



File no: 10-5/2021/WS&I

Dated: 08.06.2021

To
All CGMs (Territorial and Non Territorial Circles),
BSNL.

Sub:- Procedure for Disciplinary Proceeding in case of Retired employees under Rule 61 of BSNL CDA rules

The disciplinary cases, which are of administrative in nature are being received directly in the HR vertical either by Personnel cell or by Establishment cell. It has been observed that different Circles/Cadre authorities of BSNL are following different procedures for dealing with disciplinary proceedings of retired employees though clear instructions are defined under the Rule 61 of BSNL CDA Rules to deal with such cases. The Rule 61 along with its sub-clauses is reiterated as below:

Rule 61. DISCIPLINARY PROVISIONS FOR RETIRING EMPLOYEES

(1) The employee against whom disciplinary proceedings have been initiated will cease to be in service on the date of superannuation but the disciplinary proceedings will continue as if he was in service until the proceedings are concluded and final order is passed in respect thereof. The concerned employee will not receive any pay and/or allowance after the date of superannuation. He will also not be entitled for the payments of retirement benefits till the proceedings are completed and final order is passed thereon except his own contribution to Provident Fund and he will be entitled for the provisional pension as per applicable rule.

(2) Disciplinary proceedings, if instituted while the employee was in service whether before his retirement or during the re-employment, shall after the retirement of the employee, be deemed to be proceeding under these Rules and shall be continued and concluded by the authority by which it was commenced in the same manner as if the employee had continued in service.

(3) During the pendency of the disciplinary proceedings the disciplinary authority may withhold payment of gratuity for ordering the recovery from gratuity of the whole or part of any pecuniary loss caused to the company, if the employee is found in the disciplinary proceedings or judicial proceedings to have been guilty of offences/misconduct as mentioned in sub-section (6) of Section 4 of the Payment of Gratuity Act, 1972 or to have caused pecuniary loss to the company by misconduct or negligence, during his service including service rendered on deputation or on re-employment after retirement. However, the provisions of Section 7(3) and 7(3A) of the payment of Gratuity Act, 1972 should be kept in view in the event of delayed payment in case the employee is fully exonerated.



(4)(1) Chairman/Managing Director is the competent authority to issue sanction to institute the departmental proceedings against the absorbed employees after retirement for withholding a pension for combined service of BSNL and DOT period (herein referred as pension) or gratuity or both either full or in part or withdrawing a pension in full or in part, whether permanently or for a specified period and of ordering recovery from a pension or gratuity of the whole or part of any pecuniary loss caused to the Company, if, any disciplinary or judicial proceedings, the pensioner is found guilty of grave misconduct or negligence during the period of service, including service rendered upon re-employment after retirement:

Provided that the Administrative Ministry shall be consulted before any final orders are passed:

Provided further that where a part of pension is withheld or withdrawn, the amount of such pensions shall not be reduced below the amount of rupees one thousand two hundred and seventy five (Rs. three thousand five hundred from 01.01.2006).

(4)(2)(a) The disciplinary proceedings referred to in sub-rule 4(1), if instituted while the absorbed employee was in service whether before his retirement or during his re-employment, shall, after the final retirement of the absorbed employee, be deemed to be proceedings under this rule and shall be continued and concluded by the authority by which they were commenced in the same manner as if the absorbed employee had continued in service :

Provided that where the disciplinary proceedings are instituted by an authority subordinate to the Chairman/Managing Director, that authority shall submit a report recording of its findings to the Chairman/Managing Director.

**(4)(2)(b) The disciplinary proceedings, if not instituted while the absorbed employee was in service, whether before his retirement, or during his re-employment,-
Shall not be instituted save with sanction of the Chairman/Managing Director,**

- i. Shall not be in respect of any event which took place more than four years before such institution, and**
- ii. Shall be conducted by such authority and in such place as the Chairman/Managing Director may direct and in accordance with the procedure applicable to disciplinary proceedings in which an order of dismissal from service could be made in relation to the absorbed employee during his service.**

(4)(3) In the case of the absorbed employee who has retired on attaining the age of superannuation or otherwise and against whom any disciplinary or judicial proceedings are instituted or where disciplinary proceedings are continued under this



rule, a provisional pension shall be sanctioned with the prior approval of Department of Telecom.


(4)(4) Where the Chairman / Managing Director decides not to withhold or withdraw pension but orders recovery of pecuniary loss from pension, the recovery shall not ordinarily be made at a rate exceeding one-third of the pension admissible on the date of retirement of a absorbed employee.

(4)(5) For the purpose of this rule,-

- a. **disciplinary proceedings shall be deemed to be instituted on the date on which the statement of charges is issued to the absorbed employee or the pensioner, or if the absorbed employee has been placed under suspension from an earlier date, on such date; and**
- b. **Judicial proceedings shall be deemed to be instituted-**
 - i. **in the case of criminal proceedings, on the date on which the complaint or report of a Police Officer, of which the Magistrate takes cognizance, is made, and**
 - ii. **in the case of civil proceedings, on the date the plaint is presented in the Court.**

The matter has been reviewed in consultation with vigilance cell and it is stated that where the disciplinary proceedings are instituted by an authority subordinate to CMD,BSNL that authority will submit the complete case along with report recording its findings and views to the CMD,BSNL.CMD,BSNL being the competent authority will decide the penalty to be imposed on the charged employee based on the merits of the case.

Therefore it is once again requested that all the (Territorial and Non territorial) and all other units of BSNL should follow the guidelines uniformly as defined in Rule 61 of BSNL CDA rule 2006 to deal with Disciplinary Proceedings for Retired Employees.
This is issued with the approval of competent authority.


8.6.2021
(Santosh Dahiya)
AGM(Restg-I)

Copy for kind information to:-

1. **CMD, BSNL**
2. **CS&CGM(Legal)**
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