



ALL INDIA BHARAT SANCHAR NIGAM LIMITED RETIRED EXECUTIVES' ASSOCIATION

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No. AIBSNLREA/CHQ/2023/90

Dated 15th November 2023

To
Shri Ajay Kumar Sahu,
Member (Services),
Department of Telecommunications,
New Delhi 110001.

Sub: Reluctance in issue of Vigilance Clearance by DoT for absorption in BSNL - case of Shri H S Sutaria, Retd JTO, Gujarat Telecom Circle, BSNL – Submission of precedents in similar situation.

Sir,

We seek your personal attention to a pathetic situation a BSNL pensioner has been facing for more than a decade without getting his regular pension and other pensionary benefits in spite of his acquittal by Hon'ble District & Sessions Court, Surat in a ACB Gujarat case on 31.05.2010, as an appeal filed by ACB Gujarat is pending although the lower court order acquitting him has not been stayed.

2. Shri H S Sutaria, who was working in Surat SSA of BSNL, Gujarat Telecom Circle on deputation from DoT was facing trial in a case filed by ACB Gujarat in Hon'ble District & Sessions Court, Surat. He was acquitted by the court vide its order dated 31.05.2010. ACB Gujarat then filed an appeal in Gujarat High Court which has been pending for more than 13 years. In between Shri H S Sutaria was permitted to retire on superannuation w.e.f. 31.12.2011. He was allowed to draw provisional pension under CDA pay scale as his option for absorption was kept pending because of the judicial proceedings.

3. In a subsequent development, **DoT vide Letter No.40-18/2019-Pen(T) dated 23rd October 2019 [Annexure-A]** had conveyed to BSNL, the advice from DoP&PW wherein it had been stated that **"if a pensioner is acquitted by a Trial Court, notwithstanding the appeal filed against this acquittal, the fact remains that with the acquittal, the judicial proceedings should be considered to be concluded in accordance with the rules ibid, and the Department may take action and issue orders accordingly. Such order may however be subject to the outcome of any Appeal/Revision Petition filed against the acquittal and the position may be reviewed by the Department on the outcome of the Appeal/Revision Petition."**

4. Shri K S Sutaria submitted representations citing the above DoT letter, requesting regularisation of his pension, payment of Gratuity and regularisation of his suspension period. DoT Vigilance Wing examined his case and issued vigilance clearance vide its No. I-22-II/2019/VC2/Retirement Settlement dated 20.06.2019 for the 'Purpose of release of his final Retirement benefits'[**Annexure-B**]. But it refused to clear his VC for the purpose of his "Absorption issue of Presidential Order for absorption in BSNL." As a consequence, the VC granted for release of final retirement benefits went unheeded. Since then, Shri K S Sutaria and this association have been repeatedly representing for release of Vigilance Clearance for absorption in BSNL and issue of Presidential order, quoting the above referred to DoT letter dated 23.10.2019.

5. A few months back, DoT Vigilance vide its letter No.9-93/2000-Vig.I dated 28.04.2023 [**Annexure-C**], declined to release the benefits **citing LA (DoT) advice** which stated that "The matter of aforesaid acquittal is challenged and pending without any stay of specific order. Therefore nothing can be either presume or prudently advice at this stage regarding consideration of benefits of Regularisation of the suspension period consequent upon acquittal in Surat ACB case No.9 of 1997." The said DoT vigilance letter further goes on to state that "It is mentioned that with respect to matter of Vigilance Clearance for the purpose of permanent absorption of government servant in the BSNL, there is no specific guidelines/instructions issued by DoPT for this purpose. However as per Allocation of Business Rules, 1961, the residual work relating to the erstwhile Department of Telecom Services and Department of Telecom Operations, including matters related to cadre control functions of Group-A and other categories of personnel till their absorption in BSNL is assigned to DoT. Further the judgement of acquittal has been challenged in an appeal filed by CBI in the court of law which is pending without any stay or specific order. **In case of conviction by higher court proceedings by DoT will not be possible in case the officer is absorbed in BSNL under Rule 8 of CCS Pension Rule 2021.**"

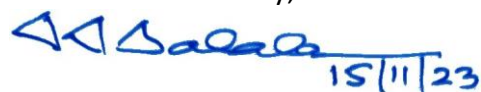
6. We had contested the contention of Vigilance section of DoT that "there are no specific guidelines/instructions by DoPT for this purpose", as it had ignored the existence of guidelines issued by none other than DoT itself, after taking the advice of DoP&PW. Citing precedents to the case, we had produced copies of DoT letters conveying approval for absorption in BSNL in exactly similar cases after obtaining an undertaking [**Annexure-D & E**] and had requested similar treatment in the case of Shri H S Sutaria without discrimination. But the request remains unconsidered, reportedly on the plea that the affected pensioner is drawing provisional pension, no further relief is required and that he has to await the decision on the appeal filed by ACB Gujarat.

7. We need not overemphasize the sufferings and mental pain which Shri H S Sutaria has been undergoing for more than 12 years after his retirement, unaware as to when all this agony will end, despite having been acquitted by the trial court 13 years ago, despite existence of DoT instructions since 2019 requiring favourable treatment and despite exactly similar cases being resolved after an undertaking.

8. We therefore request you to consider the case with empathy and ensure revisit of the matter by the Legal Advisor (DoT) and then the DoT Vigilance based on the two cases we have produced to show as precedents and thereby cause approval for his absorption in BSNL and consequent release of all pensionary benefits and regularisation of his suspension period so as to give relief to the hapless pensioner.

With kind regards,

Yours sincerely,



(R.R. Balasubramanian)
General Secretary

Enclosure: As stated.

Copy to:

1. Shri V Srinivas,
Secretary (Pension) DoP&PW,
2. Ms. Shefali Swaroop,
Chief Vigilance Officer, DoT.
3. Ms. Sunita Anand,
Legal Advisor, DoT