



BSNL & DOT PENSIONERS ASSOCIATION (INDIA)

CENTRAL HEAD QUARETER, AHMEDABAD - 380 001.

(Registered under Indian Trade Union Act 1926, Reg No.G-6456/2006)

(Affiliated to Bharat Pensioners Samaj, New Delhi)



Tamilnadu Circle

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No. **BDPA(I)/TN/Genl** Date..... **04.02.2020**

To
The Secretary,
Dept. of Personal and Training,
Govt. of India,
New Delhi-110 001.

Respected Sir,

Sub : Withholding of leave encashment of BSNL employees who retired on BSNLVRS-2019 along with pensionary benefits of ST community employees – Seeking clarifications – Reg.

Ref : DOPT no : 21011/08/2013 – Estt. (AL) dtd.25.03.2013.

The Dept. of Personal and Training in its memo No:21022/08/2013-Estt (AL) dated 25.03.2013 has issued certain clarifications on Encashment of Leave under the heading “Leave encashment on Suspension / Dismissal / Removal” The following clarification is issued to the Govt. employees who were under suspension or while disciplinary or criminal proceedings are pending against him at the time of retirement.

“Leave encashment may be allowed in such cases. However, Rule 39(3) of CCS (Leave) Rules, 1972 allows withholding of leave Encashment in the case of Govt. servant who retires from service on attaining the age of superannuation while under suspension or while disciplinary or criminal proceedings are pending against him, if in view of the authority there is a possibility of some money becoming recoverable from him on conclusion of the proceedings against him. On conclusion of the proceedings he/she will become eligible to the

amount so withheld after adjustment of Government dues, if any”.

Similarly, **the Dept. of Posts under the Govt. of India**, Ministry of Communication in its letter No :9905/2012-Pen dated 27.01.2016 has clarified in para 3 as follows: (copy enclosed)

“It has been clarified in Govt. of India decision (5) below Rule 68 of CCS (Pension) rule that encashment of leave is a benefit granted under leave rules and not a pensionary benefit. Further under Rule 39 (3) of CCS (Leave) Rules, the authority competent to grant leave may withhold whole or part of cash equivalent of earned leave in the case of a Government servant who retires from service on attaining the age of retirement while under suspension or while disciplinary or criminal proceedings are pending against him, if in the view of such authority there is a possibility of some money becoming recoverable from him on conclusion of the proceedings against him. Similarly, provisions of Employees Group Insurance scheme, 1980 should be adhered to in matter of CGEGIS payment on retirement.

Rule 39 (3) of CCS (Leave) Rules says,

The authority competent to grant leave may withhold whole or part of cash equivalent of earned leave in the case of a Government servant who retires from service on attaining the age of retirement while under suspension or while disciplinary or criminal proceedings are pending against him, if in the view of such authority there is a possibility of some money becoming recoverable from him. On conclusion of the proceedings, he will become eligible to the amount so withheld after adjustment of Government dues, if any.

Para 2 (f) in GOD (5) below Rule 68 of CCS (Pension) Rules 1972 says that,

“In the matter of delayed payment of leave encashment, the Department of Personnel and Training in their note, dated 2-8-1999 has clarified that there is no provision under CCS (Leave) Rules for payment of interest or for fixing responsibility. **Moreover, encashment of leave is a benefit granted under the leave rules and not a pensionary benefit”.**

Thus the above rules are very clear that the leave encashment is not a pensionary benefit and it cannot be withheld or denied to the employees who were under suspension / Dismissal/ Removal or any disciplinary cases pending against him at the time of retirement.

The leave at credit will lapse when he is removed or dismissed from service before the date of his superannuation. In such cases no leave encashment is admissible. But the employee is dismissed or removed from service after the date of his retirement, the encashment will be withheld for adjustment of Govt. dues if any due from him at the time of completion of disciplinary / criminal proceedings.

Sir, In BSNL, Tamilnadu circle, the pensionary benefits of retiring employees on whom disciplinary / judicial proceedings are pending at the time of their superannuation are withheld including leave encashment by the authorities such as CGM of Tamilnadu Circle and GM's of SSAs.

In the case of retirees of ST community, the Circle Administration is withholding the pensionary benefits for the reasons of non-receipt of verification reports from the State Government. It includes leave encashment also which is not a pensionary benefit as per the above rules.

The BSNL, Circle Administration of Tamilnadu circle is not amenable to the above rules, orders and clarifications of Dept. of Personal and Training, Dept. of Posts, Dept. of Pension, CCS (Leave) Rules and CCS (Pension) Rules.

Under BSNL VRS Scheme 2019 recently announced by the BSNL and DOT, many employees including those belonging to ST Community have also opted for VRS and their retirement benefits including leave encashment are abruptly withheld illegally by the Circle Administration despite the orders of the DOT dated 05.12.2018 and 29.03.2019 in file No :6-24/2013TA-I/15/TN.

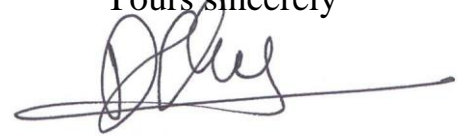
In these circumstances, this Association would like to request the DOPT to kindly cause issue of necessary clarification with regard to withholding of leave encashment (just because of pending verification of Community Certificate) to the retired employees besides pensionary benefits especially when no disciplinary or judicial proceedings are pending against them. As per our opinion withholding of the pensionary benefits itself for this reason is arbitrary and it is not supported by any rules of the Government and the BSNL company. Actually it is the fault of the administration for not verifying the genuiness of the Community Certificate for more than two or three decades from the date of initial recruitment / appointment.

We hope that the DOPT will kindly cause issue of necessary clarification once again reiterating the same already issued to the CGM, BSNL, Tamilnadu Circle through the Administrative Ministry of DOT and the BSNL Corporate Office.

Thanking you,

With regards,

Yours sincerely



(D.CHANDRASEKARAN)

**Circle Secretary &
CHQ, Vice President**

Copy to

- 1) The Secretary, DOT, New Delhi-1.
- 2) The CMD, BSNL, New Delhi-1.
- 3) The Secretary, Dept. of Pension & PW, Govt. of India, New Delhi-1.