quoted Orders of BSNL Corporate Office.

3.0 In view of the facts and position explained above, it is requested to release the leave encashment of Shri B M Nyamati, Retd CAO at the earliest.

With kind regards,

Yours sincerely,


(S Basu)

General Secretary

Enclosures: As stated

Copy to:

01. Saurabh Tyagi,
Sr General Manager (Estt), BSNL.
02. Shri Prakash Gopalani,
Principal General Manager,
Bangaluru Telecom District.
03. Smt G Durgarani Prakash,
Sr. General Manager (Finance), BGTD.

**BSNL Corporate Office
Establishment Branch,
PAT Section, 5th floor,
Bharat Sanchar Bhawan
H.C. Mathur Lane,
New Delhi-110001**



भारत संचार निगम लिमिटेड
(भारत सरकार का उपक्रम)
BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India Enterprise)

No. 1-15/2019-PAT(BSNL)

Dated 04.11.2019

To

All Heads of Telecom Circles
BSNL

Sub: BSNL Voluntary Retirement Scheme- 2019 - Notification of the scheme and circulation of guidelines to facilitate the exercise of option by employees.

Sir,

In pursuance to the decision of the Union cabinet conveyed by DOT vide OM No. 30-04/2019-PSU Affairs dated 29.10.2019, I am directed to circulate herewith the "BSNL Voluntary Retirement Scheme-2019" as per **Annexure-I** for information of all concerned and to invite options from employees eligible under the scheme for seeking voluntary retirement as per the provisions of this 'scheme'.

2. Options for seeking voluntary retirement under this 'scheme' shall remain open from 04.11.2019 up to 03.12.2019 (5:30 P.M.). The effective date of voluntary retirement under this scheme will be 31.01.2020(A/N).
3. Employee seeking voluntary retirement under this scheme shall give option in ERP/ ESS portal and take physical printout. Physical copies in triplicate signed by blue ink by the employee concerned shall be submitted to the concerned administrative office within three days of giving option in ESS.
4. You are requested to give wide publicity to this Scheme to enable all the eligible employees to take an informed decision and exercise the options for VRS within prescribed time period.
5. To facilitate the process, it is, therefore, requested to take following steps for effective implementation of VRS:
 - a. A 'Help-Desk' with Computer and ESS connectivity be set up at Circle Office and SSA/SDCA level manned by suitable officer who will provide information and technical assistance to employees to exercise options for this Scheme within time period prescribed.

(v) The amount of Gratuity payable to the employee on the effective date of voluntary retirement under the scheme shall be communicated to the employee by the concerned pension sanctioning authority.

(c) **Commutation of Pension:**

The absorbed employees who have attained more than 55 years of age on the effective date of voluntary retirement and had opted for pension on the basis of combined service in DOT and BSNL, on opting for voluntary retirement, will be eligible for commutation of pension only when such employee(s) attains the age of 60 years (superannuation age on the date of offer of VRS).

Provided that other employees currently aged 55 years or less, on the effective date of voluntary retirement, the commutation of pension shall be permitted with effect from 01-02-2025, in partial relaxation to extant rules of CCS (Commutation of pension) Rules, 1981. For commutation of pension, the retired employee will be required to make an application to the pension sanctioning authority as per the rules prevailing at that time.

Provided that till the employee opts for commutation of pension, he/ she shall be paid full pension amount as admissible.

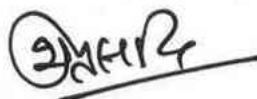
Once employee(s) become eligible for pension commutation as per above guidelines, commutation of pension shall be governed by the CCS (Commutation of pension) Rules, 1981 and such employee(s) shall be eligible for commutation of pension without submission of medical fitness certificate up to one year from date of becoming eligible for commutation,

Provided further that on producing medical fitness certificate beyond one year, the commutation factor shall be applicable as per age of such employee(s) on date of commutation.

- (d) **Encashment of Earned Leave/ Half Pay Leave:** The employee(s) retired under the Scheme shall be entitled to 'Encashment of Earned Leave/ Half Pay Leave' as per existing rules of BSNL.
- (e) **TA/ DA for journey to place of settlement after Voluntary retirement:** The employee(s) retired under this Scheme shall be entitled to TA/ DA for journey to the place of settlement as per existing rules.
- (f) **Retention of staff quarter:** The employee(s) retiring under the Scheme shall be entitled to retention of staff quarter as per existing rules, as amended from time to time.
- (g) Other Facilities/ entitlements (Residential Telephone Connection, Post-retirement medical facilities etc.) shall be governed by the existing rules and procedures, as amended from time to time.

7. **PROCEDURE:**

- (i) Eligible employee(s) shall be required to submit option to voluntarily retire from service under the Scheme during the period prescribed and as per the provisions of the scheme.



- (ii) The VRS option of employee(s) facing Departmental/ Judicial proceedings shall be accepted and Earned Leave encashment, Transfer grant, GPF/ CPF and pension will be released provisionally as per Rule 69 of CCS Pension Rules 1972.

Provided that the payment of Ex-gratia and Gratuity, shall be released only on the conclusion of and based on the outcome of vigilance/ disciplinary proceedings.

- (iii) The option once exercised under this Scheme shall be final and decision of the competent authority shall be binding on the concerned employee(s).

Provided that the employee(s) will be allowed to withdraw the option only once at any time till the closing time and date of option.

Provided further that the request for withdrawal of option shall be submitted online along with signed copy in writing.

- (iv) The authority for acceptance of option under this scheme shall be the competent authority as defined in clause 3(c).

8. GENERAL CONDITIONS:

- (i) The Scheme is not negotiable and shall not be a subject matter of any industrial dispute.

- (ii) There shall be no recruitment in BSNL against the posts falling vacant on account of voluntary retirement under the Scheme, and these posts will be abolished.

- (iii) The employee(s) retired under this Scheme, shall not be eligible for Re-employment in any other CPSE.

Provided that in case any employee desires to take up re-employment in any CPSE, such employee shall have to refund the entire amount of ex-gratia received under the Scheme to BSNL before joining such CPSE. BSNL shall remit the refunded amount to the government.

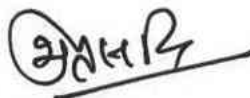
- (iv) All payments under the scheme and any other benefit payable to the employee(s) by BSNL shall be subject to prior settlement/re-payment in full of loans, advances, returning of property and any other dues payable by such employee(s) to BSNL.

Provided that such employee can give an option to settle the pending dues to BSNL from the amount of payment under Ex-gratia, Gratuity or other retirement benefits.

- (v) In the event of the death of an employee after submission of option but before the effective date of voluntary retirement under this Scheme, the amount of Ex-gratia payment shall not be released to the family/legal heirs of deceased employee:

Provided that other retirement benefits as applicable according to the existing rules shall be paid to the family / legal heirs.

- (vi) All payments made under the scheme shall be subject to deduction of tax at source as per Income Tax Act 1961, wherever applicable.



BHARAT SANCHAR NIGAM LIMITED
(A Government of India Enterprise)



CORPORATE OFFICE
Establishment Cell
Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-01

F.No: BSNLCO-EB-I/11(20)/5/2020-ESTAB

Dated: 6th May, 2020

To,

All Heads of Telecom Circles &
All Heads of Other Administrative Units,
Bharat Sanchar Nigam Limited

Subject: Payment of leave encashment in respect of VRS-2019 optees whose
Vigilance clearance is withheld.

Sir,

I am directed to refer to the notification of BSNL Voluntary Retirement Scheme-2019 issued vide letter No. 1-15/2019-PAT(BSNL) dated 04.11.2019 and to inform that this office has received some references with regard to withholding of amount of encashment of EL / HPL in respect of VRS-2019 optees whose Vigilance clearance is withheld.

2. The issue of payment of leave encashment, in cases where vigilance clearance is withheld, has been examined in consultation with EF branch of BSNL Corporate Office vis-à-vis the relevant provisions of the BSNL VRS-2019 and Rule 39(3) of CCS(Leave) rules. It is clarified that the competent authority for sanctioning the amount of encashment of EL / HPL is required to examine each case individually to find out whether withheld Ex-gratia and Gratuity will be insufficient for adjustment of the amount recoverable from the retired employee on conclusion of the disciplinary proceedings pending against him and thereby requiring adjustment of remaining amount from leave encashment. In other words, only in such cases where the amount recoverable exceeds the amount of gratuity and ex-gratia withheld, withholding of leave encashment will be necessitated.

3. The authorities competent to sanction encashment of EL/HPL in respect of retired employees may, accordingly, review all cases where leave encashment has not been released on account of withholding of vigilance clearance in respect of retired employee. Such authority may also consult the concerned disciplinary authority, if need be, for ascertaining the amount likely to become recoverable from the retired employee on conclusion of disciplinary proceedings.

[Signature]
06/05/2020



4. It may also be ensured that the cases for payment of pension in respect of VRS optees are sent to the concerned CCA. Further, it may also be ensured that provisional pension is paid to the retired employee(s) in accordance with the provisions of CCS (Pension) Rules, 1972 in respect of whom vigilance clearance has been withheld.

This is issued with the approval of competent authority.

Yours faithfully,

Sanjeev Kumar
06/05/2020

[Sanjeev Kumar]

Asstt. General Manager (Estt.I)

Tel. No. 23037477

Copy to:

1. Sr.PPS to CMD, BSNL, New Delhi.
2. Sr.PPS to All Directors, BSNL Board.
3. CVO, BSNL CO, Eastern Court Complex, Janpath, New Delhi.
4. CS & CGM (Legal) / All PGMs / Sr. GMs / GMs in BSNL CO New Delhi.
5. BSNL Intranet / Guard File.