



Regn. No. S/00108/NE-/2010

**ALL INDIA  
RETIRED BHARAT SANCHAR NIGAM LIMITED EXECUTIVE'S WELFARE ASSOCIATION  
CENTRAL HEAD QUARTERS, NEW DELHI**

CHQ ADDRESS: C-8/230, YAMUNA VIHAR, DELHI-110053, www.aibsnlretd.org

BY SPEED POST

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**10. Finance Secretary**

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**11. Organising Secretary (East)**

Arbinda Ghosh (Kolkata)

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**12. Organising Secretary (West)**

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No. AIRBSNLEWA/2015-16/

dated at New Delhi 28/05/2015

08/06/2015

To

Shri Rakesh Garg

Secretary

Department of Telecommunications

New Delhi,

**Sub: Implementation of SC Judgement on Civil Petition no 11527 of 2014 dated 18-12-2014 on recovery of pay before retirement due to wrong Fixation etc.**

Dear Sir,

It is a common practice of DoT cells across the country wherein they find out some wrong fixation in the pay fixation, due to some reason or other, of the soon to retire employees just before their retirement and in some cases after the retirement, resulting in lowering the pay of the retired employees by one or two increments and consequent recovery of several lakhs of rupees from the gratuity. The employees in most of the cases are not in a position to defend the case as they are eager to settle the pension early and also due to the fact that the errors being pointed out are very old and as such necessary papers are not available with them at that point of time.

The apex court of India, in the civil petition no 11527 of 2014, has delivered a judgement on 18-12-2014 on this issue. The operative part of the Court Order which is summarised in the last page of the Judgement is reproduced below: (Copy of judgement is enclosed for ready reference.)

"12. 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. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

(i) Recovery from employees belonging to Class-III and 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.

(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.



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(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."

Although the Judgement was passed on 18-12-2014, but the CCAs of the DoT cells are still practising the old procedure and are not following the Judgement causing hardship to the retiring employees by forcing unwarranted deductions in violation of Supreme Court guidelines elaborated in judgement dated 18/12/2014.

We therefore request you to issue necessary instructions to the CCAs of the DoT cells to strictly abide by the judgement and order of the Hon'ble Supreme Court as mentioned above.

With Regards

  
(Kishan Singh)  
General Secretary

Copy to: Smt. Anie Moraes, Member(F), Sanchar Bhavan, New Delhi-110001  
For kind information and n/a please.