BHARAT SANCHAR NIGAM LTD.

BHARAT SANCHAR NIGAM LIMITED
(A GOVERNMENT OF INDIA ENTERPRISE)
SR CELL, Corporate Office
8th Floor, Bharat Sanchar Bhawan,
Harish Chander Mathur Lane,
Janpath, New Delhi-110 001

No. BSNL/7 -3/SR2018-i

Dated, the 16.02.2019

To,

Shri P. Abhimanyu,
General Secretary,
BSNLEU

Sub: Agitation programme by All Unions & Associations of BSNL -reg.

Sir,

The whole nation is in shock & grief over the loss of security personnel in Pulwama, Jammu & Kashmir on 14.02.2019. This dastardly incident has been condemned by one and all across the country. In the light of this incident the Unions and Associations in MTNL, who had served agitation notice in support of their demands, have decided to defer their agitation and pledged to render service 24X7 at this juncture in the larger interest of their company. So your decision conveyed vide letter dated 15.02.2019 to exempt only J&K circle from three days strike is insufficient and it would have been better appreciated if you had extended it to all parts of the country as a gesture of solidarity at this juncture.

It is, therefore, urged that in the wake of this incident, being a National Telecom. Company it is imperative that we make our special efforts to maintain uninterrupted communication support to the nation as we have been doing in the past. Our unity at this hour of national grief is, therefore, warranted desirable.

2. Further, the Management has always been positive, transparent & sincere to your demands. These demands have been escalated to the appropriate level in DoT. Your demands are being regularly monitored by the Co-ordination committee formed by the DoT. Though the remaining new demands at Sl. 6, 7 & 8 do not come under the purview of the Unions/Associations of employees, however, these could be deliberated and collectively resolved through productive dialogue with the Management. As regards the viability of BSNL, it is informed that DoT is in the process of finalizing a proposal for revival of BSNL to be considered by Digital Communications Commission(DCC) very soon.

At the same time, it is informed that management has time and again been issuing advisories/ appeals to the Unions/ Associations not to resort to any agitational programme, inter alia, in view of pending conciliatory proceedings before the RLC under Industrial Dispute Act, 1947.

3. (i) Beside this, it is reiterated that you have been informed that the collective body with the name and style 'All Unions & Associations of BSNL' is neither a body recognized by the Management nor the Management is aware of its credentials, registration as Trade Union etc. You are also aware that for any Union or Association or their Forum (Federation) to hold discussion on the demands of employees, registration of such body with the appropriate authority is necessary. Any unrecognized/ unregistered body (grouping of two or more Union) is therefore incompetent to raise any demand for and on behalf of the employees so as to fall within the scope and ambit of the Industrial Dispute Act, 1947.

(ii) It is observed that in spite of repeated advisories your Union along with other Unions & Associations( both recognised and non-recognised) have served several joint agitational notices as "All Unions & Associations of BSNL (AUAB) " and to avert industrial tension, joint discussion were held with both executives and non-executives. In order to maintain industrial peace, management held formal meetings with non-recognsied Unions and Associations which are otherwise not granted the facility of formal meeting under the BSNL Recognition Rules.

(iii) The recognised Unions & recognised Association are given facility to hold formal meetings with the management under the BSNL Recognition Rules. Therefore their alliance with non-recognised Unions/Association which otherwise do not have the facility of formal meeting is against the spirit of BSNL Rules under which they are granted recognition.

(iv) The relevant provisions of BSNL Rules extending the facility of formal meeting are stated below

a) BSNL Recognition of Non-Executives' Unions and Representation in the Councils Rules, 2012" (BSNLRNEU 2012)- Besides other trade Union facilities as per these rules, there is a provision of National Council at HQ level in which the recognsied Unions in the ratio of one representation for every 7 % votes secured in the membership verification represent. As such formal meeting with the management is held with them to discuss and resolve the important issues of the employees.

b) You are well aware that after 6th MV one Union which had secured appox. 7 % votes on all India basis was not given a seat in National Council thus losing the right for formal meeting. The same Union is now protesting for grant of formal meeting on the ground that smaller Unions as a part of AUAB are attending the formal meetings.

c) Further, BSNL Recognition of Executive's Association (REA) Rules 2014 dealing with Executive's Association states that "the Association shall abide by and comply with all provisions of its constitution/bye laws". Sub- rule 14 (1) of BSNL REA Rules provides "The Association eschews completely the agitation approach, such as

resorting to strikes or practices or conduct, which is likely to result in or results in cessation or substantial retardation of work, and also to coercion or physical duress."It is reiterated that as per REA Rules, the Association will not join hands with Non Executive Unions for furtherance of their issues and/ or participate in any joint trade Union action.

As such your action to associate with Executive Associations is not in the spirit of existing rules of BSNL.

(v) However it is informed that the Unions which have secured more than 2% on all India basis and the Support Association are granted facility of informal meetings under the BSNL Recognition Rules. At present NUBSNLW(FNTO) & BTEU BSNL are the two Unions which have secured more than 2% votes on all India basis. They are objecting granting of formal meetings to the Unions which had secured even less than 2 % votes in membership verification

(vi) AIBSNLEA is the only Support Association of executives which is granted the facility of informal meeting.

(vii) However, an executive after six months of his retirement cannot hold the post of office bearer in the Executives' Associations as per BSNL (REA) Rules, 2014 .

4. In view of what has been stated in above paras , it may kindly be noted that:

a) Any formal discussion/meeting with your Union along with un-recognized Union / Association or recognised Unions/ Associations will defeat the purpose of Membership Verification for recognition of representative Union /Association. Therefore, Management will hold formal discussion/meeting only with recognized Non- executive Union or recognized Executive Association separately on the respective demands.

b) No Association will join hands with the non-executives' Unions for furtherance of their issues and/or participate in any joint trade Union action.

5. Whereas BSNL is wholly Govt. owned company which provides public utility & essential services. As per FR 11 the whole time of Govt. servant is at the disposal of the Govt. which pays him, and he may be employed in any manner required by proper authority, without claim for additional remuneration , whether the services required of him are such as would ordinarily be remunerated from general revenues, from a local fund or from the funds of a body incorporated or not, which is wholly or substantially owned or controlled by the Govt.

Further, there are provisions in BSNL Recognition Rules that activities of Union/Association would be carried out only during lunch hours and not during working hours.

6. Your attention is drawn also to this office's letter No. BSNL/ 9-3/SR/2017 dated 08.05.2017 regarding interim order dated 06.05.2017 passed by Hon"ble Patiala House Court, New Delhi has been brought to the notice of all concerned wherein the Court passed the following order :

"... all the defendants are hereby restrained from further intensifying the ongoing strike so as to impede the functioning of BSNL. All the defendants, their members, sympathizers

and other associates are hereby directed to physically remove themselves from the premises / boundary wall of the properties owned by BSNL in Delhi and other places. The defendants and their affiliate, associates, employees are injuncted from obstructing the ingress and egress of BSNL officials, general public in any manner and they shall not directly or indirectly to take any step so that smooth functioning of BSNL services are effected in any manner.

7. Whereas, Rule 5 (23) & 8 of BSNL CDA Rules also prohibit strike. In terms of the above provisions any employee, participating in strike will be liable to disciplinary action apart from deduction of wages under "No work, No pay Principle". The details are explained as follows:-

"a. **Rule 5 (23)–**

Following acts of omission and commission shall be treated as misconduct:

"Participation and/or inciting others to participate in strikes, gherao, go slow and similar other agitational activities, or abetting, inciting, instigating or acting in furtherance thereof."

b. **Rule 8. DEMONSTRATIONS AND STRIKES:**

No employee shall-

(2) resort to or in any way abet any form of strike or coercion or physical duress in connection with any matter pertaining to his service or the service of any other employee of the Company."

8. FR 17-A, which for ready reference reads as under:

"without prejudice to the provisions of Rule 27 of the Central Civil Services (Pension) Rules, 1972, a period of an unauthorized absence-

i) in the case of employees working in industrial establishments, during a strike which has been declared illegal under the
ii) provisions of the Industrial Disputes Act, 1947, or any other law for the time being in force;
iii) in the case of other employees as a result of action in combination or in concerted manner, such as during a strike, without any authority from, or valid reason to the satisfaction of the competent authority; and
iv) in the case of an individual employee, remaining absent unauthorizedly or deserting the post, shall be deemed to cause an interruption or break in the service of the employee, unless otherwise decided by the competent authority for the purpose of leave travel concession, quasi-permanency and eligibility for appearing in departmental examinations, for which a minimum period of continuous service is required.

EXPLANATION 1.- For purposes of this rule, 'strike' includes a general, token, sympathetic or any similar strike, and also participation in a bundh or in similar activities".

From above, it is absolutely clear that if a person absents himself unauthorizedly due to illegal strike, it shall be deemed to cause an interruption or break in service of the employees, unless it is decided otherwise.

9. DOP&T in its OM no. 45018I2017-Vig. Dated 15.03.2017 states that—

> "It follows that the right to form an Association does not include any guaranteed right to strike. There is no statutory provision empowering the employees to go on strike. The Supreme court has also ruled in several judgments that going on strike is a grave misconduct under the Conduct rules and that misconduct by Govt. employees is required to be dealt with in accordance with the law. Any employee going on strike in any form would face the consequences which besides deductions of wages may also include appropriate disciplinary action. Attention of all employees of this department is also drawn to this department OM no. 33012/I/(s) 2008-Estt(B) dated 12.09.2008 on the subject for strict compliance".

10. Therefore, the decision of your Union to participate in three days' strike from 18.02.2019 will not only impair productivity of the company, hamper its growth, but also affect adversely the goodwill among all the citizens. It is, therefore, once again requested that in order to serve the country at this critical juncture when uninterrupted telecom. services are national priority. It is requested that the proposed three days' strike starting from 18.02.2019 may be withdrawn.

Yours faithfully,

(A.K. Sinha)
DGM (SR), BSNL C.O.

Copy for information to:

1. PPS to Secretary, DoT
2. PPS to Addl Secretary, DoT
3. PPS to Member Services , DoT
4. PPS to CMD, BSNL CO.
5. PPS to Director (HR) BSNL CO
6. Joint Secretary (Admn), DOT
7. DDG (SR), DoT
8. Dir(PSU-I), DoT
9. The All CGMs. BSNL Circles
10. PGM (Pers)/PGM (Admn) /Sr. GM (Estt), BSNL CO.
11. RLC (Central), New Delhi