

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No-210/2020

MA No-292/2020

With

OA No- 229/2020

OA No- 230/2020

OA No- 231/2020

MA No- 314/2020

OA No- 233/2020

OA No-253/2020

OA No-254/2020

OA No-255/2020

OA No-256/2020

And

OA No-257/2020

New Delhi, this the 27th day of January, 2020

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)**

OA No. 210/2020

1. Sunder Pal
s/o Late Sh. Shankar Das
Aged about 57 years
Designation: AGM Regular
HRMS 198211199
Group A, Department BSNL
Nature of grievance : VRS earlier opted be allowed to be withdrawn
R/o 5668/9, Shiv Colony Karnal
State of Haryana.

2. Darbara Singh
S/o Sh. Mukhtiar Singh
Aged about 53 years
Designation: AGM Regular
HRMS 199802763
Group A, Department BSNL
Nature of grievance : VRS earlier opted be allowed to be withdrawn
R/o 137-B, Azizullah Pur



Ward I, Panipat State of Haryana. ... **Applicants**
 (through Ms. Rani Chhabra)

Versus

1. Bharat Sanchar Nigam Limited (BSNL)
 Through Chairman cum Managing Director
 BSNL Corporate Office
 Establishment Branch, PAT Section
 5th Floor, Bharat Sanchar Bhawan
 H.C. Mathur Lane, New Delhi-110001.
2. Director (HR)
 BSNL Corporate Office
 Bharat Sanchar Bhawan
 H.C. Mathur Lane, New Delhi-110001.
3. General Manager
 BSNL Corporate Office
 Establishment-I, PAT Section
 5th Floor, Bharat Sanchar Bhawan
 H.C. Mathur Lane, New Delhi-110001.
4. Deputy General Manager
 BSNL Corporate Office
 Establishment-I, PAT Section
 5th Floor, Bharat Sanchar Bhawan
 H.C. Mathur Lane
 New Delhi-110001. ... **Respondents**

(through Sh. Ravi Sikri, learned senior counsel, Sh. Deepak Yadav, Sh. Shashwat Sharma and Sh. R.V. Sinha with Sh. Amit Sinha)

OA No. 229/2020

Suresh Pal
 S/o Sh. Singhram Singh
 Aged about 57 years
 Designation: Account Officer/CO
 PERNER 98115183
 Group B, Department : BSNL
 Nature of grievance : VRS earlier opted be
 allowed to be withdrawn
 R/o 61/41, Laxman Vihar, Muzzafarnagar, (UP).



(through Ms. Rani Chhabra)

Versus

1. Bharat Sanchar Nigam Limited (BSNL)
Through Chairman cum Managing Director
BSNL Corporate Office
Establishment Branch, PAT Section
5th Floor, Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.
2. Director (HR)
BSNL Corporate Office
Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.
3. General Manager
BSNL Corporate Office
Establishment-I
PAT Section
5th Floor, Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.
4. Deputy General Manager
BSNL Corporate Office
Establishment-I
PAT Section
5th Floor, Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.
5. General Manager-Telecom
District Muzaffar Nagar, UP (West) ... Respondents

(through Sh. R.V. Sinha with Sh. Amit Sinha)

OA No. 230/2020

Praveen Kumar
S/o Sh. Shriniwas Sharma
Aged about 57 years
Designation: Sub Divisional Engineer (TX&MTCE)
PERNER No. 98110290
Group B, Department : BSNL
Nature of grievance: VRS earlier opted be
allowed to be withdrawn
R/o 533 Ganesh Puri
Opposite Ghanta Ghar



Khatauli District Muzaffarnagar (UP). ...Applicant
(through Ms. Rani Chhabra)

Versus

- 
1. Bharat Sanchar Nigam Limited (BSNL)
Through Chairman cum Managing Director
BSNL Corporate Office
Establishment Branch, PAT Section
5th Floor, Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.
2. Director (HR)
BSNL Corporate Office
Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.
3. General Manager
BSNL Corporate Office
Establishment-I
PAT Section, 5th Floor, Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.
4. Deputy General Manager
BSNL Corporate Office
Establishment-I
PAT Section, 5th Floor, Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.
5. General Manager-Telecom
District Muzaffar Nagar, UP (West).
6. Secretary
Department of Telecom
Sanchar Bhawan, New Delhi-110001.

... Respondents

(through Sh. R.V. Sinha with Sh. Amit Sinha)

OA No. 231/2020

1. Balbir Singh Bhumbak
S/o late Sh. Bhag Chand
Aged about 58 years
Designation: Chief Account Officer
HRMS 198806384

Group B, Department : BSNL
 Nature of grievance : VRS earlier opted be allowed to be withdrawn
 R/o BSNL Staff Quarter, Sector XIV Hissar, State of Haryana.

2. Ranbir Singh
 S/o Sh. Phool Singh
 Aged about 53 years
 Designation: Telecom Technical
 HRMS 199905257
 Group C, Department: BSNL
 Nature of grievance : VRS earlier opted be allowed to be withdrawn
 R/o Quarter No. 9, Type-II, BSNL Colony
 Sector XIV, Hissar. ... Applicants

(through Ms. Rani Chhabra)

Versus

1. Bharat Sanchar Nigam Limited (BSNL)
 Through Chairman cum Managing Director
 BSNL Corporate Office
 Establishment Branch, PAT Section
 5th Floor, Bharat Sanchar Bhawan
 H.C. Mathur Lane, New Delhi-110001.
2. Director (HR)
 BSNL Corporate Office
 Bharat Sanchar Bhawan
 H.C. Mathur Lane, New Delhi-110001.
3. General Manager
 BSNL Corporate Office
 Establishment-I
 PAT Section, 5th Floor, Bharat Sanchar Bhawan
 H.C. Mathur Lane, New Delhi-110001.
4. Deputy General Manager
 BSNL Corporate Office
 Establishment-I, PAT Section
 5th Floor, Bharat Sanchar Bhawan
 H.C. Mathur Lane, New Delhi-110001. ... Respondents

(through Sh. R.V. Sinha with Sh. Amit Sinha)



OA No. 233/2020

Sushil Kumar (Aged about 52 years), Group B
 S/o Shri Ram
 DE(QA) Centre Gurgaon at VNL
 IMT Manesar, Gurgaon (Haryana) ... Applicant

(through Ms. Rani Chhabra)



Versus

Union of India through

1. The Secretary
 Ministry of Communications
 Sanchar Bhawan
 20, Ashoka Road, New Delhi-110001.
2. The Director (HR) Delhi
 BSNL Corporate Office
 Janpath, New Delhi.
3. The PGM (QA & Insp) North
 QA & Insp Circle, New Delhi.
4. The CGM, QA & Inspection Circle
 Sanchar Vikas Bhawan
 Residency Road, Jabalpur-482001. ... Respondents

(through Sh. Deoraj Singh for R. No. 1 and Sh. R.V. Sinha
 with Sh. Amit Sinha)

OA No. 253/2020

Manoj Nair K.V.
 S/o late Krishnan Nair
 Aged about 52 years
 Designation: Private Secretary
 HR No. 98916034
 Group B, Department : BSNL
 Nature of grievance: VRS earlier opted be
 allowed to be withdrawn
 R/o B-22, Century Tower,
 Bodakdev, Ahmedabad-380054. ...Applicant

(through Ms. Rani Chhabra)

Versus



1. Bharat Sanchar Nigam Limited (BSNL)
Through Chairman cum Managing Director
BSNL Corporate Office
Establishment Branch, PAT Section
5th Floor, Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.
2. Director (Finance)
BSNL Corporate Office
Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.
3. General Manager
BSNL Corporate Office
Establishment-I, PAT Section
5th Floor, Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.
4. Deputy General Manager
BSNL Corporate Office
Establishment-I, PAT Section
5th Floor, Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.Respondents

(through Sh. Gyanendra Singh)

OA No. 254/2020

Rakesh Kumar Chopra
S/o Sh. Amar Chand Chopra
Aged about 52 years
Designation: Assistant General Manager
HRMS No. 199101606
Group A, Department : BSNL
Nature of grievance: VRS earlier opted be allowed to be withdrawn
R/o Village and Post Office
Bari Tehsil and District Hamirpur
Himachal Pradesh-177001Applicant

(through Ms. Rani Chhabra)

Versus

1. Bharat Sanchar Nigam Limited (BSNL)
Through Chairman cum Managing Director
BSNL Corporate Office

Establishment Branch, PAT Section
 5th Floor, Bharat Sanchar Bhawan
 H.C. Mathur Lane, New Delhi-110001.



2. Director (Finance)
 BSNL Corporate Office
 Bharat Sanchar Bhawan
 H.C. Mathur Lane, New Delhi-110001.
3. General Manager
 BSNL Corporate Office
 Establishment-I, PAT Section
 5th Floor, Bharat Sanchar Bhawan
 H.C. Mathur Lane, New Delhi-110001.
4. Deputy General Manager
 BSNL Corporate Office
 Establishment-I, PAT Section
 5th Floor, Bharat Sanchar Bhawan
 H.C. Mathur Lane, New Delhi-110001. ...Respondents
 (through Sh. Gyanendra Singh)

OA No. 255/2020

Anil Kumar Sharma
 S/o Sh. Som Prakash Sharma
 Aged about 51 years
 Designation: SDE(T)
 PERNER No. 99405793
 Group B, Department : BSNL
 Nature of grievance: VRS earlier opted be
 allowed to be withdrawn
 R/o Flat No. 99, First Floor
 Akshar Dham Colony, Modipuram
 Meerut-250110. ...Applicant

(through Ms. Rani Chhabra)

Versus

1. Bharat Sanchar Nigam Limited (BSNL)
 Through Chairman cum Managing Director
 BSNL Corporate Office
 Establishment Branch, PAT Section
 5th Floor, Bharat Sanchar Bhawan

H.C. Mathur Lane, New Delhi-110001.

2. Director (Finance)
BSNL Corporate Office
Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.
3. General Manager
BSNL Corporate Office
Establishment-I
PAT Section
5th Floor, Bharat Sanchar Bhawan
H.C. Mathur Lane
New Delhi-110001.
4. Deputy General Manager
BSNL Corporate Office
Establishment-I, PAT Section
5th Floor, Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.Respondents
(through Sh. Gyanendra Singh)

OA No. 256/2020

Tej Pal
S/o Sh. Rati Ram
Aged about 56 years
Designation: Accounts Officer/CO
Perner No. 98909444
Group B, Department : BSNL
Nature of grievance: VRS earlier opted be
allowed to be withdrawn
R/o H.No. 1B/6929, Gali No. 6
A1 Colony Naveen Nagar
Saharanpur, UP.Applicant

(through Ms. Rani Chhabra)

Versus

1. Bharat Sanchar Nigam Limited (BSNL)
Through Chairman cum Managing Director
BSNL Corporate Office
Establishment Branch, PAT Section
5th Floor, Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.





2. Director (Finance)
BSNL Corporate Office
Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.
3. General Manager
BSNL Corporate Office
Establishment-I, PAT Section
5th Floor, Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.
4. Deputy General Manager
BSNL Corporate Office
Establishment-I, PAT Section
5th Floor, Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.Respondents

(through Sh. Gyanendra Singh)

OA No. 257/2020

Kanjibhai Soyaliya
S/o Mayabhai Soyaliya
Aged about 52 years
Designation: Sub Divisional Engineer
HRMS No. 199105646
Group B, Department : BSNL
Nature of grievance: VRS earlier opted be allowed to be withdrawn
R/o 'Shivam' Bhavnath-2
B/H Hazoor Palace Gondal
District Rajkot, Gujarat-360311.Applicant

(through Ms. Rani Chhabra)

Versus

1. Bharat Sanchar Nigam Limited (BSNL)
Through Chairman cum Managing Director
BSNL Corporate Office
Establishment Branch, PAT Section
5th Floor, Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.
2. Director (Finance)
BSNL Corporate Office

Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.

3. General Manager
BSNL Corporate Office
Establishment-I, PAT Section
5th Floor, Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001.
4. Deputy General Manager
BSNL Corporate Office
Establishment-I, PAT Section
5th Floor, Bharat Sanchar Bhawan
H.C. Mathur Lane, New Delhi-110001. ...Respondents
(through Sh. Gyanendra Singh)

ORDER(ORAL)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman

The applicants, in this batch of OAs, are the officers/employees of Bharat Sanchar Nigam Limited (BSNL). On 04.11.2019, the Corporate Office of the BSNL, addressed letter to all the Heads of the Telecom Circles, stating that in pursuance of a decision taken by the Union Cabinet, conveyed by the Department of Telecommunications, through letter dated 29.10.2019, the “BSNL Voluntary Retirement Scheme-2019” (for short, the Scheme), is being introduced and that, options can be invited from the employees, who are eligible under the Scheme. One of the conditions stipulated therein was that, the Scheme shall remain open from 04.11.2019 up to 03.12.2019 (5:30pm) and that the effective date of VRS under the Scheme, shall be 31.01.2020.





2. The applicants exercised their options within the stipulated time. However, as an afterthought, they wanted to withdraw their options and to remain in service of BSNL. Their request was not acceded to on the ground that, the option once exercised, shall not be permitted to be withdrawn after the due date mentioned in the Scheme. In these OAs, the applicants seek a direction to the respondents, to not enforce the options of VRS exercised by them and, to further direct them to continue them in service, till they attain the age of superannuation.

3. The applicants contend that the Scheme itself mentions that the date of retirement shall be effective from 31.01.2020 and whether one goes by the general principle of law or fair play, an employee must have the liberty to withdraw the request for VRS, anytime before the effective date of retirement and that, there is absolutely no justification on part of the respondents in not considering the request of the withdrawal of the options.

4. The respondents filed counter affidavits, in some of the matters. According to them, the Scheme was evolved with a view to spruce the workforce and to lessen the loss of the BSNL and that, it is a time bound one. It is stated that, time of one month was stipulated for exercising the option as well as for withdrawal of the options and depending upon the response to the Scheme, the required financial arrangements are to be made. It is stated that the withdrawal of the options after the stipulated date, would render the very Scheme unworkable, if not meaningless. Reliance is placed upon certain precedents, by both the parties.

5. We heard Ms. Rani Chhabra and Sh. S.N. Sharma, learned counsel for the applicants. Arguments on behalf of the respondents were advanced by Sh. Ravi Sikri, learned senior counsel, Sh. R.V. Sinha, Sh. Gyanendra Singh and Sh. Deoraj Singh.



6. It is not uncommon that there exist provisions for voluntary retirement under the relevant service rules. The Scheme evolved by the BSNL seems to be the one, designed to reduce the workforce and thereby, the financial commitment. The covering letter, through which the options were required to be invited, was addressed on 04.11.2019, and its salient features are as under:

“In pursuance to the decision of the Union cabinet conveyed by DOT vide OM No. 30-04/2019-PSU Affairs dated 29.10.2019, I am directed to circulate herewith the “ BSNL Voluntary Retirement Scheme-2019” as per Annexure-I for information of all concerned and to invite options from employees eligible under the scheme for seeking voluntary retirement as per the provisions of this ‘scheme’ .

2. Options for seeking voluntary retirement under this ‘scheme’ shall remain open from 04.11.2019 up to 03.12.2019 (5:30 P.M.P. The effective date of voluntary retirement under this scheme will be 31.01.2020 (A/N).

3. Employee seeking voluntary retirement under this scheme shall give option in ERP/ESS portal and take physical printout. Physical copies in triplicate signed by blue ink by the employee concerned shall be submitted to the concerned administrative office within three days of giving option in ESS.

4. You are requested to give wide publicity to this Scheme to enable all the eligible employees to take an informed decision and exercise the options for VRS within prescribed time period.

5. To facilitate the process, it is, therefore, requested to take following steps for effective implementation of VRS:

a. A ‘Help-Desk’ with Computer and ESS connectivity be set up at Circle Office and SSA/SDCA level manned by suitable officer who will provide information and technical assistance to employees to exercise options for this Scheme within time period prescribed.



- b. The Controlling Officers at respective levels (Circle/SSA/Smaller Units) be asked to make the employees, under their administrative control, aware of this scheme, and assistance be provided in exercising the options for VRS within the prescribed time period.
- c. The employees who are on deputation to other organizations or on authorized long leave or deputed for training in other organization, may be communicated with a copy of this Scheme. Such officers may be provided with necessary assistance for exercising options for this Scheme within the time period and they may be asked to submit duly signed hard copies (in triplicate) of their option to their Administrative Unit. The respective Administrative Unit, in turn, will process their case and intimate the concerned borrowing organizations to repatriate the officer latest by 31.12.2019 who opts for this Scheme.
- d. The Administrative Office of the employee will acknowledge the receipt of hard copy of VRS application to the optee under signature of an officer not below the rank of SDE/ AO level.
- e. The Officer in charge of Service Books is required to verify the correctness and completeness of the entries made by the employees on the VRS option form. If any discrepancy is found, the same may be rectified by the HR administrator in consonance with the service book record, both on ERP as well as the hard copy.
- f. Upon successful completion of verification of Option form, the process for vigilance clearance be initiated online by the Administrative Office within two days, and the Vigilance Branch will intimate VC status to the Administrative Office, also within two days.
- g. On receipt of vigilance status, Administrative Office will process the case for acceptance of VRS by the Competent Authority, who will decide the case within a week's time keeping in view the provisions as mentioned in clause 7 (ii) of the VRS Scheme 2019.
- h. The employees who are on unauthorized absence and/or absconding are not be allowed to exercise the options for this Scheme. Disciplinary action may be initiated against such employees immediately, or complete the proceedings, if ongoing.”

The details of the Scheme are contained in the Annexure-I appended thereto. Clause 3 deals with the Definitions and clause 4 and 8 are relevant for the purpose of this batch of OAs. They read as under:

“4. OPERATION OF THE SCHEME:

The effective date of Voluntary Retirement under this scheme shall be 31-01-2020. The Scheme shall come into force from the date of issue of notification inviting option for voluntary retirement under the scheme and shall remain in operation as per the dates mentioned below:

(a) Date of start of option: 04-11-2019

(b) Date of closing of option: 03-12-2019 up to 5:30PM.

8. GENERAL CONDITIONS:

(i) The Scheme is not negotiable and shall not be a subject matter of any industrial dispute.

(ii) There shall be no recruitment in BSNL against the posts falling vacant on account of voluntary retirement under the Scheme, and these posts will be abolished.

(iii) The employee(s) retired under this Scheme, shall not be eligible for Re-employment in any other CPSE.

Provided that in case any employee desires to take up re-employment in any CPSE, such employee shall have to refund the entire amount of ex-gratia received under the Scheme to BSNL before joining such CPSE. BSNL shall remit the refunded amount to the government.

(iv) All payments under the scheme and any other benefit payable to the employee(s) by BSNL shall be subject to prior settlement/re-payment in full of loans, advances, returning of property and any other dues payable by such employee(s) to BSNL.

(v) In the event of the death of an employee after submission of option but before the effective date of voluntary retirement under this Scheme, the amount of Ex-gratia payment shall not be released to the family/legal heirs of deceased employee:

Provided that other retirement benefits as applicable according to the existing rules shall be paid to the family/legal heirs.

(vi) All payments made under the scheme shall be subject to deduction of tax at source as per Income Tax Act 196, wherever applicable.





(vii) The Competent Authority shall have absolute discretion either to accept or reject the request of an employee seeking Voluntary Retirement under the scheme without assigning any reason.

(viii) The benefits payable under this scheme shall be in full and final settlement of all claims of whatsoever nature, whether arising under the scheme or otherwise.

(ix) An employee who voluntarily retires under this scheme or his/her family or legal heirs shall have no claim or compensation except the benefits under the Scheme.

In case of any doubt or ambiguity over the meaning/interpretation of any of the terms of this scheme, the decision of CMD BSNL shall be final and binding.”

7. Similarly, in Annexure-II, the step by step guide for exercising the option for VRS-2019, is indicated. Relevant portion for this batch of OAs, are clauses 1-6 therein. They read as under:

1. The eligible employee is required to login to the ERP/ESSportal (<http://sp05rpx1.erp.bsnl.co.in/iri/portal>) for exercising his option for seeking voluntary retirement under the ‘BSNL Voluntary Retirement Scheme-2019’.

2. On the homepage of ESS after successful login, a Tab named “VRS-2019” will be displayed. On entering the VRS-2019 page, only the eligible employees will be able to see the indicative calculation of the benefits of the scheme. The shown calculation is an approximate estimate of the benefits as per the staff details available in the ERP system. Actual benefits may vary subject to verification of service particulars from service book etc.

3. The interested employee may then continue to exercise his option as per the instructions on the ERP portal. Employees are advised to carefully go through the provisions of the ‘BSNL Voluntary Retirement Scheme 2019’ before exercising their option. For any assistance, employees can contact the dedicated Help-Desk.

4. Help-Desk: Dedicated Help-desk(s) will be available at Corporate Office level, Circle level and BA/SSA level during the normal office hours for providing assistance to the employees for exercising options. Online options, however, can be exercised round the clock.



5. The Online window for exercising option will remain open till the specified closing date/time i.e. 03.12.2019 up to 05:30 P.M. If the employee is not sure, he may click the button “I wish to DECIDE LATER” and exit from the ESS Portal.

6. The eligible employees shall fill the option form through ESS portal and take three printouts, sign all of them in blue ink and submit the signed copies to their respective controlling officer within 3 days of submitting the online option. One copy will have to be pasted in Service Book, second copy will be sent to the competent authority for acceptance of VRS and on third copy, the employee will take acknowledgement.”

8. A combined reading of the provisions extracted above, would indicate that the Scheme is operative between 04.11.2019 and 03.12.2019. In other words, the exercising of options or withdrawal thereof, is required to take place only within that time. It is a different matter that, if the request for VRS is accepted, the effective date would be 31.01.2020.

9. Clause 7(iii) makes it clear that, an option once exercised, shall be final and the decision of the competent authority shall be binding on the employee. The proviso thereto indicates that the employee shall be entitled to withdraw the option only once at any time, till the closing time and date of option, i.e. 03.12.2019 upto 5:30 p.m.

10. Clause 5 of Annexure-II is capable of being understood that an employee can be equivocal and indecisive, even after 03.12.2019. However, a close perusal of the entire Scheme discloses that in case, an employee has not fully decided or determined to take VRS, but has an inclination to do it, he can indicate “decide later” and that may give a scope for keeping his option for taking VRS live, beyond 03.12.2019. It

is difficult to hold that such a clause was inserted to enable the employee to withdraw the option, beyond 03.12.2019.



11. If one takes into account, the principles underlying the law of contract, an offer is capable of being withdrawn, till it is accepted by the other party. If the request for VRS can be treated as an offer, it can be withdrawn at any time, before the request for VRS is accepted. As a matter of fact, in the service jurisprudence itself, the applications made for VRS under the statutory provisions or letters of resignations, are permitted to be withdrawn, till they are accepted by the competent authority.

12. Specially framed Schemes for the purpose of reducing the financial burden on the organizations like the BSNL, however, stand on a different footing. The intention is to rationalize the workforce and options are invited from the employees. Depending upon the response to the Scheme, the organizations are required to make financial arrangements from banks or other resources, so that the benefits that are required to be paid, are worked out. This very issue fell for consideration before the Hon'ble Supreme Court in *State Bank of Patiala versus Romesh Chander Kanoji, (2004) 2 SCC 651*. After dealing with the various aspects of the Scheme that was introduced by the Bank, the Hon'ble Supreme Court observed as under:

“9. We do not find any merit in the above argument. It is important to bear in mind that the Schemes in question are basically funded schemes. Under such Schemes, time is given to every employee to opt for voluntary retirement and



similarly time is given to the management to work out the Scheme. Clause (5) of SBPVRS gave fifteen days' time to the employees to opt for the Scheme and under clause (8) a period of two months is given to the management to work out the Scheme. Since the said Schemes are funded schemes, the management is required to create a fund. The creation of the fund would depend upon the number of applications; the cost of the Scheme; liability which the Scheme would impose on the Bank and such other variable factors. If the employees are allowed to withdraw from the Scheme at any time after its closure, it would not be possible to work out the Scheme as all calculations of the management would fail. In the case of [Bank of India v. O.P. Swarnakar](#) SBIVRS is held to be an invitation to offer. Following the said judgment, we hold that SBPVRS is an invitation to offer and not an offer. Clause (5) of the said SBPVRS inter alia states that the Scheme will remain open during the period 15-2- 2001 to 1-3-2001 whereas Rule 8 thereof provides for mode of acceptance by the management. It is in the light of Rules 5 and 8 that one has to read clause (9)(i) which provides for general conditions and under which it is provided that application once made cannot be withdrawn. In Chitty on Contracts (28th Edn., p. 125), the learned author states that:

‘an offer may be withdrawn at any time before it is accepted. That this rule applies even though the offeror has promised to keep the offer open for a specified time, for such a promise is unsupported by consideration’.”

13. This was followed in ***Madhya Pradesh State Road Transport Corporation versus Manoj Kumar and Anr.***, (2016) 9 SCC 375. Para

29 and 30 are relevant and they read as under:

“Reading of the aforesaid judgments would clearly demonstrate that in those cases where the Scheme is contractual in nature (and not statutory in character as was seen in State Bank of India's case), provisions of the Contract would apply. The VRS Scheme floated by the employer would be treated as invitation to offer and the application submitted by the employees pursuant thereto is an offer which does not amount to resignation in praesenti and the offer can be withdrawn during the validity period. This would be the position even when there is a clause in the Scheme that offer once given cannot be withdrawn at all. However, exception to this principle is that in such cases offer is to be withdrawn during the validity period of



the Scheme and not thereafter even when if it is not accepted during the period of the Scheme. That is the clear mandate of Romesh Chander Kanoji. The rational which is given for carving out this exception is contained in para 9 of the said judgment, which has already been reproduced above. To put it pithily, what is highlighted is that such schemes are funded schemes and time is given to every employee to opt for voluntary retirement. Because these are funded schemes, the Management is required to create a fund. The creation of this fund depends upon a number of applications; the cost of the Scheme; liability which this Scheme would impose on the employer and such other variable factors. In this situation, if the employees are allowed to withdraw from the Scheme at any time even after its closure, it would not be possible to work out the Scheme as all calculations of the employer would fail.

30. In the present case, the Corporation had floated the Scheme because of the reason that it has virtually stopped transport business and the purpose of the Scheme was to benefit itself by shrinking the strength of the employees as with no transport business need for such employees is not there. Here also, the Scheme provided that once the option is given, the same cannot be withdrawn. Following the dicta in the aforesaid judgments, as noted above, it is clear that notwithstanding this clause, the employees had a right to withdraw the offer during the validity period but not thereafter. This legal principle is even taken note of by the High Court as well in the impugned judgment. The High Court has, however, held that though the Scheme was valid up to 1-8-2005, but validity was extended up to 31-7-2007, the employees could withdraw their offers before 31-7-2007. Further, as in all these cases where the offer was withdrawn before 31-7-2007, the High Court has dismissed the appeals of the Corporation herein.”

14. Ultimately, the Hon'ble Supreme Court repelled the contention that the request for VRS can be withdrawn, even after the date stipulated under the Scheme, and till the request is accepted. We find that the Scheme introduced by BSNL is similar, if not identical, to the one that was introduced by State Bank of Patiala and Madhya Pradesh State Road Transport Corporation, and the same consequences must flow in this case also.

15. In OA No. 233/2020, the applicant contends that the respondents came forward with a clarification on 08.01.2020, throwing light upon the nature of benefit, and had that been issued along with the scheme, he would not have exercised that option at all. On this basis, he wants to withdraw the option. We find it difficult to treat this as a ground, to find fault with the Scheme or to permit the applicant to withdraw the option at this stage. In case, the applicant is of the view that the letter dated 08.01.2020 is violative of any rights vested to him, it shall be open to him to work out his remedies.

16. An argument is advanced that, in case, BSNL requires any workforce in the category of the posts, which hitherto were held by the applicants, they may be given an opportunity to serve the respondents, on whatever terms. We cannot make any final pronouncement in this behalf. However, this much can be said that, in case, BSNL needs any workforce of that nature, it would be in their interest, to avail the services of its own former employees.

17. We do not find any merit in the OAs and accordingly, they are dismissed. There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/ns/

