

BSNL CASUAL & CONTRACT WORKERS' FEDERATION

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BSNLC&CWF/CLC

28th December, 2011

To

The Chief Labour Commissioner,
Government of India,
Shram Shakti Bhawan,
Rafi Marg, New Delhi -110001

Sub: **Non-implementation of Labour rules, non-payment of Minimum wages etc. in case of casual and contract labours engaged in BSNL.**

Respected Sir,

On behalf of the BSNL Casual and Contract Workers Federation, which is an all India federation of the various unions of the BSNL Casual and Contract workers in the states/ BSNL circles, I submit the following for your information and kind intervention so that the issues could be settled.

1. Regularisation of Temporary Status Mazdoor (TSM) and Casual Labour.

Casual Labour were recruited and engaged by the P&T (later Telecom) Department mainly for performing work in telephone/ telegraph lines, cables etc. for providing telephone connections and maintaining the same. They were being regularised as Regular Mazdoor (RM) after fulfilling certain conditions like working for 240 days in a year without break. In some cases, where vacancy were not available for regularisation, the casual labour was granted Temporary Status and designated as Temporary Status Mazdoor (TSM) by paying the salary of a Regular Mazdoor (Group D) with increments and other benefits and will be regularised as and when the vacancy of Regular Mazdoor (RM) arises. This process continued in the Telecom Department till corporatisation and formation of Bharat Sanchar Nigam Limited (BSNL) on 1st October 2000.

An agreement was reached between the Department of Telecom (DOT) and the recognised Federations before corporatisation that all the left out casual labour and TSMs will be regularised as on 01-10-2010. Accordingly a few thousands of TSMs and Casual Labour were regularised with effect from 01-10-2000. A few thousands were left out due to administrative delay on the part of the field officers in forwarding the cases to the BSNL corporate office, which was issuing orders for regularisation. After perusal by the unions, most of these cases have reached the BSNL Corporate office years back, but the management is refusing to regularise them despite the fact that they fulfil all eligibility conditions and are working for periods of ten to twenty years or more and have contributed to the growth of the Department of Telecom / BSNL in a big way.

The plea of the BSNL management is that the Supreme Court Division Bench, in the matter of Secretary, State of Karnataka & Others Vs. Umadevi & Others, has stopped such regularisation. But the facts of the judgement are otherwise. Ministry of Personnel, Public Grievances & Pensions (Dept. of Personnel & Training) vide its No. 49019/1/2006 –Estt(c) dated 11th December 2006 (Annexure -1)has given clear instructions as follows:

“A Constitution Bench of the Supreme Court in Civil Appeal No. 3595 -3612/1999 etc. in the case of Secretary, State of Karnataka and Ors. Vs. Uma Devi and others has reiterated that any public appointment has to be in terms of the Constitutional Scheme. However, the Supreme Court in para 44 of the aforesaid judgement dated 10.4.2006 has directed that the Union of India, the State Governments and their instrumentalities should take steps to regularise as a onetime measure the services of such irregularly appointed, who are duly qualified persons in terms of the statutory recruitment rules for the post and who have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or tribunals. The Apex Court has clarified that if such appointment itself in infraction of the rules or if it is in violation of the provisions of the Constitution, illegality cannot be regularised.”

As per the above instructions, similarly engaged casual labour in the Department of Customs, Central Excise, Income Tax, Revenue, Pass Port, I&B, Urban (PWD) etc. have been regularised on the basis of the same Supreme Court judgement. (Copies of the orders are enclosed as Annexure 2). It is also possible that, if necessary, a new Scheme can be introduced for their regularisation. But BSNL management has neither regularised them nor brought any new scheme for regularisation. There are about 4,000 such casual labours working in BSNL at present. 2270 casual labours are in W.Bengal Circle alone, since not a single case was initially forwarded to the Corporate office by the Circle administration and when it was sent later, the BSNL management delayed it for no reason and denied later when the judgement in the Supreme Court was delivered. These left out casual labours are working from ten to twenty years, performing essential duties for the installation, maintenance and development of the telecom services. It is also understood that sufficient number of vacancies have been kept reserved for regularisation.

It is, therefore, our humble request that the DOT /BSNL management is directed to regularise these Temporary Status Mazdoors and Casual Labours with retrospective effect from 01-10-2010, as was done in the case of other casual labours as per the agreement with the Staff Federations and DOT at the time of Corporatisation, thus rendering justice these poor workers and their families.

2. Grant of Temporary Status to Casual Labours.

The above mentioned casual labours are first eligible for being treated as TSM, in case there is no vacancy at that time for regularisation. These Casual labour, even though eligible for TSM, were not granted that status stating that TSM Scheme does not exist. But at the same time, BSNL management has granted TSM Status to 150 casual labours in ETR Circle, in Orissa vide ETR/DGM-BN/E-0/2009 -10 dated 2nd December 2009(Annexure 3) as per judgment of the Hon'ble Supreme Court dated 08-05-2009. Two other casual labours were also regularised vide BSNL NO. 7-6/2010 PR -IV in Bihar Circle and vide No. 272-28/2002 PR-IV dated 31-12-2010 in M.P.Circle.

The above orders granting TSM status clearly prove that the TSM Scheme is still in existence and that eligible casual labour can be granted the same. This may kindly be go done.

3. Wages of Temporary Status Mazdoors, Casual Labour and Contract Labour

(a) Temporary Status Mazdoors (TSM) and Casual Labours

BSNL Management vide its letter No. 269-11/2009-Pers.IV/LE dated 01-01-2010 revised the wages of TSMs and Casual Labour on the basis of the VI CPC Recommendations with effect from 01-01-2010. The TSMs and Casual Labour working in BSNL are getting wages for a day on the basis of 1/30th of minimum of Regular Group D pay plus Central Dearness Allowance as per Fifth CPC. The minimum pay of the Central Government employees have been revised from 01-01-2006, whereas the TSM and Casual Labour has been paid from 01-01-2010 only. This unjust and discriminatory treatment should be corrected by granting the new wages with effect from 01-01-2006.

Besides, the calculation of the minimum pay by BSNL vide its letter dated 01-01-2010 is erroneous. As per fitment table circulated by the Ministry of Finance (Department of Expenditure), the minimum wage of a Group D employee comes to Rs. Rs. 6050/- (Rs.4750+ 1300 (Grade Pay)= 6050), instead of Rs.5740 as fixed by BSNL management. Thus the TSM /Casual labour are losing Rs.310/- every month. This is to be corrected and arrears to be paid to the concerned officials.

(b) Contract Labour

Central Government issued Notification vide Extra Ordinary Gazette Part II – Section 3 – Sub Section (ii) dated 20th May 2009 by Ministry of Labour and Employment (Annexure 4)revising the minimum rates of wages payable to unskilled/ Semi-skilled/ unskilled supervisory/ skilled/ clerical/ highly skilled labours in Area 'A', 'B' and 'C'. After a long period of sustained efforts on the part of the union, BSNL at last issued orders vide BSNL/Admn. 1/20-2/2010 dated 6th May 2010, almost after one year (Annexure 5). Even after the issue of orders, the wages as per the above orders are not paid to the contract workers, except in a few Telecom Circles. Even though the contract workers are eligible to get more than Rs. 6000/- at the lowest level, they are being paid Rs. 2000 to Rs. 3000 in most of the circles, depriving the workers more than half of his/her wages. This exploitation by the contractor-management nexus is continuing for a very long time. Despite many representations to the BSNL management, no serious action is taken to implement its orders on wages. It should be ensured that the worker gets the notified wages.

4. Implementation of Social Security Measures

Contract Labour are eligible for Social Security Measures like Employees Provident Fund, Employees State Insurance etc. as per Contract Labour (Regulation and Abolition) Act 1970 and Government orders in this respect. But these are not at all implemented in the case of contract workers engaged in BSNL. As the Principal Employer, it is the responsibility of the BSNL management to ensure that the wages are paid in full, the deductions towards EPF and Insurance are deducted and remitted, list of the contract workers are properly kept etc. Though the BSNL Corporate Office issued certain orders in this respect (Annexure -7), it is nowhere implemented except in very few circles, that too after sustained struggles by the workers. In certain cases where deduction has taken place, it is neither remitted to the PF or Insurance nor is the contribution of the employer made.

5. **General**

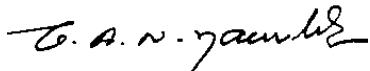
When these issues are brought to the notice of the BSNL Management at the top level, they wash off their hands stating that no contract worker is engaged by them and that they have no responsibility to ensure payment of notified wages and also that they will not discuss these issues with the Union. Although the entire money is spent from BSNL, it takes no responsibility stating that the full responsibility lies with the contractors only.

After the Union approached the Parliament Committee on Labour and the Standing Committee has sought report from the BSNL management on these issues, the latter has started victimisation by retrenching the leaders of the union. Such retrenchment /victimisation have taken place in many districts/circles.

On behalf of the TSM, Casual and Contract Labour engaged in BSNL, I request the esteemed Chief labour Commissioner to look in to the above issues and grievances and issue necessary instructions to the BSNL Management so that the exploitation of these workers are stopped and all legitimate rights including regularisation, payment of minimum wages and implementation of Social Security measures are ensured.

Thanking You,

Yours Sincerely



[V.A.N.Namboodiri]

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