



ALL INDIA BHARAT SANCHAR NIGAM LIMITED RETIRED EXECUTIVES' ASSOCIATION

Central Headquarters

Registered under Societies Registration Act XXI of 1860 vide Govt. of NCT Delhi No. S/RS/SW/1161/2014

[Registered under Pensioners Portal vide DoP&PW letter No. 4(4)/2021-P&PW(H)7311 dated 04.01.2024]

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No. AIBSNLREA/CHQ/2024/16

Dated 1st March 2024

To

Shri Prashant P Patil,
Chief General Manager, Telecom,
Maharashtra Circle, BSNL,
Mumbai

Sub: Request for payment of interest on delayed payment of Gratuity – case of Shri B.M. Kolki, Retd SDE Kolhapur

Ref: 1. Our letter No.AIBSNLREA/CHQ/2024/7 dated 31.01.2024

2. GM TD Kolhapur letter No.KTD/STAFF/PG CASE/CORR/129 dated 24.02.2024

Sir,

We hereby draw your kind attention to our letter cited under reference 1, copy of which was marked to you, regarding delayed payment of Gratuity to Shri B.M.Kolki, Retd. SDE, Kolhapur, although **there was no disciplinary/judicial proceedings pending against him on the date of his retirement on 31.07.2021.**

2. In response, GM TD Kolhapur, vide his letter cited under Ref.2 above, has forwarded a BSNL Maharashtra Circle letter dated 11.09.2023 wherein it has been stated that "Further the case was intricate with criminal charges and court orders as opposed to regular superannuation case. Therefore, in view of the above, the request for interest payment on gratuity by the applicant is denied." This is the same letter given as reply to the representation by Shri B M Kolki last year.

3. **Payment of Gratuity Act 1972, under Section 7, does not provide for differentiation between regular superannuation case or otherwise.** Also, **judicial proceedings against Shri B M Kolki, while in service, had ended in his acquittal on 22.05.2015.** In a parallel disciplinary proceeding on the same charges, a penalty of reduction of pay by three stages for three years was imposed on him vide punishment order dated 29.03.2017 and the penalty was over on 29.03.2020. He retired on superannuation on 31.07.2021. **No disciplinary/judicial**

proceedings was pending on the date of his retirement. BSNL authorities failed to initiate the process for issue of Presidential Orders immediately after issue of final penalty orders on 29.03.2017, as the disciplinary proceedings had not led to his dismissal or removal from service. But it took five years for issue of Presidential Orders for his absorption in BSNL, on 11.04.2022, which has resulted in delayed payment of his gratuity.

4. The contention that the case was intricate with criminal charges and court orders, therefore is untenable. The more-than-five-years delay on the part of BSNL administration to issue Presidential Orders is entirely unjustified. Denying interest on late payment of gratuity on flawed reasoning of intricacy is completely unsustainable. There are several court judgments, especially one by the Supreme Court of India in Gangahanume Gowda v. Karnataka Agro Industries Corpn. Ltd., (2003) 3 SCC 40, wherein it was decided that the **interest on delayed payment of gratuity is mandatory and not discretionary. When it is not the case of the respondent that the delay in the payment of gratuity was due to the fault of the employee and that it had obtained permission in writing from the controlling authority for the delayed payment on that ground and the respondent had been directed to pay interest @ 10% on the amount of gratuity to which the appellant is entitled from the date it became payable till the date of payment of the gratuity amount.**

5. The entire delay, even after the acquittal, is on the part of the administration and Shri B M Kolki is in no way at fault. Hence denial of interest is completely against the provisions of the Payment of Gratuity Act 1972. Also, no effort has been taken by the administration to **sanction provisional gratuity where the amount of pension and gratuity cannot be determined for reasons other than the departmental or judicial proceedings as provided under Rule 62 of CCS (Pension) Rules, 2021.**

6. It is therefore requested that, the matter may please be re-examined and interest on delayed payment of gratuity be sanctioned and payment made without further delay. We would like to reiterate that the pensioner cannot be penalised for no fault of his, in accordance with Section 7 (3A) of Payment of Gratuities Act 1972.

With kind regards,

Yours sincerely,



(R.R. Balasubramanian)
General Secretary

Copy to: 1. Shri V Srinivas,
Secretary (Pension), DoP&PW
2. Dr. Neeraj Mittal,
Secretary (Telecom), DoT
3. Shri P K Purwar,
CMD, BSNL