

Party's copy

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.14532 OF 2018

(WP St.No.36294/2018)

SANCHAR NIGAM EXECUTIVES ASSOCIATION

& 2 OTHERS

) Petitioners.

Versus

The Chairman & Managing Director,

BSNL and 3 others

) Respondents

INDEX

SR	EX	PARTICULARS	PAGE NOS
1	-	Copy of Affidavit in Reply	174-192
2	A	Copy of O. M dated 02.11.2012.	193-195
3.	B	Copy of Letter dated 16.10.2018	196
4.	C	Copy of Letter dated 30/08/2018	197
5.	D	Copy of Email dated 06/04/2018	198

LAST PAGE NO. 198

DATE: 05-01-2019

PLACE: MUMBAI

sd/
Advocate for Respondents

IN THE HIGH COURT OF JUDICATRUE AT BOMBAY

APPELLATE CIVIL JURISDICTION

WRIT PETITION NO.14532 OF 2018

(WP St.No.36294/2018)

SANCHAR NIGAM EXECUTIVES ASSOCIATION

& 2 OTHERS

) Petitioners.

Versus

The Chairman & Managing Director,

BSNL and 3 others

) Respondents

AFFIDAVIT IN REPLY ON BEHALF OF RESPONDENTS.

I, R. P. Deshpande, Asstt. General Manager (Legal), office of the CGMT, MH circle, Bharat Sanchar Nigam Limited, CTO Bldg., Mumbai 400 001, do hereby state on solemnly affirmed on behalf of Respondents as under:-

1. I state that I have gone through the copy of the writ petition and I have also perused the records and proceedings pertaining to the subject matter of the writ petition and on the basis of information derived there from, I am filing this Affidavit in reply for the limited purpose of opposing Admission and interim relief.

in the matter. I therefore submit that the contentions, averments, submissions, allegations and statements made in the petition if any not specifically replied by me the same may not be treated to be admitted by me. I crave leave to file a detail Affidavit in reply if the need so arises.

2. At the outset I submit that petition filed by petitioner is totally misconceived and devoid of any merit, I state that Petitioners have not approached before this Hon'ble Court with clean hands and has deliberately made wrong statement of facts to get relief which they are otherwise not entitle to and for the said reason I submit that petition is liable to be dismissed with cost.

3. I state that the issue involved in this writ petition pertains to election and election rules which includes the period of continuation of elected members under the Constitution of the Petitioners and the rules of the Respondents and hence there are disputed question of facts and hence the present writ petition is not maintainable in law and liable to be dismissed as such.

4. I state that it is amply clear from the para 23, 29(d) at page 17 of the writ petition, that the Petitioner No.3 is aggrieved by his transfer and hence this Petitioner is indirectly raising disputes of transfer, malafide etc., which is a service matter and the same is within jurisdiction of the Central Administrative Tribunal and therefore also the Writ

Petition is not maintainable in law and hence liable to be dismissed.

5. I state that the Petitioner No.2 has admitted at several places in the writ petition that he was holding two posts simultaneously, which is not permissible under rules and therefore also there is no substance in the writ petition and as such liable to be dismissed.

6. I respectfully say and submit that the issue in this Writ Petition is purely to administrative nature. This is a pre-mature writ petition because there are comprehensive administrative channels and hierarchy and persuaded channels of communication available to the petitioner for addressing and seeking the redressal of such issues. The hierarchy upwards in this instant case is Circle Head i.e. CGMT Maharashtra Circle followed by Director (HR) then Chairman and Managing Director (CMD) BSNL and then Secretary DOT i.e. Administrative Ministry. The issues raised are of administrative nature and have not been represented methodically and through proper channel by the petitioners for the redressal without having escalated the matters through proper channel to the appropriate administrative authority. Petitioners have preferred to directly approach Hon'ble High Court, as if their fundamental rights are violated and there are not departmental remedies available. There are prima facie no exigencies. It is an established principle and mechanism available to each and every employee/Association to first seek the administrative redressal of the grievances and exhaust all the means of

redressal within the administrative framework of the Public Sector Undertaking and administrative machinery. IN fact as stated earlier this writ petition raises disputed questions of facts, where evidence is to be laid and therefore the WP is even otherwise not maintainable in law and thus liable to be dismissed. The said instructions regarding the submission of representation and manner of its disposal guidelines is circulated as per OM No 11024/17/2012 -ISS Dated 02-11-2012 Hereto annexed and marked Ex. A.

7. Without prejudice to the aforesaid contentions, the respondents would like to reply the writ petition parawise as under:

8. With reference to para 1 and 2 of the writ petition, I say and submit that at the time of verification of membership SNEA association has given an undertaking that the "provisions of BSNL (REA) Rules 2014 are acceptable to SNEA association. As per Para. 14(2) of BSNL REA rules 2014 [page 86 of WP] stipulates that " the Association shall abide by and comply with all provisions of its constitution/bye rule laws".

As per the SNEA constitution [page 31 of WP] period of District body is for two year and election of district level has to be held within the scheduled time period of two years. District body of Circle office Mumbai was formed on 15th September 2015. Thereafter, no election was conducted by District level of Circle office Mumbai. However, the same body continued without any knowledge of the respondents. The respondents have asked

explanation from the District level office bearers of Circle office Mumbai vide letter No. CGMT/MH/Admn-I/SNEA[I]/2018-19/Part File/29 dated 29/9/2018

[page 104 of WP]. Due to unconvincing reply from the association , the facilities of SNEA Circle office District branch Mumbai has been withdrawn vide letter No. CGMT/MH/Admn-I/SNEA[I]/2018-19/Part File/31 dated 8/10/2018 [page 28 of WP]. Hence, action of BSNL Management is well within law.

Similarly, as per SNEA constitution clause no. 3 [C] (ii) which stipulates that " No member shall hold simultaneously two or more elected office bearers post in the association for more than three months. If he fails to tender his resignation from any post within three months of being elected to a New Post, he will forfeit the right to hold all the post". Shri M S Adasul [Petitioner No: 2] SDE of Maharashtra Telecom Circle was elected as a Dy. General [CHQ] New Delhi on 8th September 2015. Subsequently he was elected as Circle Secretary SNEA MH Circle on 20/9/2017. But, no intimation/communication has been received regarding tendering of resignation for either of the two post held by the Petitioner No. 2. This office asked explanation from Shri M S Adasul [Petitioner No.2] for the same vide letter No. CGMT/MH/Admn-I/SNEA[I]/2018-19/Part File/32 dated 8/10/2018

[page 141 of WP]. In response to office letter Shri M S Adasul intimated to this office that he has resigned from the post of Deputy General Secretary in Dec 2017 without submitting any documentary evidence [page 142

of WP] . BSNL Co New Delhi vide letter No. F No. BSNL/31-1/SR/2018 dated 16/10/2018. Hereto annexed and marked Ex. B is the copy of the letter dated 16-10-2018, intimated that BSNL Corporate office has not received any intimation either from General Secretary of SNEA association or from Shri M S Adasul, regarding resignation of Shri M S Adasul from the post of Dy. General Secretary of CHQ body of the SNEA. Hence, right of Shri M S Adasul as Circle Secretary SNEA was forfeited vide letter No. CGMT/MH/Admn-I/SNEA [I]/2018-19/Part File/36 dated 17/10/2018 as per provisions of SNEA constitution. Hence, action of BSNL Management is within the frame of rules.

9. With reference to para 3 to 6 of the writ petition, I state that the contentions are based on matter of records and hence no comments to offer.

10. With reference to para 7 of the writ petition, I state that the Petitioner No. 3 admitted that Election at District level in respect of Mumbai District held on 15/9/2015 and tenure of district body is two years only. Also, Petitioner No. 2 admitted that he was elected for the post of Deputy General Secretary on 7/9/2015.

11. With reference to para 8 of the writ petition, I state that the Petitioner No.2 admitted that for his election of Circle Secretary MH Circle on 20/9/2017 and holding two post Dy. General Secretary [CHQ] New Delhi and Circle Secretary MH Circle simultaneously from 20/9/2017. The validity of Petitioner No.3 and his office bearers of SNEA Circle office Mumbai district is upto 14th Sept 2017 only.

12. With reference to para 9 of the writ petition, I state the Petitioner No.2 admitted that he has aware that as per SNEA constitution provision " No member shall hold simultaneously two or more elected office bearers post in the association for more than three months. If he fails to tender his resignation from any post within three months of being elected to a New Post, he will forfeit the right to hold all the post".

13. With reference to para 10 of the writ petition, I state that at the time of submission of explanation to Circle Management Petitioner No.2 vide his letter dated 11th October 2018 intimated that he has resigned from the post of Deputy General Secretary in Dec 2017 without submitting any documentary evidence. However, now Petitioner No 2 submitted letter dated 17th December 2017 [page 93 of WP] addressed to President , SNEA CHQ New Delhi with Copy to General Secretary SNEA CHQ New Delhi. The said letter not at all acknowledged by both the officer bearers of CHQ New Delhi. Hence, Submission of Petitioner No.2 is only afterthought and cover up action.

As per BSNL Corporate office Letter No. BSNL/31-2/SR/2018 (pt) Dated 30/8/2018 Hereto annexed and marked Ex. C is the copy of the letter dated 30-08-2018. SNEA CHQ body office bearers validity is up to 8thSeptember 2018 as per provision of SNEA constitution. Hence, it is very much cleared that Petitioner No. 2 had been holding both the post simultaneously from 20/9/2017 and liable to forfeit his right to hold both the post as per SNEA constitution.

14. With reference to para 11 and 12 of the writ petition, I say and submit that there is no provision in the SNEA constitution for not conducting election in the stipulated time of two year on account of non availability of fund with the body. No such instructions issued by the General Secretary of SNEA association in this regards. Administration has no co-relation with this submission. Hence, continuing the district body beyond 14 September 2017 is ultra vires the constitution of SNEA.

15. With reference to para 13 of the writ petition, the contention of the applicants are not correct and is hereby denied. I say and submit that the transfers are affected as per provisions of transfer Policy issued by BSNL Corporate office New Delhi Vide Letter No. 6-1/2007-Restg Dated 7/5/2008 and subsequent guidelines/instructions on the subject. Respondents do not grant immunity to the executives without specific request by the eligible executives. In the instance cases, there was no specific request; hence as per the existing transfer policy guidelines, the transfer order of Shri S R Potul was issued on 31/3/2018.

As far as question of immunity granted to Shri S R Potul A.D. Circle office Mumbai is concerned , his transfer based on misleading information submitted, which is under review before the competent authority.

16. With reference to para 14 of the writ petition, I say and submit that the immunity on transfer was extended to the Petitioner No. 3 on the basis of

misleading information submitted by the Petitioner No. 2 vide letter dated 22/6/18 [page 99 of WP] . Hence, this office had withdrawn the immunity granted to Shri Anil Kumar Dubey Petitioner No. 3 vide letter No. A/STB/AE-20/JTO-SDE/Transfer/2018/40 dated 8/10/2018 [page 133 of WP]

As far as question of immunity granted to Shri S R Potul AD Circle office Mumbai and other office bearer as claimed on their transfer is under review, as already stated in para 15 above.

17. With reference to para 15 of the writ petition, in view of the true position stated in para 5 to para 16 above, the contentions are denied.

18. With reference to para 16 of the writ petition, I submit that the BSNL Co letter No 32-1/2011-BSNL-WL Dated 20/9/2011 was issued by BSNL Corporate office based on the prevailing situation at that relevant time in respect of Bharat Sanchar Seva Padak Award-2011 [page 103 of WP]. There is no co-relation regarding celebration of BSNL foundation day on 1st Oct 2018.

As per BSNL REA Rules 2014 the primary role and responsibility of SNEA association is to work in the paramount interest of the company and to strive to achieve overall growth of the company. The association will not do any act or assist or encourage the doing of an act which may create disaffection or dis-satisfaction amongst the employees of the organizations or undermines discipline or in any way lower the prestige or image of

the organization. The association eschews completely the agitation approach. Further, the association will not join hands with the non-executives unions for furtherance of their issues and or participate in any joint trade union action.

Telecom Women's Welfare Organization [TWWO Mumbai MH under the aegis of - TWCO New Delhi] is a permanent recognized welfare organization of Department of Telecom, Ministry of Information Technology & Communication Govt. of India. Instead of promoting them, generating sense of Self worth among our women, the deed of Petitioner No.3 in enormously unbecoming of a responsible officer of the company and more so as a responsible officer bearers of SNEA Recognized Association of BSNL.

19. With reference to para 17 of the writ petition, I state that the contention of petitioner in respect actions taken by BSNL Management is not Correct. It is reiterated that the action taken by the BSNL Management against Petitioner No. 2 as per BSNL REA Rules 2014 for non-adherence/violation of provision of SNEA constitution.

Whereas, Disciplinary proceeding initiated against Petitioner No 3 by BSNL management is for misconduct committed by him as per BSNL Conduct & Appeal Rules 2006 and withdrawal of District body facility as per BSNL REA Rules 2014 for non-adherence/violation of provision of SNEA constitution.

It is respectfully submitted that the cause of action for both the Petitioner No. 2 and Petitioner No. 3 are different and distinct.

20. With reference to para 18 of the writ petition, I state that the Letter dated 29/9/2018 and letter dated 1/10/2018 issued to Petitioner No. 3 are not co-related. The process and cause of action for both the letters are different and distinct.

21. With reference to para 19 of the writ petition, I submit that the cause of action of letter dated 3/10/18 is again different from letter dated 29/9/18 & 1/10/18. The contention of petitioner regarding drafting of letter by the wife of Respondent No.4 is baseless. Being responsible executives of BSNL, petitioners should not plead their submission in such a irresponsible way.

22. With reference to para 20 of the writ petition, I say and submit that the reply submitted by petitioner No.3 was duly considered by the competent authority and having not satisfied with the explanation, the disciplinary proceedings were initiated as per relevant BSNL CDA rules against Petitioner No.3. On issue of charge memorandum to the Petitioner No. 3 on 8/10/2018, the petitioner may submit/plead his case before the appointed Inquiry authority as per the departmental rules on the subject. I therefore respectfully submit that the present writ petition basically deals with the service matter and for that the jurisdiction is conferred on the Central Administrative Tribunal.

185

23. With reference to para 21 and 22 of the writ petition, I submit that the District body election of SNEA Circle office Mumbai was held on 15th September 2015. The validity of the said office bearers of SNEA Circle office Mumbai is up to 14th Sept 2017 only. Accordingly, this office has withdrawn/Ceased the facilities availed over and above by the office bearers of SNEA Circle office Mumbai from 15th September 2017. Hence, action of holding election beyond the said date is ultra vires the constitution of SNEA.

24. With reference to para 23 of the writ petition, I say and submit that the immunity granted to Shri Anil Kumar Dubey, the then AD Circle office Mumbai was based on misleading information provided by the petitioners. Subsequently on the withdrawn of facility of SNEA Circle office Mumbai District branch Mumbai vide letter No CGMT/MH/Admn-I/SNEA{I}/2018-2019/Part file/31 dated 8/10/2018, the immunity granted to Shri Anilkumar Dubey the then AD Circle office Mumbai was cancelled/withdrawn vide letter No. A/STB/AE-20/JTO-SDE/Transfer/2018/40 dated 8/10/2018.

The transfer of the applicant and further change of station is done as per the administrative need keeping in view the guidelines and transfer policy on the subject.

25. With reference to para 24 of the writ petition, it is a matter of record. The memorandum of charge sheet was issued to Petitioner No. 3 after calling the

explanation and receipt of the reply from the Petitioner No. 3 as per BSNL CDA Rules.

26. With reference to para 25 to 27 of the writ petition, as stated earlier, as per SNEA constitution clause no. 3 [C] (ii), which states that " No member shall hold simultaneously two or more elected office bearers post in the association for more than three months. If he fails to tender his resignation from any post within three months of being elected to a New Post, **he will forfeit the right to hold all the post**". Shri M S Adasul SDE of Maharashtra Telecom Circle elected as a Dy. General [CHQ] on 8th September 2015 and subsequently again elected as a Circle Secretary SNEA MH Circle on 20/9/2017 and holding simultaneously both the post. This office asked explanation from Shri M S Adasul for the same vide letter No. CGMT/MH/Admn-I/SNEA [I]/2018-19/Part File/32 dated 8/10/2018. In response to office letter Shri M S Adasul intimated that he has resigned from the post of Deputy General Secretary in Dec 2017 **without submitting any documentary evidence to this office.** BSNL Co New Delhi vide letter No. F No. BSNL/31-1/SR/2018 dated 16/10/2018, intimated that BSNL Corporate office has also not received any intimation **either from General Secretary of SNEA association or from Shri M S Adasul** regarding resignation of Shri M S Adasul from the post of Dy. General Secretary of CHQ body of the SNEA. Hence, right of Shri M S Adasul as Circle Secretary SNEA MH Circle was forfeited vide letter No. CGMT/MH/Admn-I/SNEA[I]/2018-19/Part File/36 dated

17/10/2018 as per provisions of SNEA constitution and provisions of BSNL REA Rules 2014. Hence, action of BSNL Management is within the frame of rules.

At the time of submission explanation to Circle Management Petitioner No.2 vide his letter dated 11th October 2018 intimated that he has resigned from the post of Deputy General Secretary in Dec 2017 without submitting any documentary evidence to this office. However, now Petitioner No 2 submitted letter dated 17th December 2017 addressed to President, SNEA CHQ New Delhi with Copy to General Secretary SNEA CHQ New Delhi. The Said letter not at all acknowledged by both the officer bearers of CHQ New Delhi. Hence, Submission of Petitioner No.2 is only a afterthought.

As per BSNL Corporate office Letter No. BSNL/31-2/SR/2018 (pt) Dated 30/8/2018 SNEA CHQ body office bearers validity is up to 8th September 2018 as per provision of SNEA constitution. Hence, it is very much cleared that Petitioner No. 2 is holding both the post simultaneously and liable to forfeit his right to hold both the post as per provisions of SNEA constitution and provisions of BSNL REA Rules 2014.

27. With reference to para 28 of the writ petition, the contention of the applicant is not correct and hereby denied. Transfer order issued in respect of Petitioner No. 2 is as per transfer policy issued by BSNL CO and subsequent orders on the subject.

The transfer of the applicant is done as per the administrative need keeping in view the guidelines and transfer policy on the subject.

Order dated 8/10/2018 in respect of Petitioner No.3 and order dated 17.10.2018 in respect of Petitioner No.2 has been issued by the Circle Management is as per the BSNL REA Rules 2014 for violation of provision of SNEA constitution.

Action taken by the BSNL Management against Petitioner No. 2 is as per BSNL REA Rules 2014 for non-adherence/violation of provision of SNEA constitution.

Whereas, Disciplinary proceedings initiated against Petitioner No 3 by BSNL management is for misconduct committed by him , as per BSNL Conduct & Appeal Rules 2006 and withdraw of District body facility is as per BSNL REA Rules 2014 for non-adherence/violation of provision of SNEA constitution.

The cause of action for both the Petitioner No. 2 and Petitioner No. 3 are different.

28. With reference to para 29(a) to 29(d) of the writ petition, the contention made by the petitioners merely on the assumptions and the correct position is explained in para 5 to para 27 above.

29. With reference to para 29(e) of the writ petition, the contention is denied. At the time of verification of membership SNEA association has given an undertaking that the "provisions of BSNL (REA) Rules 2014 are acceptable to SNEA association. As per Para 14(2) of

BSNL REA rules 2014 states that "the Association shall abide by and comply with all provisions of its constitution/bye rule laws".

Hence, contention of the petitioners that Management cannot interfere for any violation of provision of SNEA constitution is not correct.

30. With reference to para 29(f) of the writ petition, the contention is denied. The Petitioners clearly admitted that resignation of Petitioner No.2 not accepted by the President or General Secretary of SNEA Association. Its proves that Petitioner No.2 holding both the post simultaneously. The correspondence done by Petitioner No. 2 with General Secretary SNEA association NEW Delhi by email dated 6/4/2018 in the capacity of Dy GS SNEA CHQ has established the facts. Hereto annexed and marked Ex.D is the copy of the said email dated 06-04-2018.

31. With reference to para 29(g) of the writ petition, the contention is denied. At per BSNL Corporate office Letter No. BSNL/31-2/SR/2018 (pt) Dated 30/8/2018 SNEA CHQ body office bearer's validity is up to 8th September 2018 as per provision of SNEA constitution. Hence, it is very much cleared that Petitioner No. 2 is holding both the post simultaneously and liable to forfeit his right to hold both the post.

Whereas, validity of District body of SNEA Circle office Mumbai is up to 14th September 2017, hence facility has been withdrawn from 15th September 2017.

Hence, action of Management in both the cases are in order.

32. With reference to para 29(h) of the writ petition, the contention is denied. Petitioner No.2 submitted that he hold 2 post simultaneously. In such case as per SNEA constitution clause no. 3 [C] (ii), which states that " No member shall hold simultaneously two or more elected office bearers post in the association for more than three months. If he fails to tender his resignation from any post within three months of being elected to a New Post, he will forfeit the right to hold all the post".

The action of forfeiture of right of Dy, GS cannot be taken by Respondent No. 2, as same is within the purview of BSNL CO New Delhi. Hence, action of the Management is in order.

33. With reference to para 29 (i) & 29(j) of the writ petition, the contention made by the petitioners merely on the assumptions. Transfers have been done as per the administrative requirements of the BSNL. The transfer order issued in respect of applicant i.e Petitioner No. 3 is as per provision of transfer policy and orders on the issues and according to administrative need.

34. With reference to para 29(k) of the writ petition, submitted that, Order dated 25/6/2018 was issued because of the misleading information submitted by the Petitioner No. 3.

35. With reference to para 29(1) of the writ petition, the contention made by the petitioners merely on the assumptions. The action taken by the BSNL management on the basis of BSNL REA Rules 2014, Provisions of SNEA Constitution and as per prevailing BSNL CDA rules.

36. With reference to para 29(m) of the writ petition, the Contention of the applicants is not correct and hereby denied. As far as question of immunity granted to Shri S R Potul A.D. Circle office Mumbai on his transfer is concerned, it is based on misleading information, which is under review. Hence, there is no discrimination in this regards.

37. With reference to para 29(n) of the writ petition, the validity of Petitioner No. 3 for holding the post of District Secretary of Circle office Mumbai was upto 14th September 2017. Hence, action of holding election beyond the said date is ultra vires the constitution of SNEA. Moreover, Petitioner No.3 already transferred to Bhandara SSA on 8th Oct 2018. As per SNEA constitution Executives of One SSA [say Bhandara] should not participate in the election process of other SSA [Circle office Mumbai]. Hence, contention of Petitioner is made with a intention to derive sympathy and nothing else.

38. With reference to para 30 of the writ petition, in view of the aforesaid position of facts and law, action of management is in order. Hence, Petitioners have no case whatsoever for grant of any relief/stay on the action of BSNL management

39. With reference to para 31 to 38 of the writ petition, in view of the true position stated in para 4 to para 37 above, the respondents have no further comments to offer.

40. With reference to para 39(a) to 39(f) of the writ petition, in view of the aforesaid position of facts and law, the Petitioners have no case whatsoever for grant of reliefs and therefore the writ petition is liable to be dismissed with cost.

Solemnly affirmed at Mumbai)

Dated this day of January, 2019)

Before me

sdl
FOR RESPONDENTS

sdl
(VINAY S MASURKAR.)

Advocate for respondents.

ADVOCATE CODE: I 3737

Email: shetkari.007@gmail.com

Phone No. 022-22075880

Mobile: 9869305527

No. 11024/17/2012- ISS.
Government of India
Ministry of Statistics and Programme Implementation

Sardar Patel Bhawan, Sansad Marg,
New Delhi,
Dated 2nd November, 2012

OFFICE MEMORANDUM

Subject: Submission of Representations and manner of its disposal - instructions regarding

Reference is invited to DOPT OM No. 11013/7/99-Estt.(A) dated 1st November, 1999 regarding representation from Govt Servant on service matters. As per the instructions of the DOPT dated 1st November, 1999, read with MHA's OM dated 30th April, 1952, the Government servant wishing to press a claim or to seek redress of a grievance the proper course for him is to address his immediate superior official or the Head of Office or such other Authority at the lowest level as he is competent to deal with the matter. These instructions further provides that an appeal or representation to a higher authority must not be made unless the appropriate lower authority has already rejected the claim or refusal relief or ignored or unduly delayed the disposal of the case. Representation to still higher authority (example those addressed to President or to Hon'ble Minister) must be submitted through the proper channel. It further provides that submission of representations directly to higher authority by passing the prescribed channel of communication has to be viewed seriously and appropriate disciplinary action should be taken against those violates these instructions as it can rightly be treated as an unbecoming conduct attracting the provision of Rule 3.1 (ii) of CCS (Conduct) Rules, 1964.

2. In this regard, attention is also invited to the Order dated 27th September, 2012 of the Hon'ble CAT, PB, New Dehi in OA No. 3176 of 2012 in the matter of Shri T.R.Mohanty, DDG Vs.UOI. A copy of the Order is enclosed. The operative part of the Order as stated in para 5 and para 6 is reproduced below:

On a perusal of the aforesaid instructions, it is noted that non-submission of representation through the prescribed channel of communication is viewed seriously which may attract appropriate disciplinary action against one who violates these instructions for the reason that it is viewed as an unbecoming conduct of Government servant attracting the provisions of Rule 3(1) (iii) of the CCS (Conduct) Rules, 1964. Accordingly, proper course for a Government servant who wishes to pursue his claim or seek redress of a grievance has to

No. 1898
Date: 27/11/2012
DDG
First 3 pages
highlighted

address his representation to his immediate official supervisor and Head of Offices and such other lowest officer as is competent to deal with the matter. Ordinarily representations/complaints regarding non-payment of salary/allowances and other dues or all other service matters are required to be replied within a month of its submission wherein it is not done, the Government servant may pray or ask for interview of next higher officer for redressal of his grievances who would immediately seek for the papers, as may be called for, without further delay. An appeal or representation to the higher authorities must not be made unless the appropriate lower authority has already rejected the claim or refused relief or ignored or unduly delayed the disposal of the employees. Representations to still higher authorities (e.g. those addressed to the President, the Government or to Hon'ble Minister) must be submitted through the proper channel (i.e. the Head of Office, etc, concerned). There would be no objection at that stage to an advance copy of the representation being sent directly. Since the applicant has neither sought redressal of his grievance from the competent authority at the lowest level and has not exhausted all means of redressal from the lower authorities nor has made his representation through proper channel, I do not find this case is proper one to issue directions as sought by the applicant herein. Such directions for disposal of his representation in the manner provided for administratively can appropriately be issued provided the representation has been validly made, that is to say in the prescribed manner to the prescribed authority. Of course, it would be open to the respondents to summarily reject such an application for these very reasons. Notwithstanding that it is imperative for the applicant for seeking the benefits of certain set of administrative instructions to abide by these instructions in entirety. He cannot legitimately seek benefits of certain set of administrative instructions without duly complying with those instructions in totality. He cannot act on a part of these instructions and ignore rest of these instructions as has been done by the applicant in the present case.

6. The Application is accordingly dismissed at the admission stage itself."

3. Hon'ble CAT, PB, New Delhi vide its order referred above, has reemphasized the instructions of the DOPT regarding the manner of submission of representations and its disposal. It has been stated by the Hon'ble CAT that it is imperative for the applicant for seeking the benefits of certain set of administrative instructions to abide by these instructions and that one cannot act on a part of these instructions and ignore rest of instructions, as has been done by the applicant in the present case.

Handwritten signature
27/11/12

4. The contents of the OM dated 1st November, 1999 and the Order dated 27th September, 2012 of the Hon'ble CAT, PB, New Delhi in OA No. 3176 of 2012 in the matter of Shri T.R. Mohanty, DDG Vs UOI are being brought to the notice of the officers of this Ministry for information and compliance. Any deviation from the above instructions from the officers will invite action as per the provisions of the OM dated 1st November, 1999.

Encl: As above

(D.K. Sharma)
2/11/12

Under Secretary to the Govt. of India

All Officers of this Ministry

Copy for circulation to:

1. Director(Admn.) & HOD, MOSPI
2. ADG, FOD, Headquarter, NSSO, R.K.Puram, New Delhi
3. ADG, DPD, Kolkatta,
4. ADG, SDRD, Kolkatta
5. DDG, NASA, Greater Noida, UP
6. DDG, Computer Center, R.K.Puram, New Delhi - with request to place this on the website of MOSPI
7. Notice Board
8. Master Set

(D.K. Sharma)
2/11/12

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



BHARAT SANCHAR NIGAM LTD.

F.No. BSNL/31-1/SR/2018

Dated: 16.10.2018

To,

Chief General Manager
Bharat Sanchar Nigam Limited,
Maharashtra Circle,
Mumbai 400054.

Sub: Holding dual post of Dy. General Secretary CHQ & Circle Secretary MH Circle of SNEA (I)-
case of Shri M.S. Adasul.

Sir,

I am directed to refer to your office letter no. CGMT/MH/Admn-I/SNEA(I)/2018-2019/Par:
File/34 dated 15.10.2018 on the above subject and to say that this office has also not received any
intimation either from General Secretary, SNEA or from Shri M.S. Adasul regarding resignation of
Shri M.S. Adasul from the post of Dy. General Secretary of CHQ body of the SNEA.

Yours faithfully,

(Bhupender Singh)
Asstt. General Manager(SR)
Tel 011-23037491
011-23734338

Exhibit 'C' 197



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/31-2/SR/2018 (Pt)

Dated: 30.08.2018

To
General Secretary,
Sanchar Nigam Executives Association,
Central HQ, New Delhi-110 015,

Subject: Notice of XXX All India Conference of Sanchar Nigam Executive Association

Sir,

I am directed to refer to the subject mentioned above intimating thereby agenda of the conference to be held from 28th to 30th September 2018. It is informed that:

2. Para 3 (g) (iii) on page 8-9 of Constitution of SNEA describes that "the election of new set of office bearers at the central organizational level shall be held within the scheduled period of two years and in no case it shall be delayed by more than three months from the scheduled date. In case of genuine and unavoidable difficulties, the CWC may decide further extension for a limited period of not exceeding nine months".
3. Para 4 (a) (ii) on page 10 of Constitution of SNEA Central Organization describes that "It shall meet once in two years at the place and time as shall be decided by the CWC. However the term can be extended by a period not exceeding 12 months".
4. Para 14 (2) of BSNL REA Rules 2014 states that "the Association shall abide by and comply with all provisions of its constitution/bye laws".
5. At the time of verification of membership SNEA has given an undertaking that the "provisions of BSNL (REA) Rules 2014 are acceptable to SNEA".

In view of above it is informed that the validity of present set of office bearers is up to 8th September 2018, hence action of holding election beyond the said date is ultra vires the constitution of SNEA. Accordingly consequences will follow.

Yours faithfully,

Recd

30/8/18

30/08/18
(Gopal Patel)
Asst. Gen. Manager (SR)
Tel No. -01123766063
Fax No. 01123734338

Re: Request Transfers letters
Inbox

Fri, Apr 6, 2018 at 5:47 PM

Dy GS SNEA CHQ

<dygssnea@gmail.com>

To: PADMANABHARAO PODURI <padmanabharao2007@gmail.com>

Cc: Sebastin Kaithackal <ksebastin@gmail.com>, Arvind Pal Dahiya
<arvindpal.dahiya@gmail.com>

[Reply](#) | [Reply to all](#) | [Forward](#) | [Print](#) | [Delete](#) | [Show original](#)

OK Sir,

- Very nicely drafted and about all cases of SNEA MH are included except few.
- In request of Com. Katkar it may be added that he has completed age of 57 years.
- In this list name of Com. S S Prakash SDE Mumbai MH for change of transfer from Kerala to Inspection Circle (QA) Bangalore is missing. His mother is cancer patient and as she is residing at Bangalore. His request is pending for past one year.
- Request of Com. V.D.Bhede SDE Sangli MH for cancellation of his transfer to J&K Circle on basis of his treatment of his bed ridden mother due to paralysis seems to be missing in this list. He also has crossed age of 57 years. Com. Bhede has done wonderful job in MV at Sangali SSA and he is pillar of SNEA Sangli.
- Request of Com. P. C. Ramteke, DE Nagpur is also missing as his request for All India Soft tenure stations for Gadchiroli and now his transfer has been issued for NE-II Circle.
- It is seen that request of Com. S M Chavan in this letter, but I have never forwarded the request of Com. S.M.Chavan to you or GS and please check how it has come in the list of the request transfers of SNEA members from MH Circle. I have also confirmed from Com. Bharat Sonawane DS SNEA Pune and he also has informed that he has not recommended the request of Com. S.M. Chavan and to our surprise that Com. S.M.Chavan was never member of SNEA and as on today also he is not member of SNEA and please remove his name from this letter.
- Please do not add such names without knowledge of CS or at least DS SNEA concerned. Please inform me from where you have received the request of Com. S.M.Chavan. and working for
- Further request of Com. M B Raut SDE WTP MH is missing in the list and his request for Own cost request for Sindhudurg but his order has been issued yesterday for J&K Circle. Please see that his request for All India Soft Tenure for three years from WTP to MH Circle may be issued by cancellation of his order for J&K Circle.
- For request of Com. S.S.Sagare DE, personally I feel that there is no issue in his retention but Com. B.R Kamble DS, Com. A D Kulkarni DP SNEA Nanded have reported that Com Sagare has worked against SNEA and supported activities of BEA hence his request for retention should not be pursued by SNEA. But Com. Sagare has informed that he never worked against SNEA and is always active member of SNEA.

M. S. Adasul,
DyGS SNEA CHQ.