

TELE LABOUR

Organ of National Federation of Telecom Employees (BSNL)

Regd. No. 4906 dated : 17.9.2001

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EDITORIAL

A GOOD START FOR SUCCESS

The present Member (Services) in Telecom Commission, Shri S.C. Mishra, widely known for his dynamism, vision and sweet words took over the additional charge of Chairman-Cum-Managing Director of BSNL on 1st March after retirement of Shri Gopal Das. This spectacular arrangement may not be without the blessings of Telecom Minister who is also widely known for his uprightness and dynamism. It is indeed a step in right direction.

The choice has fallen on Shri Mishra obviously due to the present crisis in BSNL, crippled and inert management. The posts of Director (Finance), (Enterprise) and (HR) are yet to be filled up. It is laudible that Shri Misra without waiting even for a day started interacting with the officers and union representatives. He invited all unions on 1st March itself at 1600 hours and gave a clear **message to perform or perish. He was**

candid and clear that outside support will be of no use and we have to stand up on our own strength to lift the company from present morass. This

can neither be disputed nor ignored. The chairman told the gathering that the revenue receipt

in the company is less and expenditures more and this gap has be wiped out. The expenditures have to be curtailed but not at the cost of services. He asserted and assured that the shortages of equipments, cables, drop wires etc. will be met within very short period. He vehemently stressed that the quality of service has to be improved and sought cooperation form the work force. To our much *surprise and satisfaction he told that the era of accountability will begin*



Shri S.C. Mishra
CMD, BSNL

NFTE HQR EXTENDS A MERRY HAPPY AND COLOURFUL HOLI TO BSNL FAMILY

hereafter. Those who perform will be rewarded from the coming fiscal year. He asserted forcefully that *he means what he says.*

The union representatives narrated how lavish and unwarranted expenditures are incurred. There is *rampant corruption at all levels in the company. Non-performers and corrupt are continuing in the circles and SSAS even after completion of their tenures fixed by BSNL HQR.* Thousands of non-executive employees have been transferred in last six years in the name of manning the services and huge expenditures incurred on TA/DA but what is result today? This should be thought over seriously. Vested interest group has taken *full advantage of the Transfer Industry but service deteriorated and workers suffered. The BSNL management failed to fix responsibility against such erring officers who danced at the tune of vested group.*

More than 55 percentage non-executive employees are being treated, targeted and seen with different attitude and approach

causing immense loss to the company. *The management in the field are forgetting that such 55 percent staff are sons/ daughters of the same soil to which others belong we appeal to CMD to remove such atmosphere sooner the better and ensure creation of congenial atmosphere for workers to work in the company without fear.*

While we welcome Shri Misra as CMD, BSNL and assure him our unstinted cooperation in running and improving the services but trust he *will keep his words what he declared in the open forum.*

The NFTE, therefore, call upon the employees not to lag behind at any cost in extending fullest cooperation to run and improve the Telecom services but *don't and never surrender to injustices and discriminations, NFTE HQR is fully alive to meet all eventualities.*

We wish the leader of Services, CMD BSNL, to succeed in his mission and task as he has chosen the path in right direction. n

VICTORY CELEBRATIONS AT VISHAKHAPATNAM

The district union of the Vizag SSA (Andhra Pradesh) celebrated 'its' victory in the 5th membership verification on 28.2.2011 at the G.M. Office Complex on 28/02/2011 in which more than 300 Comrades participated. The meeting was chaired by Com. Kondal Rao, District president and was addressed by Comrades C.K.Mathivanan, Dy. General Secretary, Rajmouli, Circle Secretary, Somasundaram, District Secretary and Naidu, Branch Secretary of the G.M. office. The leaders explained the results of the 5th membership verification and 'its' impact on the management and the employees. Com. C.K. Mathivanan explained in detail the legal action taken by the CHQ to obtain the recognition for NFTE-BSNL since the BSNLEU could not secure 51% support of the employees and hence lost the 'sole bargaining agent' status in BSNL. He also cautioned the activities of the management to reduce the staff strength for which a VRS committee has been formed on 01/02/2011. n

NFTE's Writ Petition

**In the High Court of Judicature, Madras
(Special Original Jurisdiction)**

W.P.(C) No. of 2010

**(Writ of Certiorari order NISI to
Produce and or to Appear)**

**In the High Court of Judicature at
Madras**

(Special Original Jurisdiction)

Friday the 22nd Day of October 2010

WP. No. 23833 of 2010

Between

National Federation of Telecom Employees BSNL, Rep by its National Deputy General Secretary C.K. Mathivanan, Chennai 23
Petitioner

And

Union of India Rep by its Secretary, Ministry of Communications and Information Technology, Electronics Niketan, Lodhi Road, New Delhi

and 16 others Respondents

TO

1. Union of India Rep by its Secretary, Ministry of Communications and Information Technology, Electronics Niketan, Lodhi Road, New Delhi.
2. Bharat Sanchar Nigam Ltd. (A Govt. of India Enterprise) Rep by its chairman and Managing Director, BSNL Corporate Office, 8th Floor, Bharath Sanchar Bhawan, Harish Chander Mathur Lane, Janpath New Delhi.
3. The Senior General (Admn.), Bharat Sanchar Nigam Ltd. (+A Govt. of India Enterprise) SR Cell, Corporate Office, 8th Floor, Bharath Sanchar Bhawan, Harish Chander Mathur Lane, Janpath New Delhi 110001.

4. The Chief Labour Commissioner (Central), Ministry of Labour and Employment, Sharam Shakti Bhavan, Rafi Marg, New Delhi.
5. All India Backward Classes Telecom Employees Sangthan, Quarters No. 96 Empress Mills Colony, Bezonbagh, Nagpur.
6. Bahujan Trade Union of BSNL 1-69-D, Dilshad Garden, Delhi 110095.

National Federation of Telecom Employees, BSNL

Represented by its National Deputy General Secretary,

C.K. Mathivanan

No. S-2, Sayani Complex, 354, Konnur High Road, Ayanavaram, Chennai - 600 023.

.... Writ Petitioner

Vs.

1. Union of India, Represented by its Secretary, Ministry of Communications and Information Technology, Electronics Niketan, Lodhi Road, New Delhi - 110 003.
2. Bharat Sanchar Nigam Ltd. (A Government of India Enterprise) Represented by its Chairman and Managing Director, BSNL Corporate Office, 8th Floor, Bharath Sanchar Bhawan, Harish Chander Mathur Lane, Janpath, New Delhi - 110 001
3. The Senior General Manager (Admn.), Bharat Sanchar Nigam Limited (A Government of India Enterprise) SR Cell, Corporate Office, 8th Floor, Bharath Sanchar Bhawan, Harish Chander Mathur Lane, Janpath, New Delhi - 110 001

4. The Chief Labour Commissioner (Central)
Ministry of Labour & Employment,
Shram Shakti Bhavan, Rafi Marg, New Delhi
- 110 001
5. All India Backward Classes Telecom Em-
ployees Sangthan,
Quarters No. 96, Empress Mills Colony,
Bezonbagh, Nagpur - 440004.
6. Bahujan Trade Union of BSNL
1-69-D, Dilshad Garden, Delhi 110095.
7. Bharatiya Telecom Employees Union
(BSNL),
24-147-16/1, East Anand Bagh, Malkajiri,
Hyderabad 500047.
8. BSNL Association of Telecom Mechanics
H.No. 13-6-102/A, Kulsumpura, Karwan,
Hyderabad 500 067
9. BSNL Employees Congress
Near Sri Kalaimagal School, Alagapuram,
Salem 636 016
10. BSNL Employees Sangh,
No. 8-2-14/26 Sikhara Enclave, Vaisali Nagar,
Hyderabad 500 079.
11. BSNL Employees Union Dada Ghosh
Bhavan, 2151/1 New Patel Nagar Road, New
Delhi.
12. BSNL Mazdoor Sangh,
T15, Atul Grove Road, New Delhi -110001.
13. BSNL National Telecommunications Staff
Union, Old Telephone Exchange Building,
Connaught Place, New Delhi.
14. BSNL Pattali Employees Welfare Associa-
tion, 32/46 4th Main Road, CIT Nagar
Nandanam, Chennai-35.
15. BSNL Workers Rashtriya Union
D-1, Atul Grove Road, New Delhi -110001.
16. National Union of BSNL Workers (FNTO),
T-16, Atul Grove Road, New Delhi -110001.
17. Telecommunication Employees Progressive
Union, Sri Sivam Apartment, Old No. 5/4,
New No. 36/4, Vellala ST, Kodambakkam,
Chennai - 24.

....Respondents

Affidavit of C.K. Mathivanan

I, C.K. Mathivanan, son of C.H. Krishnan, aged 57 years, residing at No. S.4, Sayani Complex, 354, Konnur High Road, Ayanavaram, Chennai- 600 023, do hereby solemnly affirm and sincerely state of oath as follows:-

1) National Federation of Telecom Em-
ployees BSNL ('NFTE-BSNL' for the sake of
brevity) is a registered Trade Union with Reg-
istration No. 4906/2001 on the file of Regis-
trar of Trade Unions, vide Registration Cer-
tificate dated 17-9-2001. I state and submit
that I am the National Deputy General Sec-
retary of NFTE-BSNL and I am also the Cir-
cle Secretary of Chennai Circle. I am well and
fully acquainted with the facts and circum-
stances of the case. I am competent to swear
to this affidavit.

2) Employees of three Departments of
Government of India viz., Department of
Telecom (DoT), Department of Telecom
Services (DTS) and Department of Telecom
Operations (DTO) were transferred and
deemed deputed and Bharat Sanchar Nigam
Limited (BSNL for brevity) was formed and
with effect from 1-10-2000. BSNL is wholly
owned by Government of India. Government
of India has deep rooted and all pervasive
control in BSNL. BSNL is a Government of
India enterprise. BSNL is an instrumentality
of State within the meaning of Article 12 of
the Constitution of India.

3) At present, there are about 2,48,000
non-executive employees in BSNL all over
India.

4) After the formation of BSNL on 1-10-
2000 as stated above a meeting of BSNL
management with all the Federations/Asso-
ciations/Unions of employees that existed in
erstwhile DoT, DTS and DTO was held on

27-2-2001 in which representatives from Ministry of Labour were also present. In this meeting, it was decided that the verification for electing majority representative union would be held through secret ballot as per the procedure laid down by the Ministry of Labour. Based on the procedure evolved at the 16th Session of Indian Labour Conference held way back in 1958 the procedure for electing the majority representative union through secret ballot was evolved. This was followed by meetings on 22-8-2001 and 28-9-2001. In this manner, the code of discipline (hereinafter referred to as COD) was drawn up.

5) In the COD, amongst other things, it was decided that BSNL is an industry/establishment and that majority/representative union which will represent the non-executive employees will be conducted through secret ballot and not through check off system. Even though there was no consensus much less unanimity with regard to COD, it was thrust on the trade unions. The trade unions were left with the Hobson's choice of accepting an outdated and anachronistic COD is a condition precedent for participating in the membership verification through secret ballot for electing a majority representative union of non executive employees in BSNL' (hereinafter referred to as 'Said Union election' for brevity and clarity). Several circulars and instructions have been issued from time to time by BSNL management clarifying several aspects of the COD. It was further drawn up in the COD that the said union election will be held biennially for electing majority representative trade union(s) at the National as well as Circle level. Thus far, four such biennial elections have been held since the birth of BSNL in 2000. There are 35 Telecom Circles throughout India and the elections are held for all the 35 Telecom Circles simultaneously.

The valid votes polled by the participating/contesting union in the said union election (secret ballot) are cumulatively added together and counted to arrive at the majority representative trade union at the National level and the representative trade union at the circle level wherever it becomes applicable.

6) To be a majority representative trade union at the National level, the only limitation is that a contesting union should have secured not less than 15% of the valid votes polled at the National level. With regard to circle level, a participating/contesting trade union to become the representative union at the Circle level, it should have polled not less than 50% of the valid votes polled.

7) The management has also clarified vide a circular that the non-executive employees can get their grievances redressed or make any representations to the management with regard to their grievances only through majority representative union and that if they approach the management directly, the same will not be entertained. Therefore, the status of majority representative union has become very important as a recognised bargaining agent in redressal of the grievances of nearly 2,48,000 non-executive employees (hereinafter referred to as 'said workmen' in this affidavit for the sake of brevity and clarity) throughout India.

8) It is respectfully submitted that the above is contrary to the provisions made and the established principles of collective bargaining, representative bargaining agent etc., evolved from statutes such as Trade Union Act, 1926.

9) The majority recognised/representative trade union has certain privileges such as office space, telephone lines besides office bearers being given certain facilities/privi-

leges to carry out trade union work of representing the said workmen and espousing their causes. These privileges include certain paid offs also for attending to trade union activities.

10) Considering the volume and size of BSNL as an established industry, (2,48,000 said workmen spread over 35 Telecom Circles throughout India) one representative trade union is grossly inadequate.

11) As stated above, the provision for second recognition at the circle level is only in the event of a participating/contesting trade union securing more than 50% of the valid votes polled at that circle level, but to become a recognised representative trade union at the National level, as stated above, it would suffice if a participating/contesting trade union secures 15% of the valid votes polled, if it is the highest vote getter.

12) In the last biennial membership verification through secret ballot viz., 4th said union election held on 21.1.2009, 14 registered trade unions contested/participated. The total number of votes (electorate) was 2,48,278. In which 2,36,392 (95.21%) votes were polled, out of which, 2,194 were invalid votes. That left the tally of valid votes polled at 2,34,198 (94.32%) to be shared between the 14 registered trade unions which contested/participated. 15% of valid votes polled is only 35,129.7 (rounded of to 35,130). Therefore, considering the fact that there are 14 contesting trade unions, a union which secures 35,130 votes can become the majority representative union for 2,48,000 said workmen at the national level and it follows that a trade union which secures much lesser than 50% of the valid votes polled, can easily become the majority representative union for 2,48,000 said workmen with a membership nowhere near the half way mark of 1,24,000.

13) It is a fair and correct democratic principle and sound basis of collective bargaining/representative bargaining agent, that a truly representative trade union or trade union as the case may be should have the support of more than 50% of the 2,48,000 said workmen. In other words, a representative trade union or trade union as the case may be, should have a mandate of not less than 1,24,000 said workmen to be truly representative in character.

14) It is also necessary that one or more trade unions should get more than 50% of valid votes polled on their own strength and not on the basis of cartel with other trade unions which is against the concept of membership verification and democratic principles. NFTE-BSNL has been making several representations to BSNL management requesting for an amendment to the COD on the above lines. Several other vital amendments to COD have also been sought for by NFTE-BSNL and the salient features of the amendment sought for are as follows:

- i. To make provision or more than on registered trade union to be recognized at the National level, if a trade union gets 15% or more valid votes polled so that the representative trade unions are truly representative in character.
- ii. to make provision in the COD for allocation of seats in the negotiating Fora proportionate to the vote share obtained in the National/Circle and SSA levels.
- iii) to make provisions in the COD for giving certain facilities to all the registered trade unions which get a specified share of votes.
- iv. in MTNL, having merely 60 thousand employees, which is also involved in providing telecom services in metro cities of

Delhi and Mumbai and under the administrative control of DOT like BSNL, two Unions are recognized. The same yardstick and procedure may be adopted in BSNL also.

15) It is deemed relevant to place on record that NFTE-BSNL is a very major trade union with a large membership of about 2,48,000 said workmen. To buttress this, it is relevant to state that in the first said union election held on 25-9-2002, NFTE-BSNL secured maximum number of votes and was the majority representative trade union for two years. Thereafter, in the second, third and fourth biennial said union for two years. Thereafter, in the second, third and fourth biennial said union elections held on 1.12.2004, 19.12.2006 and 21-1-2009 respectively, NFTE-BSNL finished second. Therefore, NFTE-BSNL is a very serious contender representing a large cross section of the said workmen.

16) With regard to the principle that the representative trade union should enjoy the support of more than 50 % of the total workmen, the said principle has been upheld by this Hon'ble Court in Neyveli Lignite Corporation case as well as in the MRF case, by two different Division Benches.

17) Similar provisions have been made in several other establishments and analogous provision has been made in the Central Civil Service (Recognition of Service) Rules, 1993 also.

18) On 12-11-2008, before the 4th said union election, a meeting of BSNL management and the participating registered trade unions was held. This meeting was presided over by the Deputy Chief Labour Commissioner, (Central) under the 3rd Respondent, In this meeting, NFTE-BSNL raised the above said points/demands. After detailed deliberations and discussions, it was minuted that the

issues will be sorted out on before the 5th biennial said union election. The proceedings of the said meeting on 12-11-2008 are recorded and the minutes of the meeting are issued in letter dated 18-12-2008 which is filed herewith in the typed set of papers. The same may please be referred to for fuller and better particulars. The same may also please be treated as an integral part and parcel of this affidavit. The contents are not stated here again for the sake of brevity and for the sake of avoiding repetition.

19) The 4th said union election was held on 21-01-2009 and results were declared on 26-1-2009. It is for a period of two years. The BSNL management is now taking steps to hold the 5th said union election. Without considering the discussion made in the meeting dated 12-11-2008 the 5th said union election notification is on the anvil.

20) Under the above circumstances, BSNL management sought the opinion on the changes to be made to the COD vide letter dated 16-8-2010 and convened a meeting of all the participating trade unions on 16-9-2010 vide its letter dated 3-9-2010. Out of 14 registered trade unions, 13 took part in the meeting in which one (7th respondent) could not participate due to inclement weather in the region where its office bearers are situate. At the meeting on 16-9-2010, 11 out of 13 registered trade unions wanted changes in the existing COD on the lines indicated above based on the experience during the last 8 years and 4th 'said union election.' The position of BSNL also has undergone vast changes since 2002. 11 out of 13 unions demanded framing of new COD so that more than one union can be recognized and also to ensure that registered/recognized trade union/trade unions have the support base of more than 50% of 'said workmen'. In fact, COD evolved/drawn up based on the 16th

Session of Indian Labour Congress in 1958 provides for framing of recognition of rules separately for the industry concerned in view of the vast difference in the functioning of various industries/establishments. BSNL management instead of acting upon the suggestion of majority view in the meeting on 16-9-2010 harped on unanimity. In other words, the management dealt with consensus and unanimity synonymously.

21) The second and third respondents are BSNL management. The fourth Respondent is the Chief Labour Commissioner. Respondents 4 to 17 are the 13 registered trade unions alongside the petitioner.

22) I state that such important meetings are always conducted in the presence of either Chief Labour Commissioner (CLC for brevity) or Deputy CLC in the past, but strangely in the meeting on 16-09-2010 neither the CLC nor the Deputy CLC was invited and there was no representation from the Labour Department for reasons best known to the BSNL management. The attitude of the management is to deal with only one union even though it did not have the majority support on its own. It is obvious that both the recognized union and the management are hand in glove in suppressing the genuine rights of the 2,48,000 said workmen. Hence the majority unions appealed for considering their demands and conduct the 5th 'said union election' only after effecting the required changes in the out dated COD or framing new rules to extend recognition to more than one union. Only this will ensure democracy in Trade union functioning and collective bargaining for majority workmen.

23) Therefore, NFTE-BSNL has been taking up the issue with BSNL management and has been insisting that the above said amendments to the COD are made before the 5th 'said union election' is notified. Not-

withstanding this, the Respondents are making hectic efforts to have the 5th 'said union election' notified without incorporating the above amendments in the COD.

24) Under the above circumstances, on 23-9-2010, NFTE-BSNL filed a writ petition in this Hon'ble Court in W.P.No. 22050 of 2010 with a prayer to mandamus the Respondents to frame COD incorporating appropriate amendments and the writ petition came up for admission on 28-9-2010. The counsel for 1st Respondent took notice and private notice returnable by three weeks was permitted with regard to the other respondents. Private notice was taken and some of the Respondents have been duly served. After 28-9-2010, BSNL management has started taking hurried and hectic steps to notify the 5th membership verification through secret ballot. On 29-9-2010 itself, BSNL management issued a notification appointing General Manager Training as the Chief Returning Officer for the conduct of 5th 'said union election' and it clearly states that the 5th union election' is proposed to be held in February 2011.

25) This was followed by a circular/instruction dated 01-10-2010 citing the 5th 'said union election' and keeping in abeyance/putting on hold transfers.

26) This was followed by a circular dated 1st October 2010 with regard to revised electoral rules and intriguingly it has been clearly stated that the employees who retire before 31-01-2010 shall not be included in the revised electoral roll. It clearly establishes the intention of BSNL management to go ahead and notify and hold the 5th 'said union election' in February 2011.

27) Thereafter, the 3rd Respondent issued a notice dated 1.10.2010 bearing reference No. BSNL/5-1/SR/2010 (hereinafter referred to as impugned notice' for the sake

of brevity) holding that all the registered trade unions should give an undertaking that they will abide by the code of discipline in a give format within one month from the date of issue of impugned notice. It is also imperative that a trade union which does not give the undertaking will not be eligible to participate in the 5th 'said union election'. Therefore, NFTE-BSNL has to give the undertaking if it is to participate in the 5th 'said union election'. Conversely, if it does not give the undertaking, it cannot participate in the 5th 'aid union election'. If the undertaking is given, it will be bound by the existing COD without amendments.

28) Owing to the above circumstances, it has become imperative to assail the impugned notice of the 3rd Respondent in this writ petition.

29) Owing to all that have been stated supra, it is imperative that the operation of and all further proceedings pursuant to the impugned notice are stayed, pending disposal of the main writ petition, failing which, irreparable loss, injury and hardship will be caused to NFTE-BSNL as well as the other participating trade unions and a large section of said 2,48,000 workmen which are demanding amendment of COD. IT will effectively neutralize the democratic process.

30) On the contrary, if the operation of and further proceedings pursuant to the impugned notice are not stayed, BSNL management will go ahead and notify and hold the 5th 'said union election' under the existing COD without the participation of union/ unions with huge membership setting at naught the democratic process.

31) The writ petitioner has not other efficacious or alternate remedy other than invoking Article 226 of the Constitution of India and filing this writ petition in this Hon'ble Court.

32) NFTE-BSNL has not filed any other writ petition assailing the impugned notice either in this Hon'ble Court or in the Madurai Bench of this Hon'ble court and therefore no other writ petition assailing the impugned notice is pending either in this Hon'ble Court or in the Madurai Bench of this Hon'ble Court.

GROUND

- a) The legal proceeding seeking amendment of existing COD are pending and the matter is subjudice, but vide the impugned notice, the 3rd Respondent has called for an undertaking within one month from the participating unions to the effect that they will abide by the existing COD and it follows that participating unions cannot participate in the 5th 'said union election' if it does not give such an undertaking. The impugned notice therefore if allowed to stand will short circuit the entire issue of amendment to COD. The impugned notice if allowed to stand, will occasion failure of justice.
- b) The Supreme Court of India and various High Courts have repeatedly held that the check off method of verifying the membership to decide the majority representative union is bad and undemocratic. On this basis, the courts have repeatedly held that secret ballot to decide the majority representative union alone is a democratic method so that the majority representative union is truly representative in character.
- c) As a corollary to the preceding ground, it follows that a majority representative union to come out to be truly representative in character, should have and should command the membership of more than 50% of the total number of workmen in an industry.
- d) A COD which allows a trade union to be-

- come the majority representative trade union by securing merely 15% of the said workmen by securing merely 15% of valid votes polled obviously cannot be truly representative at all and therefore militates against the concept of democratic method of electing the majority trade union, because majority is the hallmark of democracy.
- e) Under the existing scheme of things, a workman, if he has any grievance, cannot approach the management directly and he or she has to approach the management only through the majority representative union. In this view of the matter, it becomes all the more imperative that the majority representative union enjoys a support base of more than 50 % of said workmen.
- f) Management publication dealing with procedures for conducting a majority representative union of non-executive employees in BSNL and facilities available to the union during and after conducting of membership verification process (page 8 of 185 at B1, 1, C) makes it clear that a union which does not give the undertaking cannot participate in the elections.
- g) The circular from BSNL management to the effect that employees who will be retiring on or before 31.1.2011 shall not be included in the electoral rolls clearly shows the intention of BSNL management to hold the election in February 2011.
- h) This Hon'ble Court particularly different Division Benches of this Hon'ble Court particularly in Neyveli Lignite Corporation case and MRF case have clearly held that a majority representative union to be truly representative in character should enjoy the support base of not less than 50% of the said workmen.
- i) Indisputably the facts show that four biennial 'said union elections' have been held thus far, since the formation of BSNL in 2000 and that in the four biennial 'said union elections' the writ petitioner NFTE-BSNL has finished first and had been the majority representative trade union in the first said union election and has finished second in all the three subsequent 'said union elections' with substantial vote share, buttressing the ground that the writ petitioner NFTE-BSNL is a very serious contender and is a union with substantial support base.
- j) As a corollary to the preceding ground, in the meeting held on 16.9.2010, out of 14 registered trade unions, 13 participated. One could not participate due to inclement weather in the place where its office bearers are situated. Out of the 13 trade union which attended the meeting, 11 trade unions strongly supported the amendment for COD, on the lines that the representative unions should have more than 50% share and staged a walk out. In other words, with the exception of respondent No.11 and 17 herein, all the other trade unions viz., Respondents 4 to 10 and 12 to 16 supported the amendments.
- k) As stated supra in one of the preceding ground, majority is the hallmark of democracy. Equally complete consensus or total unanimity can never be the benchmark in any democratic process. Consensus of the majority alone can be the benchmark. Complete consensus or total unanimity is only an exception in any democratic process. If complete consensus and total unanimity is made the benchmark, it virtually negates the very concept of democratic process.

- l) As a further corollary to the preceding ground, the fact that only two-trade unions out of 14 trade unions were in favour of the existing COD, would clearly show that will of the majority is in favour of amending the COD.
- m) As raised supra in one of the preceding ground, under the existing scheme, any individual workman or group of workmen cannot approach the management for redressal of any grievance directly and they have to approach the management only through the majority representative union. If there is only majority representative union that union also does not enjoy the support base of more than 50%, it will lead to workmen being victimized for not supporting the majority union which is not a healthy democratic trend.

33. It is respectfully submitted that the impugned notice is in the form of a circular marked to all unions which includes NFTE-BSNL. Therefore, only a copy of the impugned notice was received by NFTE-BSNL. A copy of the impugned notice together with Annexure 1 is being filed.

34. Owing to the above said reason, it is necessary to dispense with the production of original of the impugned notice together with Annexure 1, failing which irreparable loss, injury and hardship will be caused to the writ petitioner. On the contrary, no prejudice or hardship will be caused to anyone much less to the Respondents if the prayer infra for dispense with is acceded to.

It is therefore prayed that this Hon'ble Court may please dispense with the production of the original of the impugned notice of the 3rd Respondent dated 1.10.2010 bearing reference BSNL/5-1/SR/2010 together with Annexure I therein, pending disposal of the writ petition and pass such further or other order or orders as this Hon'ble Court may

deem fit and proper in the facts and circumstances of the case and thus render justice.

It is therefore prayed that this Hon'ble Court may please pass an order of interim stay, staying the operation of and all further proceedings pursuant to the impugned notice of the 3rd Respondent dated 1.10.2010 bearing reference No. BSNL/5-1/SR/2010 together with Annexure I, pending disposal of the main writ petition and pass such further or other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

It is therefore prayed that this Hon'ble Court may please issue a Writ of Certiorarified Mandamus or any other appropriate writ, order or direction in the nature of a writ, calling for the records of the respondents culminating in the impugned notice of the 3rd Respondent dated 1.10.2010 bearing reference No. BSNL/5-1/SR/2010, quash the same and direct the respondents 1,2 and 3 to frame a new amended Code of Discipline before the notification of the 5th membership verification through secret ballot the notification of the 5th membership verification through secret ballot for electing a majority representative union of non-executive employees by holding a meeting of Respondents 2 and 3 with Respondents 5 to 17 and the Petitioner (NFTE BSNL) in the presence of the 4th Respondent, and pass such further or other order or order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

Solemnly affirmed at Chennai on this the day of October 2010 and signed his name in my presence. Before me, Advocate, Chennai

(Case has not yet been listed for hearing)

Letters to Administration

Recognition of NFTE (BSNL) as second union in the PSU (BSNL).

No.TF—1/1/ (C) Date 3/3/2011 to Hon'ble Labour Minister, Govt. of India, New Delhi

We respectfully state that the BSNL administration conducted 5th verification on 01/02/2011 in which two unions's viz. NFTE (BSNL) and BSNLEU have secured 35% and 46% votes respectively. The management has accorded recognition to only one union, BSNLEU, subject to court decision (Refer Annex I) although it has not secured 51% either of polled or total votes. This is against the verdict of Chennai High Court in the WP 10475/05, 9688/05 etc between Neyveli Lignite Corporation Limited and unions. The Court's operative portion is reproduced below

"If the single largest union had secured less than 51% of votes polled, the Regional Labour Commissioner shall see if the single largest and the second largest union had together secured 51% of the votes polled and recognize both of them as bargaining agents". A copy of the Judgment is enclosed herewith for ready reference" (Refer Annex II)

While according recognition the BSNL management has ignored the above fact obviously on the plea of Code of Discipline to which we have not agreed. We want to state here that at *no stage the NFTE BSNL has given any undertaking to abide by with the Code of Discipline which is mainly for Central Trade Unions and not for non-affiliated unions.* Before verification the BSNL authorities dispensed with the condition of acceptance of Code of Discipline and now they are making the plea of same. A copy of BSNL's

Letters are enclosed for your kind perusal. [Refer (Annex I & III)] you will appreciate, sir, no undertaking or condition can be imposed either unilaterally or arbitrarily. The NFTE has not furnished any undertaking for acceptance of the Code of Discipline as such we are not bound by the same.

Apart from above it is also submitted that there is provision in GOI DOP Letter No. 2 / 10/ 80-JCA dated 09/11/1993 for multiplicity of unions in respect of Central Govt. employees (Refer Annex IV). There is provision for multiple unions in Railways also (Refer Annex V).

We may add that in course of 4th verification the Dy. Chief Labour Commissioner (Central) presided a meeting on 12/11/2008 in which unions demanded that the BSNL should frame its own rules for recognition of unions so that the workers are adequately represented in the negotiating Machineries and their grievances are redressed properly. (Refer Annex V) The management agreed to process the same six months before the 5th verification but this was avoided deliberately. The management evolved its own rule for unions of Executives but not of non-Executives. A meeting of all unions took place only on 16/09/2010 in which majority of participating unions demanded new rule for recognition but Chairman rejected and declared programme of verification in an arbitrary method. (Refer Annex VI) we have reported all these developments to CLC, New Delhi. The BSNL management has almost even ignored the participation of Labour Ministry in verification. The CLC or his nominee was not invited for any meeting with the unions during verification due to ulterior motives. This forced the unions to approach to Court of

Law. The BSNLEU, securing 46% votes has been recognized pending High Court's decision.

The NFTE-BSNL has secured more than 80,000 votes out of 2, 29,000 and employees are spread in nook and corner of the country. Their grievances and problems will not be redressed and settled unless NFTE –BSNL is recognized as second union and represented in the Negotiating Machineries.

Therefore, it is urged that the NFTE-BSNL be recognized as second union pending decision of Court akin to BSNLEU to avoid labour unrest and to maintain harmony and Industrial Peace. We shall feel obliged in case appropriate advice is given to BSNL PSU and Telecom Ministry. ■

Introduce Voluntary Retirement replacement Scheme

VRS / CRS to staff :- Request for introduction of Replacement Scheme in BSNL.

No.TF—11/8 (a) Date 28/2/2011 to Chairman-cum-Managing Director, B.S.N.L.

We have reliably learnt that the BSNL Corporate Hqr is considering to introduce VRS / CRS Scheme for non-executive employees in BSNL. According to information the **compulsory retirement of staff will be done by invoking the provision 55(ii) (b) of BSNL CDA Rule, 2006.** In the past also the NFTE (BSNL) has submitted series of representations against the said arbitrary clause in which even right to appeal has been taken away. The BSNL management has not even registered the CDA Rule with the Labour Ministry to avoid objections from the registered and unrecognized unions. **The NFTE is**

strongly opposed to the VRS / CRS as it will be counter productive. The bank industry is glaring example in this regard. Moreover, at the time of introduction of new and modern Technologies firm assurance was given to workers by Govt against any re-trenchment. It is pertinent to mention that in year 2004 the NFTE submitted the proposal of "Voluntary Replacement Scheme" instead of VRS (voluntary Retirement Scheme) whereby a son or daughter of the employee will be offered a job in his / her place. The proposal was based on a scheme introduced by the Railway for Drivers and Gangmen on attaining the age of 53 years. The Railway Ministry vide Railway Board's Letter No. E (P&A) / I-2010 / RT.2 dated 11/9/2010 has further extended the above benefit to other categories with the nomenclature as "Liber-alised Active Retirement Scheme for Guaranteed Employment" to the sons / daughters of the staff in case of their voluntary retirement.

The proposal of NFTE (BSNL) was discussed in National Council in 2004 and a Joint Committee under the chairmanship of then Sr. DDG (Est), Shri S.C. Misra was formed for its recommendations. There was considerable headway on the issue but after second verification result the matter was closed without in depth consideration. *The NFTE has proposed the scheme with the objective to maintain financial viability of BSNL. Has the proposal materialized then the expenditures on Pension and wage bill and would have been reduced to a large extent and quality of service improved. Moreover, the present situation in BSNL would not have arisen. The DPE has also asked in the past to the CPSES and the nodal agencies to consider one person per family for redeployment.*

We, therefore, request you to please get the proposal considered and arrange discussion with us in larger interest of survival of company and workers both. We reiterate again that any unilateral decision on CRS/VRS may create serious labour unrest which company may not afford during the present crisis. ■

Fixation of pay of Direct Recruit TTAs in Revised scale of pay for 01/01/2011:- Request to protect erosion in pay

No. TF-9/9 Dated 5/03/2011 Shri S.C.Misra, Chairman-Cum-Managing Director, BSNL, New Delhi

Kind reference is invited to our letters No. TF-9/9 date 2.8.2010 and 6.12.2010 (copies enclosed) regarding erosion in pay of D/R TTAs/Sr TOAs in revised scale of Pay. A reasonable period has passed but the issue has not been resolved.

It is submitted that the direct recruit JTOs were also facing erosion in revised Pay and their case was transferred to a committee headed by Shri K.C.G.K. Pillai, PGM (FP) for recommendation we are unable to understand why similar treatment is not being extended to D/R TTAs etc. You will agree, sir, the workers should not be discriminated in this way. Reportedly, the committee chaired by Shri Pillai has recommended some formula to prevent pay erosion of D/R JTOs.

Under the circumstances we request you to please take appropriate action to redress the grievance of D/R TTAs etc in the analogy of D/R JTOs. We trust that urgent action will be taken to remove the irritation of sizeable number of employees. ■

Benefit of FR 22 (I) a (I) in Pay fixation to officiating JTOS.

No. TF-9/7(b) Dated 5/3/2011 Chairman-Cum-Managing Director, BSNL, New Delhi

It is stated that in T.A. NOS. 84 to 97 of year 2008 the honourable cat, Ernakulam has given the following verdict on 15th July, 2009

"The respondents cannot deny petitioners therein the benefit of fixation of their Pay under FR 22(I) a (I) in the scale of pay applicable to the post of JTO on the ground that they have not cleared the three phases of training".

"They are further directed to continue to pay to the applicants pay and allowances due to them in the scale of pay of JTO are performing duties of higher responsibility and as such are entitled for benefit of FR 22(I) a (I) and should not be denied to them. Presently the benefit has been granted to said officiating JTOS only in Kerala.

Therefore, we request you to please consider to extend the FR 22 (I) a(I) benefit to officiating JTOS of other circles also.

An early action is solicited. ■

Progress on conciliation issues

J.T.O. LICE (35 % Quota)

There are 11 Court cases. The BSNL Headquarter has obtained details of such cases and appropriate action is contemplated. During informal discussions it is gathered the management is likely to introduce "cut off date" for service eligibility condition from the date of examination in the analogy of J.T.O. (Electrical).

Promotion to T.M. Cadre:

Orders have been issued to promote trained personnel to T.M. Cadre in Bihar Circle. ■

Letters from Administration

Non-Executive Promotion Policy (NEPP) for employees in the IDA pay scales of NE-1 to NE-10 of Bharat Sanchar Nigam Limited - Clarification thereof.

BSNL No. 13-2/2010-TE dated 3-4/03/2011 to All Heads of Telecom Circles, Metro Districts & Administrative Units, BSNL.

Kindly refer to this office letter No. 27-7/2008 - TE-II dated 23-3-2010, vide which Non-Executive Promotion Policy (NEPP) for employees of IDA pay scales of NE-1 to NE-10 of BSNL has been circulated and also letters No. 13-2/2010 - TE dated 20.8.2010 and dated 6.1.2011 vide which clarifications with regard to implementation of NEPP have been issued. After issuance of clarifications, this Section has received few more letters from various Telecom Circles and unions as well seeking clarification with regard to implementation of NEPP.

2. The matter has been examined in this office and it has been decided to issue additional clarifications with regard to the points raised by the Unions and Telecom Circles. Accordingly, the points raised and the clarifications on these points are enclosed herewith as Annexure.

3. It is, therefore, requested that immediate necessary action for implementation of Non-Executive Promotion Policy (NEPP) in accordance with the clarifications as mentioned at Annexure.

4. This issues with concurrence of BSNL Finance.

Annexure

Points raised: 1. Whether the extra increment granted vide BSNL C.O. letter No.

27-8/2003-TE-II (I) dated 18.11.2003 comes under the concession given by BSNL in relation to BCR/Gr. IV?

Clarification issues: Yes, As per para 5.2 of NEPP order dated 23-3-2010, *all the concessions given by BSNL on or after 1.10.2000 shall be withdrawn with immediate effect.*

Points raised: 2. If an official opt for his erstwhile promotion policy viz. OTBP/BCR/Gr. IV, *whether the extra increment is to be granted for one years to him prior to this retirement?*

Clarification issues: **No.** As per para 5.2 of NEPP order dated 23.3.2010, all the concessions given by BSNL on or after 1-10-2000 shall be withdrawn with immediate effect.

BSNL's Employee Transfer Policy.... regarding

BSNL No. 250-7/2007-Pers-III (Part) dated 7.3.2011 to All the CGMs, Telecom Circles Telephone Districts & others, Administrative Units of Telecom Circle, BSNL

Ref: F.No. 6-1/2007-Restg. Dated 7.5.2008

F.No. 6-1/2007-Restg. Dated 13.8.2008

F.No.250-7/2007-Pers.III Dated 18.8.2008

F.No.250-7/2007-Pers.III Dated 4.5.2009

F.No.250-7/2007-Pers.III Dated 18.3.2010

I am directed to refer the BSNL's Employee Transfer Policy circulated by this office and further references on this subject as given above.

It has been observed with concern that instructions contained in the transfer policies under reference are not being adhered to in

Contd. on next page

High inflation needn't be cost of growth

IMF data Disproves Theory Propounded in Govt's just - Released Economic Survey

Is price rise going to be a permanent fixture because of India's high growth rate? This appears to be the argument put forward by the government's top economic advisers in the recently issued Economic Survey. It argues that historical experience shows that consumer prices increase faster in countries going through a fast growth phase compared to those with slower growth rates. But analysing inflation and growth data collected by the International

Monetary Fund (IMF) for the past three decades shows that there is no such correlation. The nature of India's current bout of inflation is also a pointer to the fact that it is not a product of growth. It is largely driven by a rise in prices of all commodities have risen by about 38% between 2005 and 2010, but prices of food items have jumped by over 77%. Some food items have seen even bigger hikes like vegetables (101%), milk, eggs, meat and fish (80%).

TRACKING THE SPIRAL

	Developing Asia		China		India		Brazil		Russia	
	GDP Growth	Inflation	GDP Growth	Inflation	GDP Growth	Inflation	GDP Growth	Inflation	GDP Growth	Inflation
1980-84	6.5	8.3	9.7	2.9	5.0	10.5	1.5	123.9	-	-
1985-89	7.0	10.9	9.9	12.0	5.8	7.7	4.5	532.3	-	-
1990-94	7.7	9.8	10.9	10.3	4.7	10.2	1.4	1690.2	-4.3	236.5
1995-99	6.7	7.4	9.1	5.2	6.8	8.9	2.0	19.4	-1.1	74.7
2000-04	7.2	2.7	9.2	1.1	5.6	3.9	3.0	8.7	6.9	16.5
2005-09	9.2	4.8	11.4	2.7	8.2	7.2	3.6	5.1	4.1	11.4

Source: IMF, World Economic Outlook Database, Oct. 2010

All figures in %

Courtesy: TOI of 6th March, 2011

Contd. from next page

its logical view. A case has come to the notice of this office wherein an official of Circle Cadre has been found staying in the same SSA for more than 20 years. It has also been reported that avoidable rotational/mass transfers are carried out *without taking into account the financial implications involved therein*. Such practice is not in consonance with the instructions stipulated in BSNL transfer policy referred above.

Accordingly I have been directed to convey that it may kindly be ensured that rota-

tional/mass transfers are articulated in a *transparent manner* preferably during the period specified in transfer policy. *It is also desirable that request transfers and interest of service transfers may be considered as per eligibility service requirement. Hence keeping in mind the present financial constraints of company and that mass transfer involves huge financial implications, the cases may be done only where the financial implications are nil, or transfers are done in the interests of the Company, or tenure transfer cases or where the staff is in rural station for long.*

TAMIL NADU CIRCLE EXECUTIVE MEETING

On 26.2.2011 the circle Executive Committee Meeting of the Tamil Nadu Circle was held at Puduchery under the presidentship of Com. Tamil Mani. Nearly 120 Comrades participated. Com. C.K. Mathivanan, Dy. General Secretary inaugurated the meeting and explained the post verification developments. Com. R. Pattabiraman, Circle Secretary brilliantly analysed the results of 5th membership verification and introduced the agenda points for the Executive Committee Meeting. Com. G.Jayaraman, Secretary (CHQ) and S.S. Gopala Krishnan, Organizing Secretary (CHQ) also addressed the gathering. Earlier on 25th Feb. evening the district Union of Puduchery had arranged a victory celebrations at the Main Telephone Exchange in which Comrades C.K. Mathivanan, R. Pattabiraman and G. Jayaraman participated. Puduchery SSA being the home district of the General Secretary of BSNLEU, the victory of NFTE-BSNL there for the second consecutive time is laudable. n

PENSION TO REGULARISED CASUAL LABOURERS:

Clarificatory orders are expected.

Upgradation of Sr. TOA

Corporate office is contemplating to propose for withdrawal of CDA scale of Rs. 4500-7000 (IDA - 6550-9325 to Sr. T.O. as approved by BSNL Board.

NFTE has drawn the attention of C.M.D. n

PENSION REVISION OF RETIREES PRIORTO 1-1-2007

Internal Finance of DoT is taking time in vetting the memo for revision of pension. It is reported the memo contains about 70 pages in which calculation, procedures etc. are being incorporated orders may be issued in March, 2011.

WP AT ERNAKULAM HIGH COURT

NUBSNLW (FNTO) has filed writ petitin in Ernakulam High Court NFTE is a party and it has submitted necessary affidavit.

Efforts are on for early hearing. n

BSNL Workers Alliance Meeting

No. TF-1/5(b) Date 1-3-2011

Notice

It is hereby notified that the meeting of BSNL Workers Alliance will be held on 24th/25th March 2011 at Tirupati to discuss following items of agenda.

1. Verification result and action thereon.
2. VRS/CRS- Replacement Scheme.

3. Relation with JAC.
4. Transfers and vindictive approach of BSNLEU to victimise and harass the employees.
5. Any other item with the permission of chair. ■

हम होंगे कामयाब



श्री एस सी मिश्रा
सीएमडी, बीएसएनएल

डूबते को तिनके का सहारा की कहावत प्रचलित है। घोर अंधकार के बीच अगर पथिक को प्रकाश की एक किरण भी दिख जाय तो आगे बढ़ने की उत्कंठा प्रबल हो जाती है। 01 मार्च 2011 को कुछ ऐसा ही संकेत हमें मिला है। श्री एस.सी.मिश्र, सदस्य (सेवा) टेलीकाम कमीशन बी.एस.एन.एल में अध्यक्ष सह प्रबंध निदेशक का भी कार्यभार ग्रहण करने के पश्चात् निगम मुख्यालय के सभा कक्ष में वरिष्ठ अधिकारियों एवं विभिन्न यूनियन। एसोसिएशन के प्रतिनिधियों को सम्बोधित किया। यह पहला अवसर है जबकि निगम के सर्वोच्च पद पर आसीन अधिकारी ने जो कि अल्प समय के लिए हैं तत्काल बैठक की। साथ ही साथ निगम के पुर्नउत्थान के लिए अपनी इच्छा शक्ति से उपस्थित व्यक्तियों को दिशा निर्देश दिया। श्री मिश्र ने स्पष्ट रूप से यह बताया कि **दक्ष कर्मियों को पुरस्कृत करना है** और कर्मियों में दक्षता वृद्धि के लिए विशेष कार्यक्रम चलाना होगा। **सेवा में जवाबदेही भी निर्धारित होगी।** उन्होंने कम्पनी की सेवा सुधार तथा विश्वसनीयता बढ़ाने पर बल देते हुए साज-सामान की कमी, की ओर भी इशारा किया तथा स्पष्ट किया कि ये कमी शीघ्र पूरी की जायगी। निगम

में कार्यरत सभी कर्मचारियों/ अधिकारियों को उत्पन्न स्थिति पर गंभीर होकर निदान की ओर एकताबद्ध कदम बढ़ाने की आवश्यकता पर बल दिया।

प्रत्येक दशा में हमें अपनी शक्ति पर कम्पनी को आगे बढ़ाना है तथा दूसरों पर निर्भर करना व्यर्थ होगा। यह कहावत भी सर्वविदित है कि अकेला चना भाड़ नहीं फोड़ सकता परन्तु यह भी सत्य है कि एक उर्जावान कप्तान अपने सिपाहियों को उर्जान्वित कर मनोवांछित फल की प्राप्ति में सफल होता है। कुछ ऐसा ही प्रतीत हुआ है और श्री मिश्र का यह संदेश *बीएसएनएल परिवार में एक नये ऊर्जा का संचार करेगा तथा परिस्थितियां अवश्य बदलेंगी।*

विभिन्न संगठनों के प्रतिनिधियों ने भी अपनी चिन्ताओं को स्पष्ट रूप से प्रगट किया तथा कम्पनी की गरिमा बढ़ाने, उपभोक्ता के प्रति सचेत होकर सेवा देने का वचन दिया।

एनएफटीई ने भी अपनी चिन्ताओं से अवगत कराते हुए गुप सी एवं गुप डी कर्मचारियों की आये दिन होने वाले स्थानान्तरण पर रोक लगाने केबिल एवं ड्राप वायर सहित सभी साज सामान की समुचित व्यवस्था करने फिजूलखर्ची बंद करने, सी.जी.एम एवं एस.एस.ए. स्तर पर पदासीन अधिकारियों की दक्षता के आकलन के आधार पर स्थानान्तरित करने की चर्चा की। निगम को पुनः पटरी पर लाने के लिए महकमें के अन्तर्गत प्रत्येक स्तर पर *अमन की अहम*

बीएसएनएल परिवार को होली पर्व की हार्दिक बधाई

आवश्यकता है। परन्तु विडम्बना यह है कि बीएसएनएल प्रबंधन हमारे लगातार प्रयास के बावजूद बहुमत कर्मचारियों को कम्पनी के विकास, कार्य, पद्धति, मानव संसाधन के कार्य संस्कृति में विकास, कर्मचारियों के समस्याओं के समाधान के लिए गठित मंच आदि से अलग रखने की प्रक्रिया को जारी रखा है। यह प्रश्न हम 1 मार्च की बैठक में इसलिए नहीं उठाये कि इसे हमारे प्रतिद्वन्दी अन्यथा ले सकते थे। परन्तु यह बात साफ है कि 55 प्रतिशत कर्मचारियों को मान्य समितियों से अलग रखकर विकास की कल्पना बेमानी लगता है, अतः प्रबंधन को इस ओर भी गंभीरता से ध्यान देना होगा। अन्यथा सकारात्मक परिणाम उपलब्ध होना कठिन है।

श्रममंत्री को पत्र

एनएफटीई बीएसएनएल को द्वितीय संघ के रूप में मान्यता

टीएफ1/1(सी) दिनांक 1.3.2011 माननीय श्रम मंत्री, भारत सरकार को

हम श्रद्धापूर्वक अवगत कराते हैं कि बीएसएनएल प्रशासन ने 1.2.2011 को वेरीफिकेशन कराया जिसमें कुल मतों का एनएफटीई बीएसएनएल तथा बीएसएनएलईयू संघों ने क्रमशः 35 प्रतिशत तथा 46 प्रतिशत मत प्राप्त किए हैं।

परन्तु प्रबंधन ने केवल एक संघ, बीएसएनएलईयू, को इस शर्त पर मान्यता दी है कि यह कोर्ट के निर्णय पर निर्भर होगा (संलग्नक I)। उपर्युक्त संघ को कर्मचारियों को 51 प्रतिशत समर्थन प्राप्त नहीं है। यह चेन्नई हाईकोर्ट के निर्णयानुसार नहीं है। चेन्नई उच्च न्यायालय ने लिग्नाइट कार्पोरेशन तथा संघों

की याचिकाएं संख्या 1075/05, 9688/05 में निम्न निर्णय दिया था।

“यदि एक संघ ने पोल्लड मतों का 51 प्रतिशत मत प्राप्त नहीं किया है तो रीजनल लेबर कमिश्नर को देखना होगा कि दूसरी बड़ी संघ के मतों का योग करके यदि 51 प्रतिशत हो जाता है तो दोनों संघों को बारगेनिंग एजेन्ट्स के रूप में मान्यता दिया जाय। (संलग्नक II)

बीएसएनएल प्रबंधन मान्यता देते समय कोड ऑफ डिस्सिपलिन की दलील देकर केवल संघ को मान्यता दी है यद्यपि कि एनएफटीई ने कोड ऑफ डिस्सिपलिन को स्वीकार नहीं किया है। हम स्पष्ट करना चाहते हैं कि “कोड ऑफ डिस्सिपलिन” को स्वीकार करने हेतु एनएफटीई ने किसी भी प्रकार की अन्डरटेकिंग नहीं दी है। यह कोर्ड आफ डिस्सिपलिन सेन्टल ट्रेड यूनियन्स के लिए होता है तथा नॉन एफिलेटेड संघों पर लागू नहीं होता है। बीएसएनएल प्रबंधन ने अन्डरटेकिंग नहीं लिए परन्तु अब उसकी दलील दे रहा है। बीएसएनएल पत्रों की प्रतिलिपियां (संलग्नक I तथा III) संलग्न है। आप इससे सहमत होंगे कि कोड आफ डिस्सिपलिन को संघ के ऊपर एकतरफा तथा मनमानी अथवा स्वाभाविक रूप से लागू नहीं किया जा सकता है।

उपर्युक्त के अतिरिक्त भारत सरकार के कार्मिक विभाग के पत्र संख्या 2/10/80- जेसीए दिनांक 9.11.93 में दो संघों को मान्यता देने का प्रावधान है (संलग्नक IV)/ऐसा प्रावधान रेलवे विभाग में भी है। (संलग्नक V)

हम आपको अवगत कराना चाहते हैं कि 12.11.2008 को डिप्टी चीफ लेबर कमिश्नर की अध्यक्षता में बीएसएनएल के सभी संघों की बैठक हुई

थी जिसमें कहा गया था कि बीएसएनएल मान्यता के अपने नियम बनाए जिससे कि कर्मचारियों की समस्याओं का समाधान समुचित रूप से सुनिश्चित हो सके। (संलग्नक V) प्रबंधन को पांचवे वेरीफिकेशन के छः माह पूर्व इसे करना था। परन्तु जान-बूझकर इस दिशा में कार्यवाही नहीं हुई। दिनांक 16.9.2010 की बैठक में भाग लेने वाले संघों में से अधिकांश तथा बहु संघों ने प्रबंधन से बीएसएनएल के नियम बनाने की अपील किया। परन्तु इसे अस्वीकार करके मनमाने ढंग से चुनाव की घोषणा कर दी गई। इसके ठीक विपरित अधिकारियों के मान्यता नियम बनाए गए (संलग्न VI)। पूर्व में संघ ने चीफ लेबर कमिश्नर को परिस्थितियों से अवगत किया है। बीएसएनएल ने वेरीफिकेशन प्रक्रिया में श्रम विभाग को लगभग पूर्ण रूपेण पृथक किया है। चीफ लेबर कमिश्नर अथवा उसके द्वारा नियुक्त अधिकारी

से संघों की वेरीफिकेशन मुद्दे पर बैठक भी नहीं की गई है। यह प्रबंधन की सोची समझी तथा नियोजित रणनीति थी। अतः संघ को न्यायालय जाना पड़ा। बीएसएनएलईयू को शर्त के आधार पर मान्यता दी गई है।

एनएफटीई बीएसएनएल को 2,29,000 में से कर्मचारियों को 80,000 से अधिक मत प्राप्त हुआ है जो कि 35 प्रतिशत है। कर्मचारी देश के कोने कोने में कार्यरत हैं। एनएफटीई को मान्यता तथा निगेशिएटिंग में प्रतिनिधित्व के अभाव में कर्मचारियों की समस्याओं का समाधान नहीं होगा।

अतः आपसे अनुरोध है कि एनएफटीई को शर्त के अनुसार दूसरे संघ के रूप में मान्यता दी जाय जिससे कि निगम में सौहार्दपूर्ण वातावरण तथा औद्योगिक शान्ति बाधित नहीं हो। बीएसएनएलईयू को शर्त के अनुसार मान्यता मिली है।

Tele-Labour

Form IV (See Rule 8)

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newspaper and partners of shareholders, holding more than one percent of the total capital.

I, N.T. Sajwani, hereby declare that the particulars given above are true to the best of my knowledge and belief.

Dated 12.3.2011

N.T. Sajwani
Signature of Publisher

एनएफटीई तमिलनाडु कार्यकारिणी बैठक

सर्किल कार्यकारिणी की बैठक 26.2.2011 को पान्डेचेरी में साथी तमिलमनि की अध्यक्षता में हुई। साथी मदिवानन, डिप्टी जनरल सेक्रेटरी बैठक का उद्घाटन करते हुए लोगों को वर्तमान परिस्थिति से अवगत किया। साथी पटाबीरमन, प्रान्तीय मंत्री ने परिणाम का उचित तथा सुन्दर रूप से विश्लेषण किया। साथी जी जयरमन, सेक्रेटरी सीएचक्यु तथा गोपाल कृष्णनन, संगठन मंत्री, सीएचक्यु ने बैठक को सम्बोधित किया।

25.2.2011 को सांयकाल में पांडीचेरी तथा तमिलनाडु में जीत के उपलक्ष में "विजय समारोह" मेन टेलीफोन इक्सचेंज में आयोजित हुआ। इस

समारोह को साथी मदिवनन, जयरमन, गोपाल कृष्णन तथा साथी पट्टाबी ने सम्बोधित किया। एनएफटीई पांडीचेरी में दोबारा जीत दर्ज की है यद्यपि कि यह बीएसएनएलईयू के महामंत्री का मूल जिला है।

28.2.2011 को विशाखापट्टनम में विजय समारोह

एनएफटीई ने 28 फरवरी, 2011 को विशाखापट्टनम (आंध्र) में जीएम ऑफिस काम्पलेक्स में विजय समारोह मनाया। साथी कोन्डल राव की अध्यक्षता में लगभग 300 कर्मचारी उपस्थित थे। साथी मदिवानन (उप महामंत्री) राजमौली (आन्ध्र सर्किल सेक्रेटरी), सोमासुन्दरन (जिला मंत्री) तथा नायडू (जीएम ऑफिस के शाखा मंत्री) ने सभा को सम्बोधित किया। नेताओं ने पांचवे वेरीफिकेशन के परिणामों तथा प्रभावों से कर्मचारियों को अवगत किया। साथी मदीवानन ने बताया कि सेन्ट्रल हेडक्वार्टर एनएफटीई की मान्यता हेतु कानूनी लड़ाई लड़ रही है क्योंकि बीएसएनएलईयू ने 51 प्रतिशत मत प्राप्त नहीं किया है। प्रबंधन ने वी आर/ सी आर एस हेतु 1.2.2011 को कमेटी का गठन कर दिया है। यह चिन्ता की बात है।

बीएसएनएल वर्कर्स एलायन्स मीटिंग

बीएसएनएल वर्कर्स एलायन्स की बैठक 24/25 मार्च को तिरुपति में होगी। बैठक में प्रत्येक संघ से दो प्रतिनिधि भाग लेंगे।

बैठक का एजेन्डा निम्नवत है।

- 1) वेरीफिकेशन परिणाम तथा कार्यवाही
- 2) वीआरएस/सी आर एस – रिप्लेसमेंट स्कीम
- 3) जेएसी से सम्बंध

- 4) ट्रान्सफर तथा बीएसएनएलईयू का कर्मचारियों को प्रताड़ित करने का रवैया
- 5) चेयरमैन की अनुमति से कोई अन्य मुद्दा

प्रबंधन/प्रशासन को पत्र

वी आर एस/ सी आर एस रिप्लेसमेंट स्कीम लागू करने का अनुरोध

टीएफ-11/8 (ए) दिनांक 28.2.2011 सीएमडी बीएसएनएल को

विश्वस्त सूत्रों से पता चला है कि प्रबंधन बी एस एन एल कर्मचारियों को वीआरएस/सीआरएस देने पर विचार कर रही है। बीएसएनएल सीडीए नियम, 2006 में निहित प्रावधान 55 (II) (बी) द्वारा सी आर एस देने का प्रस्ताव है। पूर्व में एनएफटीई ने इस प्रावधान का प्रचुर विरोध किया है जिसमें पीड़ित कर्मचारी को अपील करने का भी अधिकार नहीं है। बीएसएनएल ने इसको श्रम मंत्रालय में पंजीकृत भी नहीं किया है। इसका मुख्य कारण पंजीकृत परन्तु मान्यता रहित संघों के विरोध से प्रबंधन बचना चाहता था। **एनएफटीई वी आर एस/ सी आर एस के विरुद्ध है क्योंकि इससे स्थिति बदतर होगी।** बैंक उद्योग इसका जीता जागता उदाहरण है। नवीन तकनीक लागू करने के समय सरकार ने कर्मचारियों को आश्वस्त किया था कि उनकी छंटनी नहीं होगी।

वर्ष 2004 में एनएफटीई वीआरएस (वालन्टरी रिटायरमेंट स्कीम) के स्थान पर वालन्टरी रिटायरमेंट स्कीम का प्रस्ताव किया था जिसके अन्तर्गत स्वेच्छा सेवानिवृत्त कर्मचारी के पुत्र/पुत्री को नौकरी में लेने का प्रस्ताव था।

यह प्रस्ताव रेलवे में प्रचलित झाइवर तथा गैंगमेन पर आधारित था जिसमें 53 वर्ष की आयु में सेवानिवृत्त

होन पर पुत्र/पुत्री को नौकरी की व्यवस्था थी। रेलवे विभाग ने पत्र संख्या ई (पी एंड ए)/ 1-2010/ आरटी -2 दिनांक 11.9.2010 द्वारा उपर्युक्त प्रावधान को अन्य वर्गों में भी लागू करके इसे "लिबरराईज्ड ऐक्टिव रिटायरमेंट स्कीम फार गारन्टीड इम्प्लाइमेंट" का नाम दिया है। इसमें पुत्र/पुत्री को नौकरी देने की व्यवस्था है।

एनएफटीई के प्रस्ताव पर नेशनल कौंसिल में वृहत्त चर्चा के पश्चात समिति को सिफारिश हेतु भेजा गया था। यह समिति तत्कालीन सीनियर डीडीजी (स्थापना), श्री एस सी मिश्र, की अध्यक्षता में थी। इस सन्दर्भ में काफी प्रगति हुई थी। परन्तु दूसरे वेरीफिकेशन के परिणाम के पश्चात मुद्दे को एकतरफा बंद करने का निर्णय ले लिया गया। एनएफटीई के प्रस्ताव में एक दृढ़ तथा स्पष्ट नजरिया तथा दृष्टि कोण था कि बीएसएनएल की आर्थिक जीवनक्षमता सृढ़ रहे। यदि प्रस्ताव को अन्तिम रूप दे दिया जाता तो पेंशन तथा वेज बिल पर आर्थिक भार नहीं पड़ता तथा सेवा की गुणवत्ता में वृद्धि होती। बीएसएनएल में वर्तमान स्थिति कदापि नहीं उत्पन्न होती।

कुछ वर्षों पश्चात् डिपार्टमेंट ऑफ पब्लिक इन्टरप्राइज ने भी निगमों तथा प्रशासनिक मंत्रालयों को डिप्लायमेंट प्रक्रिया में प्रत्येक परिवार में से एक सदस्य को नौकरी का प्रस्ताव किया था।

अतः आपसे निवेदन है कि प्रस्ताव पर संघ से समुचित विचार तथा चर्चा सुनिश्चित जो कि कम्पनी तथा कर्मचारी दोनों के हित में है। हम पुनः स्पष्ट करना चाहते हैं कि **वीआरएस/ सी आर एस का एकतरफा तथा मनमाना निर्णय अशान्ति का वातावरण उत्पन्न करेगा जो कि कम्पनी के हित में नहीं होगा।**

संशोधित वेतनमान में 1.1.2007 से सीधे भर्ती टीटीएज/सीनियर टीओएज का वेतन निर्धारण से वेतन में कमी

टीएफ-9/9 दिनांक 5.3.2011 श्री मिश्र, सीएमडी को

कृपया संघ के पत्र टीएफ-9/9 दिनांक 2.8.2010 तथा 6.12.2010 की ओर ध्यान दें। अधिक समय व्यतीत हो गया है परन्तु मुद्दे का समाधान लंबित है।

उपर्युक्त स्थिति जेटीओ सवंग में भी उत्पन्न हुई थी तथा समाधान हेतु श्री पिल्ले, पीजीएम (एफपी) की अध्यक्षता में एक समिति का गठन किया गया था। संघ को ज्ञात हुआ है कि समिति ने समाधान के लिए कुछ सिफारिश की है।

अतः अनुरोध है कि समिति की सिफारिश को अन्य वर्गों में डीआर टीटीए सहित भी लागू किया जाय।

आफिसिएटिंग जेटीओज के वेतन निर्धारण में एफ आर 22 (1) ए (I) का लाभ

टीएफ-9/7 (बी) दिनांक 5.3.2011 सीएमडी को

कैट के निर्णयानुसार उपर्युक्त लाभ केरल सर्किल में आफिसिएटिंग जेटीओज को उपलब्ध है।

कृपया अन्य सर्किलों में भी एफआर 22(1) ए(I) का लाभ आफिसिएटिंग जेटीओज को दिया जाय।

भारत संचार निगम लि. में आईडीए वेतनमान एन ई-1 से एन ई 10 तक के नान-एक्जीक्यूटिव पदोन्नति नीति-स्पष्टीकरण

सं. 13-2/2010-टीई दिनांक 4.3.2011

इस कार्यालय के पत्रांक 24-7/2008-टीई - II दिनांक 23.3.2010 का संदर्भ लें जिसके

द्वारा भारत संचार निगम लि. में कार्यरत एनई-1 से एनई-10 तक के नान-एक्जीक्यूटिव कर्मचारियों के संबंध में पदोन्नति नीति प्रसारित की गई थी तथा साथ ही पत्रांक 13-2/2010-टीई दिनांक 20.10.2010 एवं दिनांक 6.01.2011 का भी संदर्भ लें जिसके द्वारा नान-एक्जीक्यूटिव पदोन्नति नीति को लागू करने के संबंध में स्पष्टीकरण जारी किया गया इसके बावजूद इस प्रशाखा को कई परिमंडलीय कार्यालय तथा श्रमिक संघों से एनईपीपी के संबंध में स्पष्टीकरण की मांग की गई है।

इस कार्यालय में जांच के बाद यह अतिरिक्त स्पष्टीकरण जारी करने का फैसला लिया गया तथा परिमंडलीय कार्यालयों एवं श्रमिक संघों द्वारा उठाये गये बिंदु एवं स्पष्टीकरण इस पत्र के साथ संलग्न है।

अतः आग्रह है कि स्पष्टीकरण के आलेख में नान-एक्जीक्यूटिव पदोन्नति नीति पर शीघ्र कार्यवाई की जाय।

यह भारत संचार निगम लि. के वित्त अनुभव से अनुमोदित है।

अनुलग्नक

उठाये गये बिंदु: 1. क्या भारत संचार निगम लि. के निगमित कार्यालय पत्रांक 27-8/2003 - टीई II (1) दिनांक 18.11.2003 जारी अतिरिक्त वार्षिक बढ़ोतरी देने की प्रक्रिया बीएसएनएल द्वारा बीसीआर ग्रेड फोर के संबंध में प्रदत्त छूट में आती है?

जारी स्पष्टीकरण: हां, एन ई पी पी आदेश दिनांक 23.3.2010 के पास 5.2 के अनुसार बीएसएनएल द्वारा 1.10.2000 और उसके बाद दिये गये सभी छूट तुरंत के प्रभाव वे वापस हो जायेंगे।

उठाये गये बिंदु: 2. क्या कोई कर्मचारी पूर्व के

पदोन्नति नीति में ओटीबीपी/बीसीआर/ग्रेड फोर के लिए विकल्प देता है तो उसे सेवानिवृत्ति के एक वर्ष पूर्व एक वार्षिक बढ़ोतरी देय होगी।

जारी स्पष्टीकरण: नहीं, एनईपीपी आदेश दिनांक 23.3.2010 के पैरा 5.2 के आलोक में बीएसएनएल द्वारा 1.10.2000 को एवं उसके बाद दिये गये सभी छूट तुरंत के प्रभाव से वापस हो जायेंगे।

बीएसएनएन कर्मचारी स्थानांतरण नीति – संबंधित

सं. 250-7/2007 पर्स-III (पार्ट) दिनांक 7.3.2011

सभी मुख्य महाप्रबंधक, दूरसंचार परिमंडल, दूरसंचार जिला एवं अन्य प्रशासनिक प्रशाखा, भारत संचार निगम लि.।

संदर्भ: एफ एन - 6-1/2007- रिस्ट्रक्चरिंग दिनांक 7.5.2008

एफएन - 6-1/2007- रिस्ट्रक्चरिंग दिनांक 13.8.2008

एफएन - 250-7/2007- पर्स. III दिनांक 18.8.2008

एफएन - 250-7/2007- पर्स. III दिनांक 4.5.2009

एफएन - 250-7/2007- पर्स. III दिनांक 18.3.2010

संबंधित श्रोतों द्वारा यह देखा गया है कि कर्मचारी स्थानांतरण नीति को तार्किक ढंग से लागू नहीं किया जाता है। एक ऐसा केस देखा गया है कि एक परिमंडलीय संवर्ग का कर्मचारी एक ही एस एस ए में बीस वर्षों से कार्यरत है और ऐसा भी देखा गया है कि बिना वित्तीय स्थिति पर ध्यान दिये भारी संख्या में रोटेशन स्थानांतरण किये

गये। यह कर्मचारी स्थानांतरण नीति के भावनाओं के अनुकूल नहीं है।

मुझे यह कहने का आदेश दिया गया है कि रोटेशनल ट्रांसफर में पारदर्शिता रखते हुए इसे बताये गये अवधि के अंतर्गत ही किया जाय। यह भी ध्यान रखें कि आग्रह पर अथवा सेवा हित में किये जानेवाले स्थानांतरण सेवा का ध्यान रखकर ही किया जाय। कंपनी के वर्तमान वित्तीय स्थिति के मद्देनजर केवल ऐसे स्थानान्तरण किये जा सकते हैं जिसमें वित्तीय लागत शून्य हो। कर्मचारी के आग्रह पर टेन्चूर पूरा होने की स्थिति में ग्रामीण क्षेत्रों में लंबे समय से कार्यरत कर्मचारी का स्थानांतरण किया जा सकता है।

1.1.2007 से पूर्व सेवानिवृत्त कर्मचारियों का पेंशन संशोधन

कैबिनेट ने डीओटी के प्रस्ताव को अनुमोदित कर दिया है। मेमो की वेटिंग डीओटी का आंतरिक वित्त कर रहा है। ज्ञात हुआ है कि मेमो लगभग 70 पृष्ठों का है इस कारण समय लग रहा है। इसमें पेंशन संशोधन की पद्धति, गणना आदि का ब्यौरा सम्मिलित है। मार्च, 2011 तक आदेश जारी हो जायेंगे।

चेन्नई हाईकोर्ट में याचिका

एनएफटीई ने चेन्नई हाईकोर्ट में मान्यता संबंधी याचिका दाखिल की है। सुनवाई की तिथि निर्धारित नहीं हुई है।

याचिका इस पत्रिका में प्रकाशित है।

अर्नाकुलम हाईकोर्ट में याचिका

नेशनल यूनियन बीएसएनएल वर्कर्स (एफएनटीओ) ने अर्नाकुलम हाईकोर्ट में मान्यता के

लिए याचिका दाखिल की है। एनएफटीई इसमें पार्टी है तथा संघ द्वारा शपथपत्र भी दाखिल कर दिया गया है।

शीघ्र सुनवाई हेतु प्रयास हो रहा है।

कन्सीलिएशन मुद्दों में प्रगति

जेटीओ विभागीय परीक्षा (35 प्रतिशत कोटा)

लगभग 11 मुकदमें विभिन्न न्यायालयों में लम्बित है। कार्पोरेट कार्यालय विस्तृत जानकारी प्राप्त कके उचित कार्यवाही हेतु प्रयासरत है। अनौपचारिक चर्चा से यह स्पष्ट प्रतीत होता है कि "सेवा की शर्त" का "कट ऑफ डेट" जेटीओ (इलेक्ट्रिकल) की भांति परीक्षा तिथि से निर्धारित की जाएगी।

संघ परीक्षा हेतु प्रयासरत है।

टेलीकाम मेकैनिक वर्ग में नियुक्ति

बिहार सर्किल में 200 से अधिक टेलीकाम वर्ग में रिक्तियां हैं जब कि 80 अर्हता प्राप्त तथा प्रशिक्षित कर्मी हैं। जिनके प्रमोशन पर गम्भीरता से विचार किया जा रहा है। कुछ एसएसएज विशेषकर छपरा में रिक्तियां कम हैं परन्तु प्रशिक्षित कर्मी अधिक हैं इन्हें प्रमोशन के लिए अन्य एसएसएज में जाना होगा।

नियमित मजदूरों को पेंशन

स्पष्टीकरण आदेश जारी करने पर विचार हो रहा है।

सीनियर टीओएज की अपग्रेडेशन

सीडीए वेतनमान 4500-7000 (आई डी ए 6550-9325) को निरस्त करने का प्रस्ताव को प्रबंधन के समक्ष प्रस्तुत करने पर विचार हो रहा है। संघ ने सीएमडी को मुद्दे पर पत्र लिखा है। ■