



**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**

**APPEAL**

No. BSNL/7-3/SR/2018

Dated, the 14<sup>th</sup> February, 2019

To,

Shri Anil Kumar Tiwari  
GS, TOA (BSNL)

Shri R.C.Pandey,  
GS, BTEU (BSNL)

Shri K.Jayaprakash  
GS, NUBSNLW (FNTO)

Sub: Appeal to withdraw proposed agitation programme from 16.02.2019

Sir,

I am directed to refer to your notice for agitation programme dated 01.02.2019 for following demands:

1. Immediate settlement of the 3<sup>rd</sup> Pay Revision of Executives and Non Executives with 15% fitment.
2. Revision of Pension w.e.f. 01.01.2017
3. Allotment of 4G spectrum
4. Remit all out of account recoveries to Banks, Societies etc immediately..

2. As all are aware that Management has time and again been issuing advisories/ appeals to the Unions/ Associations not to resort to any agitation programme inter alia in view of pending conciliatory proceedings before the RLC under Industrial Dispute Act, 1947.

3. It is mentioned that the above demands are being regularly examined at appropriate level. The management has taken up these issues with DoT.

4. It is pertinent to invite your attention towards the prohibitory provisions under BSNL CDA Rules, Recognition Rules of Unions/Associations, ID Act 1947, DOP&T instructions and also interim injunction order dated 6.5.2017 passed by Hon'ble Patiala House Court, New Delhi. Some of these provisions are as follows:

A The Obligations imposed under section 22 (1) (d), 22(1)(a)(d) & Section 33 of Industrial Dispute Act 1947 are reiterated below:

- I. Section 22 (1) (d) : No person employed in a public utility service shall go on strike in breach of contract during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.
- II. Section 24. Illegal strikes and lock-outs.- (1) A strike or a lock-out shall be illegal if- (i) it is commenced or declared in contravention of Section 22.....

III. Section 26. Penalty for illegal strikes and lock-outs.- Any workman who commences, continues or otherwise acts in furtherance of, a strike which is illegal under this Act, shall be punishable.

Thus during pendency of the conciliation proceedings before the RLC no person employed in Public Utility Service { Telecommunication is a Public Utility Service as per para 2(n)(iii)} shall go on strike and any strike in contravention of section 22 of the ID Act and may be treated as illegal under section 24 of the Act . Thus the present call of strike is illegal.

B. Whereas, vide this office's letter No. BSNL/ 9-3/SR/2017 dated 08.05.2017 (206/c) 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.

C. Whereas, some of the signatories of the notice are from Executives' Associations having members which are officers/ managers and not workmen hence they are not "workmen" as per definition of section 2(S) of ID act,1947 and therefore any strike by them shall be in violation of ID Act.

D. 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.

E. 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 agitation 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."

F. 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”.

5. As all are aware BSNL is facing acute cash flow constraints and any strike at this juncture may jeopardise even the disbursal of timely salary to the employees in the coming months.
6. Needless to mention that such activities will impair productivity of the company, hamper its growth, and affect adversely the goodwill of the customers.
7. You are, therefore, requested to withdraw the agitation programme immediately.



(B.L.Kirar)

Astt. Genl. Manager (SR)

Copy for information to:

1. PPS to Director (HR) BSNL CO
2. The All CGMs. BSNL Circles
3. PGM (Pers)/PGM (Admn) /Sr. GM (Estt), BSNL CO.
4. RLC (Central), New Delhi