



MTNL EXECUTIVES' ASSOCIATION

Central Headquarters, New Delhi

(Registered under the Trade Union Act 1926, reg no-ALC/Karyasan-17/9715)
[Affiliated to National Confederation of Officers' Associations (NCOA)]

P.N. VASANE
President

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V.K. TOMAR
General Secretary
National President, NCOA

Ref. No.: MEA/CHQ/ CMD.

DATE: 31-05-2016

To,
The CMD,
MTNL, New Delhi.

एव प्र नि. के निजी सचिव / PS to CMD
नदेनिलि विन अजलि, MTNL Corporate Office
5वीं मंजिल, महानगर पूरविकार सदन
5th Floor, Mahanagar Doorsanchar Sadak
9, सीजीओ कॉम्प्लेक्स, लोधी रोड, नई दिल्ली-110003
9 C.G.O. Complex, Lodhi Road New Delhi 110003

Subject: Allowing Time Bound IDA scale up gradation from due date of the Executives', where there was no vigilance case on that date.

Ref: 1. BSNL No. 400-164/2012-Pers.1, dt 20.09.2012

2. Delhi High Court judgment in W.P.(C) 2841/2015 & CM APPL. No.5104/2015

Dear Sir,

Your kinds attention is invited to this association's earlier requests vide letter no.MEA/CHQ/DM/CMD dt 14-10-13 and repetitive reminders for issue of necessary order to settle a long pending employee legitimate grievance and hardship.

In continuation to our earlier submissions your attention is drawn to the following references for kind perusal and consideration, whereby several legal pronouncements have been made by the Hon'ble Tribunals, the High Courts & the Supreme Court establishing the legal position favourable to employee in this matter, as indicated below:

1. **Annexure-A:** MTNL own cases (CMD, MTNL vs S. K. Malhotra), where it has been held that, "it is clear that on the relevant date i.e. 1.10.2004, the applicant was not facing any disciplinary proceedings. Therefore, there is no reason for not granting him first financial up-gradation w.e.f. 1.10.2004". Having been accepted and implemented by MTNL, the judgment order attained finality on this policy matter.

Said decision of the highest court of Delhi ought to have been made applicable to all similarly placed incumbents by MTNL automatically and suo-moto and inaction on the part of the MTNL is discriminatory and violation of Article 14 of the Constitution of India.

2. **Annexure-B:** BSNL cases, where it has been held that, "There is no dispute about the fact that the eligibility or otherwise of the applicant for the purposes of grant of a service-related benefit had to be considered in its relatability to the due date. Whatever happened

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thereafter cannot be taken into consideration to deny that benefit to him." BSNL considered the declaration in true spirit and issued orders for implementing, equally for all similarly situated employees

3. **Annexure-C**: Note sheet of BSNL Corporate office file dealing the case, which is self explanatory and justifying issuance of comprehensive order. Pursuant to and respecting the judicial pronouncement, BSNL has issued consequential order to have a measure of uniformity for all its employees vide order cited at s. no. 1 under reference.
4. **Annexure-D**: Several judgments of Hon'ble CAT, HC and SC, *holding that similarly placed employees should not be forced to approach the Courts time and again for the same relief which the Court has adjudicated upon and which has attained finality and respondent has to extend the benefits of the judgments to others who have not approached the Court, but similarly placed, is to do complete and substantial justice.*

It is however most unfortunate on the part of the MTNL not to extend benefit of judgment to the similarly situated persons thereby showing insensitivity and disrespect for the Rule of law, also conduct of the authorities, by not extending the ratio of judgment to all similarly situated employees, is clearly violative of Article 14 and 16 of the Constitution of India.

By all ways and means it is in the interest of company and responsibility of the management that employees are not compelled to be dragged in endless litigation for a settled matter which has attained finality by implementation of judgment in CMD, MTNL vs S K Malhotra.

In view of above, it is impressed upon your kind authority that order similar to BSNL may be issued for inter-alia fairness and justice and to maintain harmonious and faithful working environment.

Thanking you

Yours faithfully



(V K Tomar)

Copy to:

1. The Director (HR & EB), MTNL, New Delhi.