

BSNL - RAT SANCHAR NIGAM LIMITED

[Government of India Enterprise]



CORPORATE OFFICE

Establishment Cell
Bharat Sanchar Bhawan
H.C.Mathur Lane, New Delhi

No.1-06/2016-PAT(BSNL)

Dated

1st May, 2019

All Heads of Telecom Circles/ Telecom Districts/Regions/
Projects/Telecom Stores/Telecom Factories & Other Administrative Offices,
Bharat Sanchar Nigam Limited.

Sub: Implementation of Supreme Court judgment on recovery of excess/ wrongful payments – Need for ensuring 100% error free pay fixation method and Post Audit of Pay Fixation – reg.

I am directed to refer to this office letter No. 1-06/2016-PAT(BSNL) dated 09.09.2016, 03.03.2017, 08.05.2017, 19.09.2017 & 08.03.2018 wherein instructions were issued on the procedures to be followed in the matter of implementation of Supreme Court judgment on recovery of excess/ wrongful payments made to employees in BSNL.

A kind reference is also invited to this office letter No.1-09/2016-PAT(BSNL) dated 23.09.2016 and letter No.1-06/2016-PAT(BSNL) dated 15.11.2018 wherein instructions were issued for conducting post audit of every pay fixation on account of promotion, up-gradation and pay revision etc., of employees, invariably by an officer not below the rank of AGM/ CAO of Finance Wing not connected with the channel of submission of pay fixation related work and that each Circle IFA shall send a certificate to DGM (Estt), BSNL CO ND by 31st July of every year to the effect that all pay fixation cases of the Circle during the previous financial year have been got post-audited.

However, it is observed that even after repeated instructions from this office to ensure correctness of the pay fixation of the employees by implementation of a checking & counter-checking mechanism for pay fixations in respect of all employees, many of the circles do not seem to have complied with the same, leading to heavy financial loss to BSNL which otherwise could have been avoided. Hence a robust mechanism shall be put in place by all Circles for strict adherence of Hon'ble Supreme Court order in CA No.11527 of 2014 (State of Punjab & ors Vs Rafiq Masih (White Washer)) as depicted below and instructions issued by this office from time to time in order to prevent any further loss to the BSNL.

The Hon'ble Supreme Court while observing that it is not possible to postulate all situations of hardship which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement has summarized the following few situations, **wherein recoveries by the employers would be impermissible in law:**

- I. **Recovery from employees belonging to Class-III & Class -IV service (or Group 'C' and Group 'D' service).**
- II. **Recovery from retired employees, or employees who are due to retire within one year, of the order of recovery.**

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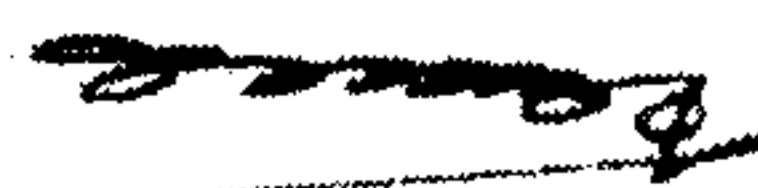
Regd & Corporate Office: Bharat Sanchar Bhawan, H.C.Mathur Lane, Janpath, New Delhi – 110 001

Website: www.bsnl.co.in; Corporate Identity Number (CIN) :U74899DL2000GO1107739

- III. Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.
- IV. Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.
- V. In any other case, where the Court arrives at the conclusion that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover.

While examining proposals for waiver of recovery, it has been observed that cases are reviewed on the verge of retirement of an employee or after a number of years thereby making it difficult for BSNL to recover the excess payments from them. All Cadre Controlling Authorities are, therefore, requested to review all cases of doubts and ensure that there are no cases of excess payments made to BSNL employees. Wherever any excess payment has been made on account of fraud, misrepresentation, collusion, favoritism, negligence, carelessness, etc., roles of those responsible for overpayments in such cases, and the employees who benefitted from such actions should be identified, and disciplinary/ criminal action should be considered in appropriate cases.

Yours faithfully



(S.N. Tiwary)

Assistant General Manager (Estt-I)

Tel. No.2303 7477

Copy to:

1. Sr.GM (Internal Audit), BSNL CO ND for information & with a request for issuing necessary instructions to all the audit parties visiting Circles to ensure strict compliance of the corporate office instructions in the matter to prevent loss please.

2. All IFAs of Telecom Circles/ Telecom Districts/Regions/ Projects/Telecom Stores/Telecom Factories & Other Administrative Offices, Bharat Sanchar Nigam Limited.

It is requested that necessary steps are taken for ensuring correctness of the pay fixations in respect of every employee for the entire service period by constituting a dedicated cell to complete review of all the pay fixations in a time bound manner. Prioritized review may be conducted in respect of employees who are due to retire on superannuation within a period of more than one year since recovery from retired employees, or employees who are due to retire within one year, of the order of recovery, would be impermissible by law.



Assistant General Manager (Estt-I)

Endst. No. CGMT/MH/A/PPE-4/BSNL-ORDER/2019-20/10

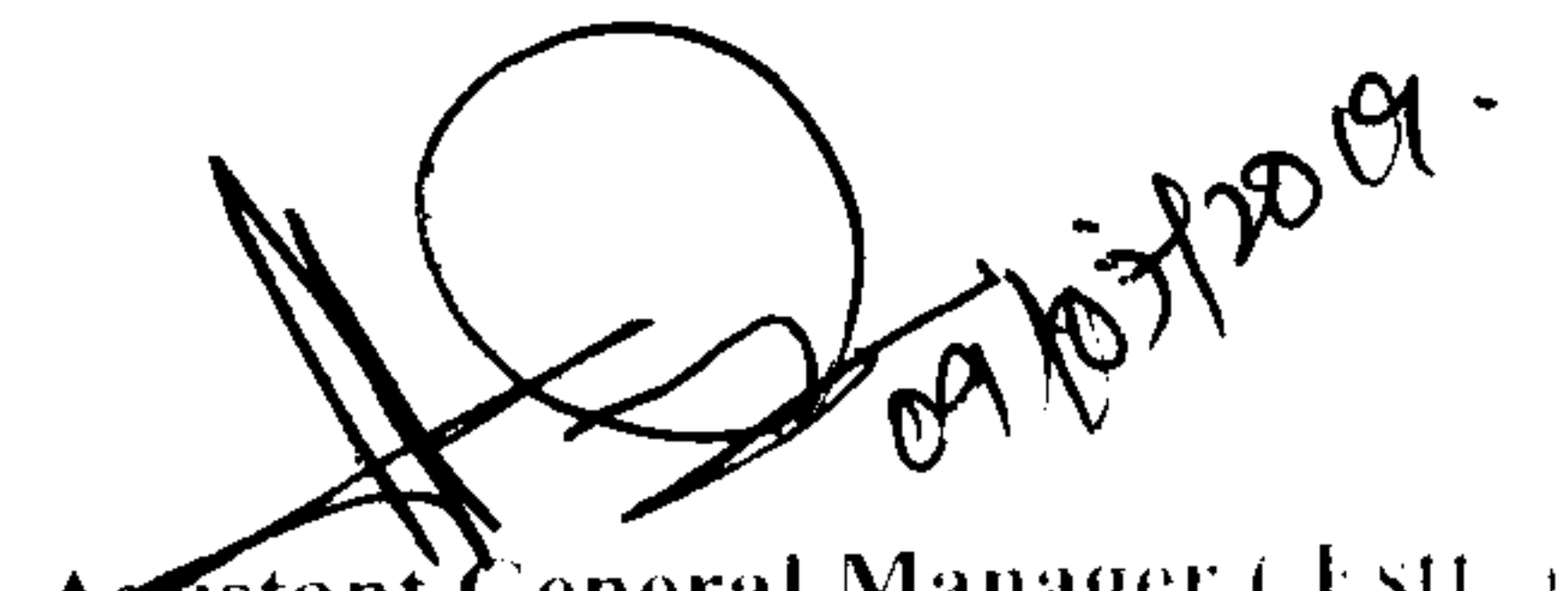
Dated:- 09/07/2019

Sub:- Implementation of Supreme Court Judgment on recovery of excess/wrongful payment – Need for ensuring 100% error free pay fixation method and Post Audit of Pay Fixation – reg.

BSNL, Corporate Office, New Delhi Letter No. 1-06/2016-PAT(BSNL) Dated- 1st May, 2019 on the subject referred above is endorsed herewith for information and necessary action pl.

Endorsed to:-

- 1) All Business Area Heads/SSA Heads/Unit Heads.



Assistant General Manager (Estt.)
BSNL, MH Circle, Mumbai-54.