

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.04.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.Nos.34513 and 34570 of 2019 and W.P.No.9515 of 2020
& W.M.P.Nos.35216 of 2019, 35285 of 2019, 11615 of 2020,
18609 of 2020, 20999 of 2020, 8730 of 2021 and 8734 of 2021

W.P.No.34513 of 2019

- 1 .Tamil Nadu Telecom Contract Workers Union
Rep. by its General Secretary,
No. 21 R.K. Srinivas Flats,
Bharathiyar 1st Street, Pazhavanthangal
Chennai - 600114
2. S.Shanmugasundaram
O/o. BSNL Telephone Exchange,
Palladam,
Tirupur Taluk Tamil Nadu - 641664 ... Petitioners

Vs

1. Bharat Sanchar Nigam Ltd.
(A Govt. of India undertaking) Rep. by its
Chief General Manager Telecom TN Circle
No. 16 Greams Road,
Chennai - 600006
2. Bharat Sanchar Nigam Ltd.
(A Govt. of India undertaking) Rep. by its
Chairman cum MD Corporate Office
Harish Chander Mathur Lane,
Janpath New Delhi - 110001
3. Regional Labour Commissioner
O/o. Deputy Chief Labour Commissioner (Central)
No. 26 A Wing 6th Floor,
Sastri Bhavan
Haddows Road,
Nungambakkam Chennai - 600034 .. Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 3rd Respondent Authority to ensure that the wages due to the contract workers numbering to 3013 who are members of our Union and whose names are given in the typed-set of papers accompanying this Writ Petition and who have been engaged by the 1st and 2nd Respondents through their respective Contractors are paid their wages from January 2019 onwards and to further direct the 1st and 2nd Respondents to pay wages and continue to pay periodical wages to the contract workers for the work done and to pay their legitimate dues in terms of Section 21(4) of the Contract Labour (Regulation & Abolition) Act, 1970, and also u/s 3 of the Payment of Wages Act, 1936, immediately together with interest at 10% p.a. From the date it became payable to them till date of realization.

For Petitioners :Mr.N.G.R.Prasad
for M/s.Row and Reddy

For Respondents :Mr. S.Udhayakumar, Standing Counsel
for R1 and R2
Mr. V.Chandrasekaran,
Central Government Standing Counsel for R3

W.P.No.34570 of 2019

The General Secretary
Tamil Manila Tholaihodarpu Contract Labour
Union (Registration No.2810/CNI)
Bharat Sanchar Nigam Ltd.
Tamil Nadu Circle
No.3/300 Telecom Nagar,
Chennai Main Road,
Villupuram - 605 602.

..

Petitioner

सत्यमेव जयते
-Vs-

1 .The Chairman and Managing Director
BSNL Corporate Office,
Harishchandra Mathur Lane,
Janpath, New Delhi 110 001.

2. The Chief General Manager
BSNL Tamil Nadu Telecom Circle,
7th Floor BSNL ADMN Building,
No.16 Grems Road,
Chennai 600 006.

3. The Regional Labour Commissioner (Central)
No.26 IIIrd Block 5th Floor,
Shastri Bhawan,
Haddows Road,
Nungambakkam, Chennai 600 006.

4. M/s.Malli Security and Detective Service
No.959 Poonamallee High Road, Vepperi
Chennai 600 084.

5. Sri.Balaji Agency,
No.7/13 IIIrd Cross Street
V.N.Nagar,
Trichy 620 002.

6. M/s.Alert Security Service
No.106 Sowrimuthu Street
Ret Fields Road,
Coimbatore.

7. M/s.Pudukottai Security Service
No.1 Jawan Welfare Shop,
Kumudankulam Road,
Near Old Bus Stand, Pudukottai 622 001.

8. M/s.National Security Service
No.5/539 Kamarajar Street,
Dharmapuri 636 705.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to pay the wages EPF and ESI Contribution to Contract Labourers from January 2019 to October 2019 and bonus for the year 2018 -2019 within a period of time as stipulated by this Court.

For Petitioners : Mr. N.K.Srinivasan

For Respondents : Mr.S.Udhayakumar, Standing Counsel
for R1 and R2
Mr. V.Chandrasekaran,
Central Government Standing
Counsel for R3
Mr. R.Arumugam for R4 to R8

W.P.No.9515 of 2020

The General Secretary
Tamil Manila Tholaithodarpur Contract Labour
Union (Registration No.2810/CNI) Bharat
Sanchar Nigam Ltd. Tamil Nadu Circle No.

3/300 Telecom Nagar, Chennai Main Road,
Villupuram-605 602 ..

Petitioner

-Vs-

1. The Chairman and Managing Director
BSNL Corporate Office,
Harishchandra Mathur Lane,
Janpath, New Delhi 110 001.
2. The Chief General Manager
BSNL Tamil Nadu Telecom Circle
7th Floor BSNL ADMN Building
No.16 Greams Road
Chennai 600 006.
3. M/s.Malli Security and Detective Service
No.959 Poonamallee High Road, Vepperi
Chennai 600 084.
4. Sri.Balaji Agency, No.7/13 IIIrd Cross Street
V.N.Nagar,
Trichy 620 002.
5. M/s.Alert Security Service
No.106 Sowrimuthu Street
Red Fields Road,
Coimbatore.
6. M/s.Pudukottai Security Service
No.1 Jawan Welfare Shop,
Kumudankulam Road,
Near Old Bus Stand, Pudukottai 622 001.
7. M/s.National Security Service
No.5/539 Kamarajar Street,
Dharmapuri 636 705.
8. M/S. First Choce Out-Sourcing Services
No. 53 Water Tank Building
Ground Floor Periyar Nagar,
Near Raja Ganapathi Temple,
Trichy 620 005.
9. M/s. K Shanmugadevi
No. 104 Mariamman Koil Street,
Sowripalayam,
Coimbatore 641 028

10. M/s. RM. Subramaniyan
No. 85/115 West Pudur,
Nanjundapuram,
Coimbatore 641 036
11. M/s. Orion Security Solutions
No. 5e, First Floor,
Jungi House, Shahpurjat
New Delhi 110 049
12. M/s. SLE Hospitality Management Service
No. 28-B First Floor,
First Main Road,
Sasthri Nagar,
Adaiyar, Chennai 20.
13. M/s. Ex-Servicemen Security Services
No. 97, Old Eldams Road
Teynampet, Chennai 600 018
14. M/s. Aircool Engineering
No. 19/43, South Mada Street,
Nungampakkam,
Chennai
15. M/s. Tentacle Secure Squad
No. 306 3rd Main Road,
Bharati Salai,
Mogappair West Chennai 600 037
16. M/s. Vijaya Security Service
No. 26/16 Ashtalakshmi Garden,
Besant Nagar,
Chennai 600 090
17. M/S. Avalanches Security Service
No. 106 Sowrimuthu Street,
Red Fields, Road
Coimbatore 641 045
18. M/s. Sree Services
Hari Divya Complex 2nd Floor,
Palayam Bazaar,
Woraiyur, Trichy 620 003
19. M/s. Ramani Screen Service
No. 306 Tenth East Cross Street,
MKB Nagar,
Vyasarpadi, Chennai 600 039

20. M/s. Raga Trailors And Engg Works, No. 50 100 Feet Road, Sudamanipuram, Karaikudi 630 003.
21. M/s. Swamyayya No. 36 Thirumanjana Veethi, Mannarkudi 614 001.
22. M/S. Gaviko Artistic And Event Management- Amenities Private Limited No 6/134-A Amman Koil 1st Street, Nehru Nagar, Polichanur, Chennai 600 074.
23. M/s. Vasantham Agency Pvt Ltd 47 6 Dennison Road, Nagarkoil 629 001.
24. M/s. JRP Services No. 3/18 Saanwadi Lake Road, Bhandup, West Mumbai 400 078
25. M/s. Raja And Co No. 4/31 Dr. Navalar Nagar, Erumapalayam, Salem 636 015
26. M/s. Srivari And Co No. 1/120 6th Cross, Omalur Dharmapuri Main Road, Salem -636 455.
27. M/S. CIS Bureau Facility Services Pvt Ltd No. Old 186/187- New 270/281, Alsa Towers 2nd Floor Ab Commercial Block, Poonthamalliee High Road Keelpauk, Chennai 600 010
28. M/s. Good Shepherd System Service No. 39A Mathavaram 2nd Kailasapuram Street, Nazarath, Tuticorin District
29. M/s. Ariyunithi Security Services Aruna Theatre Back Side, Puthur, Trichy 620 017

30. M/s. Shawn Security Force
No. 10/15 Vijayan Nagar,
Santhiyaddi Post,
Kanniyakumari 629 703. ... Respondents
(R3 To R30 Impleaded
Vide Order Dt 04.11.2020 made in WMP.
18612/2020 In WP.9515/2020)

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents not to terminated the Services of contract Laboures in BSNL Tamil Nadu Circle based on the orders of Ministry of Labour and Employment Ministry of Finance and Department of Public Enterprises Vide D.O.No.M- 11011 /08/ 2020- Mela dated 20.03.2020 F.No.23 (4)/ E .Coord/ 2020/ 1 dated 23.03.2020 and DPE.No. 10037/ 2014 -GM- FTS- 1867 dated 23.03.2020 till the outcome of the writ petition.

For Petitioner : Mr. N.K.Srinivasan
For Respondents : Mr. R.Priyakumar, Standing Counsel
for R1 and R2
M/s.R.Nalliappan for R25 & R26
For ESI : Mr.Kaushik
For EPF : Mr.T.R.Sundaram, Mr.M.Palanimuthu
& Ms.R.Meenakshi

C O M M O N O R D E R

These three writ petitions were filed by the Workers Union, whose members are the contract workers engaged by various private contractors in the principal employer organization viz., Bharat Sanchar Nigam Limited (hereinafter referred to as 'BSNL') at various places throughout the State of Tamil Nadu.

2. Their main grievance appears to be, as espoused by the respective labour unions is that, the wages payable to its members had not been paid for more than a year. Therefore, since they were struggling to make both ends meet, in order to get the wages payable to them, they approached this Court by filing these writ petitions invoking the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

3. In W.P.No.9515 of 2020, the prayer is slightly different, where, on behalf of the members of the petitioner Union, they sought for a mandamus to the respondents especially the BSNL not to terminate or disengage the workers / contract

labourers, who are members of the Union during the COVID-19 pandemic, as otherwise they would suffer for their livelihood if their services are dispensed with or disengaged.

4. When the first two writ petitions ie., W.P.Nos.34513 and 34570 of 2019 came up for hearing, a learned Judge of this Court on 21.01.2020 has passed the following interim order.

" The grievance of the petitioners in both these Writ Petitions is that the members of the Petitioner Union being the contract workers at Bharat Sanchar Nigam Limited (BSNL) have not been paid their wages from January 2019 onwards.

2. A counter affidavit is filed on behalf of the BSNL wherein it is stated that subsequent to the filing of these writ petitions, an amount of Rs.13.29 crores has been released to the contractors for payment of wages to the contract labourers which covers the bills upto April 2019 in respect of some of the contractors. It is further stated in the counter affidavit that Government of India is taking all efforts for revival of BSNL and therefore a minimum period of eight months may be granted to the BSNL for settling the pending bills of the contractors.

3. It is contended by the learned counsel appearing for the petitioners that the members of the petitioners are not paid their wages from January 2019 onwards. In the counter filed by the BSNL it is only stated that a sum of Rs. 13.29 crores had been released in respect of the some of the contractors. Whatever the case may be, the fact remains that arrears of wages from January 2019 onwards are pending and not yet disbursed in full. Now we are in January 2020. Therefore, it is evident that one year has lapsed during which time the contract labourers are not paid their wages. Certainly they cannot be allowed to starve without paying atleast a portion of their claim within a reasonable time. Thus, before deciding these writ petitions finally, this Court is of the view that by way of interim measure, BSNL will have to show some reasonable progress in disbursing atleast 30% of the arrears to the contract labourers on or before 20.02.2020. The BSNL shall file all the material details relating to the payment so made within such time, by way of an affidavit with supporting documents on the next hearing date.

4.Post for reporting compliance on 06.03.2020."

5. Subsequently, these writ petitions came up for hearing

before another learned Judge in September 2020, where, on 22.09.2020, the learned Judge has passed the following order :

"2. It is brought to notice by Mr. V.Chandrasekaran, Learned Central Government Standing Counsel appearing for the Third Respondent in W.P. Nos. 34513 and 24570 of 2019 that in furtherance to the order dated 13.08.2020 passed by this Court, enquiry has already commenced to ascertain the wages payable to the contract workers engaged by BSNL through contractors in the State of Tamil Nadu from January 2019 onwards till 31.08.2020. The Third Respondent in W.P. Nos. 34513 and 24570 of 2019 has also filed interim report in which it has been mentioned as follows:-

"14. Under such facts and circumstances, the Third Respondent submits the following position based on the verification by the Labour Enforcement Officers (Central) of this Region in respect of the Second Respondent relating to the payment of wages to the contract workers for the period from 01.01.2019 to 31.08.2020 as enclosed as Annexure 'A': Number of workers in respect of whom verification was done : 3528 Amount of gross wages verified as paid : Rs.23,29,94,230/- Amount of gross wages due for payment : Rs.24,60,64,644/-

It is informed that the aforesaid figures are tentative and further enquiry has to proceed to calculate the entire amount due towards the wages. Learned Counsel appearing for the Petitioners and the Contractors also state that a much higher amount is due towards the wages payable to the contract workers.

3. It is submitted by Mr. S.Udhayakumar, Learned Standing Counsel appearing for the First and Second Respondents in W.P. Nos. 34513 and 24570 of 2019, on instructions, that a sum of Rs.5,00,00,000/- has been made available as of now for disbursement of wages to the said contract workers. However, as already taken note, it would not suffice to meet the entire liability in that regard. As such, the First and Second Respondents shall ensure that the entire remaining amount under the bills submitted by the contract workers shall be made available and in any event, it shall not be less than the amount found due to the contract workers. However, no amount shall be disbursed to the contractors without the prior permission of this

Court until further orders.

4. The Third Respondent in W.P. Nos. 34513 and 24570 of 2019 shall file a report of the further action taken before the next hearing."

6. Only at that juncture, these writ petitions came up for hearing before me on 16.10.2020, where I have passed the following order :

" 5.Considering the aforesaid developments and the earlier orders passed by my Predecessors, I feel that, some special arrangement can be made, for which, a direction can be given to the BSNL to identify and calculate the remaining amount payable to the contractors through whom all these employees have rendered their job to the BSNL as contract employees and deposit the entire amount to that extent before the Labour Commissioner within a time frame that may be stipulated by this Court. After the money is deposited, the Court can pass further suitable orders to distribute the same directly to the employees, by adopting a modus operandi, which would be acceptable both by the BSNL as well as the employees and also the contractors. In view of the above, the following interim orders are passed.

(i) That the BSNL authorities i.e. respondents 1 and 2 shall make endeavour to verify the bills/claim made by each of the contractors covering under these writ petitions and calculate the remaining amount payable to those contractors. Accordingly, the cumulative figure has to be arrived at, out of which, 25% of the entire due payable to the contractors shall be deposited before the Labour Commissioner in a separate account called "contract workers wage due W.P.Nos.34513 & 34570 of 2019" on or before 31st October, 2020.

(ii) The next 25% shall be deposited on or before 20th November, 2020 and the remaining 50% shall be deposited on or before 20th December, 2020.

(iii) The purpose of directing the BSNL to deposit 25%, as indicated above, on or before 31.10.2020, is to make arrangement to disburse prorata to all these workers for the best utilisation of the said amount for the forthcoming Deepavali festival. Therefore, the BSNL should be

strictly follow the time line given by this Court in this order to deposit the said amount as indicated above.

(iv) The counsel for Labour Commissioner shall communicate this order to the Labour Commissioner to make arrangement to open an account, as indicated above, to enable the BSNL to deposit the amount. Post this matter on 05.11.2020."

7. Subsequently, on 05.11.2020, taking note of the further development, I have passed the following order :

11.I have considered the said submissions made by the learned counsel appearing for the respective parties.

12.Insofar as W.P.No.34513 of 2019, the list of employees consisting of more than 3000 have already been filed before this Court in the typed set of papers. Like that, in W.P.No.34570 of 2019 also, the learned counsel appearing for the petitioner, though claimed that a list of employees have been submitted, the list is not readily available now, therefore he undertakes to submit the same before this Court at later point of time and for the present purpose, he would file the list of employees before any authority or forum, as directed by this Court.

13.This Court has noted the aforesaid developments, where, pursuant to the order passed by this Court dated 16.10.2020 a sum of Rs.15 Crores has been deposited before the Labour Commissioner in a specific account opened in this regard, as directed by this Court. It is to be noted that, in the report of the Labour Commissioner referred to above, at para 14, as has been extracted herein above, the number of workers in respect of whom verification was done by the Labour Commissioner are 3528. The report further states that, for these number of employees, the amount of gross wages paid as verified was Rs.23,29,94,230/-. The report further states that, the amount of gross wages due for payment to these employees i.e., numbering 3528 as verified by the Labour Commissioner, is Rs.24,60,64,644/-. 14.Therefore, it has become clear that, the due still for these verified employees numbering 3528 alone is more than Rs.24 Crores. As of now the amount available in the account before the Labour Commissioner is Rs.15 Crores.

15.In this context, it is further to be noted that,

the 25% of the due was directed to be paid immediately i.e., on or before 31st October, 2020 in the order of this Court dated 16.10.2020 with the intention to disburse the sum to the workers for the best utilisation of the said amount for the forthcoming Deepavali festival.

16. Now the said amount of Rs.15 Crores have been deposited and the due payable to these verified employees alone comes about more than Rs.24 Crores, thus, this Court feel that, there can be no impediment for making a way to disburse this entire amount of Rs.15 Crores to the verified employees i.e., 3528 numbers on an average basis.

17. If the 15 Crores amount is divided by the total verified employees of 3528, each would get a sum of Rs.42,517/-.

18. In order to pay an average amount to each of the employees, this Court also feel that, each one of the employees of the total verified employees of 3528 can be paid atleast a sum of Rs.40,000/-. Suppose the over all due payable to a particular employee, even according to the claim of the employee as well as the certification to be made in this regard either by the BSNL or by the contractor concerned, is less than Rs.40,000/-, whatever be the total due for a particular employee in case of less than Rs.40,000/-, the total sum in entirety alone can be paid to such employee. 19. In this regard, the only objection which has come for making this arrangement is from the contractors' side as projected by the learned counsel by stating two reasons. The first reason according to them is that, there is no allegation against them, when that being so, as usual the contractors can be permitted to withdraw the amount and to pay or distribute to the employees concerned. The second objection is that, it will create some issues in their accounting system.

20. This Court has not made this interim arrangement on the ground of any serious allegation made against these contractors. However, the fact remains that, there are due of wages to these employees from January, 2019 which is an admitted fact. In spite of best efforts taken by this Court, so far, only Rs.23 Crores and odd alone had been paid. Still the due is more than Rs.24 Crores, therefore, no prejudice would be caused to these contractors, if this interim arrangement is made to distribute these amount, as indicated above to

these verified employees, as this distribution is only an interim payment and in respect of most of the employees, there may be higher due than the one going to be distributed now.

21. Insofar as the other objection raised by the contractors that it will have some repercussion in the accounting system of the contractors are concerned, that it is very flimsy reason, which would not detain this Court from going for this interim arrangement. If they want, for accounting purpose, the contractors, being the Assessee under Income Tax Act, can very well submit their accounts stating that, the wage due payable to the employees have been paid by the Labour Commissioner, pursuant to the orders of this Court and accordingly, they can submit their account. Therefore that cannot also be a plausible reason for this Court to accept against the proposed interim arrangement.

22. Insofar as the identification of employees are concerned, in the report dated 21.09.2020 the Labour Commissioner has pointed out that, at 26 various places, these verification work was done and in some of the places, like Madurai and Tuticorin, there was no support from the contractors as they have not come forward to submit the records for verification and identification and in such places, the Labour Commissioner seems to have either depended the list supplied by the employees Union or the BSNL. In the said report, the Labour Commissioner also has pointed out that, under Section 21(2) of the Contract Labour (Regulation and Abolition) Act, 1970, it is the duty on the part of the principal employer, in case the contractor employer fails to pay the due payable to the employees, to take the task in their hands to pay the employees directly. 23. Therefore, for the said purpose, every principal employer is expected to have the full details about the contract employees and therefore in this regard, the BSNL also cannot go back from furnishing the list of employees with details such as, name and identity of the employee, worked under which contractor, for which period he worked, the wage due as on date as well as the Bank details for the purpose of crediting the wage.

24. These basic factors in respect of each of the employee is very much required for the purpose of identification and verification of even these 3528 employees for the purpose of making the present distribution as proposed by this Court in this

order and it is the stand of the Labour Commissioner also. The stand of the Labour Commissioner is appealing to this Court.

25. Therefore, taking into account of all these developments and based on the aforesaid discussions, this Court is inclined to pass the following order, as an interim arrangement, for the purpose of distributing the wages due to 3528 verified employees for the purpose of giving some solatium to these employees as an interim measure, due to this festival season.

(i) that the respondent BSNL shall constitute a team of officials, who are well versed or conversant with these contract employees, consisting of not less than three members, immediately.

(ii) The team to be constituted by BSNL, with all necessary particulars in respect of these 3528 employees, shall immediately report before the respondent Labour Commissioner for assisting the Labour Commissioner to identify/verify these 3528 employees for the purpose of not only the identification of the employee but also for the quantum of wage due as on date to each of such employee as well as the Bank particulars for the purpose of crediting their due.

(iii) Along with the team of BSNL, each of the petitioner Union can depute two of its representatives with details and records available with them to render assistance to the Labour Commissioner in this regard.

(iv) In this process, it is open to the contractors concerned to assist the Labour Commissioner along with the team of BSNL as well as the representatives of the employees and in this regard, if any of the contractor does not come forward to give such an assistance with available records, still the Labour Commissioner shall go ahead with the process indicated above with the assistance of the BSNL team as well as the representatives of the employees Union.

(v) It is made clear that, apart from this 3528 verified employees, even if there are some more employees available and such list of employees is submitted

either by the BSNL or by the employees Union or the contractors concerned, those workers need not be considered for the present interim arrangement and in respect of their claim, the identification and verification work can be undertaken and finalised by the Labour Commissioner, but the same can be kept it separately and whose claim would be taken care of by this Court, after the next due of the amount payable by the BSNL, as directed by this Court by order dated 16.10.2020, is deposited.

(vi) If any single employee, either through the petitioners' Associations or by the BSNL team or even by the contractor is not able to establish his identity and not able to furnish the Bank details and also the proof with regard to the salary due or wage due, those employee's claim also need not be considered at this juncture by the Labour Commissioner and in respect of the same, a separate list can be prepared by the Labour Commissioner for the purpose of filing the same before this Court during the next hearing.

(vii) For the purpose of the aforesaid task, the BSNL shall form the team, as indicated above, within one day i.e., by 06.11.2020.

(viii) The BSNL team shall report before the Labour Commissioner on 07.11.2020 (Saturday) and on that day, the representatives of the employees Union as well as the contractor concerned can also report to the Labour Commissioner for the purpose of completing this identification and verification process. The Labour Commissioner can take two full days i.e., 07.11.2020 and 09.11.2020.

(ix) On 09.11.2020, the task as indicated above shall be completed.

(x) Accordingly, from 10.11.2020 to 12.11.2020 i.e., for three days the Labour Commissioner shall complete the task of crediting the due, as indicated above, to each of the employee.

(xi) The amount due payable to each of the employee is Rs.40,000/-.

(xii) If any individual employee's due is less than Rs.40,000/-, the actual due alone should be paid.

(xiii) The remaining amount, after distributing to the entire employees, identified in this regard, as indicated above, shall be kept in the same account and in this regard, a statement of account also shall be prepared and submitted along with the report to be filed by the Labour Commissioner in this regard.

Post the matter on 25.11.2020."

8. Again when these cases came up for hearing on 10.12.2020, I have passed the following orders.

" 8. In view of the above, the following further interim orders are passed, in order to progress the issue further:

(i) That the 1st and 2nd respondents / BSNL shall take necessary endeavor to collect the entire employees list, as supplied by the petitioner employees' Union in both Writ Petitions as well as the respective contractors individually. After collecting the list, the BSNL shall also take further endeavor to verify the genuinity of the claim of each of such employee with supporting documents, namely, proof of identity, work under which contractor, in which work allotted by the BSNL on which places, the period of work i.e., from which date to which date and the actual salary due payable to such employees and after deducting the salary already paid either by the contractor concerned directly or by way of payment now made by the Deputy Commissioner of Labour, pursuant to the orders of this Court, the remaining salary / wages due payable to each of the employees, shall also be ascertained. (ii) After ascertaining all these particulars with total number of employees list, final list of employees with all the aforesaid details shall be furnished by the BSNL to the third respondent within a period of two weeks from the date of receipt of a copy of this order.

(iii) Thereafter, on receipt of such final consolidated list with details, the third respondent with the assistance of BSNL as well as contractors, if they come forward to verify / cross verify the claim made by them, especially in the context of identity of each of the employee and also with Bank details i.e., Bank Account Number as well as the IFSC code, finalise an approved list and then file such approved list of employees for the purpose of disbursing the salary due pursuant to the orders of this Court to the Bank authorities for disbursement of the entire due / entire remaining due for such employees.

(iv) After completing this task, further report shall be filed by the third respondent before this Court during the next hearing date and on verifying those details to be furnished by the third respondent in the further report to be filed, the next course of action can be decided by this Court, which includes the quantification of the remaining money for the purpose of releasing the same to be paid to the contractors for their due."

9. Post this matter on 07.01.2021."

9. Thereafter, as per the orders passed by the Honourable Chief Justice, as a Specially Ordered Matter, these writ petitions came up for further hearing before me on 22.03.2021, where, after taking note of the further development, this Court has passed the following order :

" 11. I have considered the rival submissions made by the parties and have perused the materials placed before this Court.

12. This Court by order dated 10.12.2020 has passed the detailed interim order, where, in paragraph No.8, the following direction has been given:

8. In view of the above, the following further interim orders are passed, in order to progress the issue further:

"(i) That the 1st and 2nd respondents / BSNL shall take necessary endeavor to collect the entire employees list, as supplied by the petitioner employees' Union in both Writ Petitions as well as the respective contractors individually.

After collecting the list, the BSNL shall also take further endeavor to verify the genuinity of the claim of each of such employee with supporting documents, namely, proof of identity, work under which contractor, in which work allotted by the BSNL on which places, the period of work i.e., from which date to which date and the actual salary due payable to such employees and after deducting the salary already paid either by the contractor concerned directly or by way of payment now made by the Deputy Commissioner of Labour, pursuant to the orders of this Court, the remaining salary / wages due payable to each of the employees, shall also be ascertained.

(ii) After ascertaining all these particulars with total number of employees list, final list of employees with all the aforesaid details shall be furnished by the BSNL to the third respondent within a period of two weeks from the date of receipt of a copy of this order.

(iii) Thereafter, on receipt of such final consolidated list with details, the third respondent with the assistance of BSNL as well as contractors, if they come forward to verify / cross verify the claim made by them, especially in the context of identity of each of the employee and also with Bank details i.e., Bank Account Number as well as the IFSC code, finalise an approved list and then file such approved list of employees for the purpose of disbursing the salary due pursuant to the orders of this Court to the Bank authorities for disbursement of the entire due / entire remaining due for such employees.

(iv) After completing this task, further report shall be filed by the third respondent before this Court during the next hearing date and on verifying those details to be furnished by the third respondent in the further report to be filed, the next course of action can be decided by this Court, which includes the quantification of the remaining money for

the purpose of releasing the same to be paid to the contractors for their due."

9. Post this matter on 07.01.2021.

13. Though such a set of directions was given by this Court to comply by the third respondent, of course with the co-operation of all parties concerned on or before 07.01.2021 and a further direction was given to the third respondent to file a report to that effect as to the compliance made in this regard, the aforesaid reasons were given on behalf of the third respondent by the learned counsel, for such non-compliance.

14. I have considered the said submissions made by the learned counsel for third respondent that, they would complete the task within shortest possible time and file a report to that effect before this Court and have taken into account, the earlier orders passed by this Court and the subsequent development taken place, where the part of the amount have been disbursed towards the salary due to the employees and thereafter, a sum of Rs.5.4 crores seems to have been deposited by the BSNL, therefore altogether, a sum of Rs.29 crores might be lying in the account, that seems to be a enough corpus for disbursing the salary dues to the employees.

15. Unless and until, the salary due payable to the employees is disbursed to the fullest extent possible, any orders to pay the due payable to the contractors including the statutory dues cannot now be passed. Therefore, this Court by taking into account, the totality of the situation is constrained to pass the following further interim orders :

"(i) The order of this Court dated 10.12.2020, especially the direction given in paragraph No.8 referred to above, shall be complied by the third respondent by taking all possible efforts without fail.

(ii) For completing the said task, full co-operation shall be given by both employees union as well as BSNL including the contractors. After completing the task as indicated in paragraph No.8 of the order dated 10.12.2020, the third respondent shall file a detailed compliance report on or before the next hearing date.

(iii) It is made clear that, after seeing the report filed in this regard as indicated above during the next hearing, the request made on behalf of the contractors and the request of the BSNL as well as EPF authorities for making the statutory dues would be considered and necessary orders would be passed.

(iv) It is also made clear that, whatever the dues remaining to be paid to all eligible employees depending upon their eligibility based on the claim, can only be made to the employees based on the cross verification of the list submitted both by BSNL as well as contractors. It is further made clear that, no further time shall be given to the third respondent for making disbursement towards employees and whatever the disbursement to be made to the employees by utilising these two weeks period would be final and thereafter, this Court will not consider any individual claim to be made by any individual employee.

16. For the aforesaid compliance and for further hearing, post these matter on 07.04.2021."

10. Thereafter, this Court had a further occasion to consider the further development in these matters on 09.04.2021, where, after taking note of the further developments, this Court passed the following order :

" 14. I have considered those submissions made by the learned counsel appearing for the parties and have perused the materials referred above.

15. In view of the aforesaid stand taken by the respective parties and by taking note of the development taken place pursuant to the last order passed by this Court dated 22.03.2021, in order to complete further the task of disbursement of wages to the employees to the maximum extent of their claim subject to verification including the remaining 386 workers, the following directions are given:

"(i) That the third respondent shall immediately take the endeavor of verifying 386 workers referred to above, i.e., 257 no document has been furnished for verification, 34 documents submitted later, 95 out of 143 cleared by BSNL in

the category of double entry, totally 386 and disburse the wages to those 386 after verifying the claim to the full eligibility.

(ii) That apart, in respect of the 4759 workers category who have already been disbursed amount to the maximum extent of Rs.40,000/-, the third respondent shall further proceed to disburse the remaining claim made by those workers among 4759 category and in this regard, if the verification has already been made in respect of their claim with the help of BSNL and Contractors, those claim of those workers beyond Rs.40,000/- ceiling can also be disbursed.

(iii) By making these disbursement, i.e., full disbursement for 386 workers and the remaining disbursement for those who seek for more than Rs.40,000/- among 4759 category workers, a complete task of disbursing the wages to the maximum eligible extent to all the workers should be completed.

(iv) The said task shall be completed by the third respondent with the help of all parties concerned, i.e., BSNL, Contractors as well as employees' Union and in this regard, representatives of each of the parties as referred to above can be deputed immediately to the third respondent at their convenience to assist and to arrive at a final conclusion with regard to the disbursement.

(v) The aforesaid task shall be completed within a maximum period of ten days from tomorrow and accordingly, a final comprehensive report shall be filed by the third respondent on or before 20.04.2021."

16. Call the matter on 21.04.2021 as first item."

11. Accordingly, on 21.04.2021, when these cases were heard, this Court passed the following order :

"Pursuant to the last order dated 09.04.2021, the third respondent Labour Commissioner, after having taken best efforts to disburse the remaining due payable to the entire workers numbering 4668, has filed a further report dated 20.04.2021. In the report, among other things, the third respondent has stated the following.

" 7. I most respectfully submit that the final list of contract workers was finalized by the respondent No.3 out of the list submitted by Respondent No.2 vide email dated 19.04.2021 and the same was proposed for payment to the SBI on 20.04.2021. The amount payable to 4668 workers works out to Rs.20,47,59,942/- (Rupees Twenty Crores Forty Seven Lakhs Fifty Nine Thousand Nine Hundred and Forty Two only). This list has been forwarded by this respondent for immediate payment to the SBI on 20.04.2021 in obedience and compliance of the order dated 09.04.2021 of this Hon'ble Court.

8. I most respectfully submit that extreme care was taken by the respondent No.2 and 3 to avoid error in recording the Bank Account Number, IFSC Code, etc., in respect of such workers. However, the experience indicates that there may be cases of 'failed transactions' inspite of such efforts. The SBI takes a minimum of two days to detect and report such 'failed transactions' and hence, it is submitted that the actual amount disbursed shall be confirmed only on 22nd or 23rd of April 2021. At times the Error Report comes late from the SBI due to wrong account number or IFSC Code et., and hence there could be minor variations in the final figure to be provided. The actual picture in this regard shall be submitted before this Hon'ble Court, immediately.

9. I most respectfully submit that the amount available with the special bank account under the Respondent No.3 before effecting the above payment as on

19.04.2021 was Rs.20,95,18,225/- only."

2. A perusal of the report discloses that, only yesterday ie., on 20.04.2021 a communication has been sent by the third respondent to the State Bank of India in order facilitate the disbursement to the 4668 workers to the extent of a sum of Rs.20,47,59,942/-.

3. The report further reveals that, at least the Bank will take 2 to 3 days ie., upto 23rd of this month to complete the task and report back the actual disbursement made in this regard and what are all the remaining amount, which could not be paid to some of the workers for variety of reasons, including failed transactions would be made known to R3 and only thereafter, the third respondent would be able to file its final report before this Court. Only on getting the final report, this Court will be able to pass final orders disposing of these writ petitions, taking into account the overall scenario involving various claims from not only the workers, but also the contractors and statutory authorities. In order to have such a final disposal and to give the breathing time for the third respondent to file a final report after getting the feedback from State Bank of India, time is granted till 27.04.2021.

4. Post the matter on 28.04.2021."

12. Accordingly, these cases are posted today for final hearing and disposal. Pursuant to the last order dated 21.04.2021, the third respondent / Deputy Commissioner of Labour, after having completed the task, has filed the following report dated 26.04.2021 :

"1. I most respectfully submit that on 13.11.2021, a sum of Rs.6,10,15,236/- was disbursed by online through State Bank of India to 1857 contract workers employed under Respondent No.1 and 2 in obedience and compliance of the order, dated 5.11.2020.

2. I most respectfully submit that on 03.04.2021, a sum of Rs.8,35,72,158/- was disbursed by online through State Bank of India to 2875 contract workers employed under Respondent No.1 and 2 in obedience and compliance of the order dated 22.03.2021.

3. I most respectfully submit that on 20.04.2021, a sum of Rs.20,48,63,574/- was proposed for payment to the SBI in respect of 4670 contract workers employed under Respondent No.1 and 2.

4. I most respectfully submit that the SBI could not effect payment in respect of 543 workers due to errors in Account Number, IFSC Code etc. The wages payable to such 543 workers works out to Rs.2,86,99,127/-. The actual amount disbursed by SBI on 20.04.2021 to 4125 workers was Rs.17,61,64,447/- only.

5. I most respectfully submit that the SBI had charged Rs.255.90/- towards the Account keeping charges. The total amount deposited by BSNL so far was Rs.35,40,00,000/-. The total wages disbursed through SBI so far amounts to Rs.32,07,51,841/- only.

6. I most respectfully submit that the amount shown as available in the Bank account as on 26.04.2021 is Rs.3,36,80,552.49/-. A sum of Rs.4,32,649.39/- is the excess amount appears to have been erroneously credited by SBI into the special account created by this respondent which is not deposited by the second respondent namely BSNL. This should reversed by SBI in an appropriate manner. The correct balance has to be Rs.3,32,47,903.10/- (Rupees Three crores thirty two lakhs forty seven thousand nine hundred and three and paise ten only). Hence this needs to be reconciled.

7. I most respectfully submit that there are several claims from the contract workers about the quantum of wages payable etc. The respondent -3 does not have any access to the actual number of days worked, advance paid, balance due etc. Hence it is most respectfully prayed that this Hon'ble Court may please be pleased to direct the Respondent -2 to sort out such claims in a time bound manner. The Respondent - 3 has already taken lot of efforts and pains

including working on several holidays only to faithfully and wholeheartedly obey and comply with the orders of this Hon'ble Court. It is the bounden duty of the BSNL, to furnish correct facts and figures with accuracy for the payment of wages to its contract workers. However, there are instances of contract workers disputing the quantum of their entitlement in this case. However, the figures furnished by the Respondent No.2 BSNL was followed for making credits as this Respondent is not vested with powers of adjudicating such claim in the present writ petition. Hence, this dispute can be addressed by the respective parties through statutory remedies available.

8. I most respectfully submit that I express my wholehearted and sincere gratitude to this Hon'ble Court for having posed the faith upon me with the unique opportunity of sorting and settling the dues of a large number of contract workers by lighting the lamp in their poor houses which none of the similarly placed officers like me in entire India were bestowed. With such honor and immense satisfaction, I shall demit my office on 30.04.2021 consequent to my superannuation.

9. Hence it is most respectfully prayed that directions also may please be given as to the transfer back the amount Rs.3,32,47,903.10/- (Rupees Three crores thirty two lakhs forty seven thousand nine hundred three and paise ten only) to the Respondent No.2 BSNL in order to close the above Bank account after reconciliation and confirmation of the final balance.

Dated at Chennai on this 26th day of April, 2021."

13. All these orders and the continuous developments taken place from October 2020 till 26.04.2021 cumulatively discloses the fact that, so far 4759 employees / workers have been covered for disbursement of wages at various stages, i.e., on 13.11.2020, 03.04.2021 and 20.04.2021. The total amount so far disbursed is Rs.14,15,45,241 Plus (+) Rs.17, 61,64,447/-. So far, BSNL has deposited a sum of Rs.35 Crores and 40 Lakhs. The total wages so far disbursed by the third respondent through

State Bank of India is Rs.32,07,51,841/-. The remaining amount available or is lying with the special account at the third respondent office is Rs.3,32,47,903.10/-.

14. In this context, it is to be noted that, out of the total employees, whose claims have been identified and accepted, 543 workers have not so far been paid the wage dues even though their claim has been accepted by BSNL to the extent of Rs.2,86,99,127/- because for want of proper account number and IFSC code.

15. With these details, the task entrusted to the third respondent by this Court, by series of orders referred to above, has been successfully completed with greater care and efforts taken by the third respondent and his assistants, accordingly, the third respondent has filed the final report dated 26.04.2021 as referred to above.

16. On a perusal of this report, Mr.N.G.R.Prasad, learned counsel appearing for the petitioners / employees Union has made three-fold submissions.

17. Firstly, he submits that, insofar as the 543 identified workers whose claim had not been in dispute to the extent of Rs.2,86,99,127/-, since the said amount is still available with the third respondent in the special account, a direction can be given to the Deputy Labour Commissioner ie., the third respondent to disburse the said amount, of course after satisfying the account number and IFSC code of each of the 543 workers and for the said purpose, a sum of Rs.2,86,99,127/- can be retained.

18. Secondly, he submits that, insofar as the remaining amount i.e., the remaining amount available as on date at the special account minus the said Rs.2,86,99,127/-, which comes at Rs.45,48,776/-, can also be retained by the third respondent for the purpose of disbursing the same in respect of workers whose claim is disputed, without referring or relegating those workers to the Industrial Tribunal or Labour Court and that issue can be adjudicated by verifying the records as well as the proof to be submitted by the workers with regard to the disputed amount and in this regard, the Labour Commissioner or the Deputy Labour Commissioner as the case may be is empowered to have such a adjudication and to decide the claim made by such contract workers. Accordingly, on satisfaction, of course, after hearing the workers concerned as well as BSNL and contractors, the Deputy Labour Commissioner himself can decide and disburse the amount payable to those workers, whose claim as on date is disputed to the extent of Rs.45,48,776/-, which means the entirety of the remaining amount as on today i.e.,

Rs.3,32,47,903.10/- can be fully exhausted by the Deputy Commissioner and still if there are any claims from the workers, disputed or undisputed, the same can be relegated to approach the concerned authorities or legal forum in the manner known to law.

19. As a third and final submission, the learned counsel for the petitioners unions submits that, the payment hereafter becomes due in respect of contract workers of the petitioner union or any other workers or contract labourers, their wage due can be quantified then and there and disburse every month without fail and in this regard, suitable direction can also be given by this Court to avoid this kind of marathon exercise put in by this Court as well as the Labour Commissioner in future.

20. With these submissions, the learned counsel appearing for the petitioners unions Mr.N.G.R.Prasad has also submitted that, so far as the disbursement of wages to the extent of Rs.32,07,51,841/- is concerned, all these workers are fully satisfied and in this regard the petitioner Labour Union express their satisfaction and gratitude.

21. On the other hand, Mr.R.Arumugam, learned counsel appearing for some of the contractors, who are parties in these writ petitions, has pointed out that, pursuant to the earlier orders passed by this Court, sometime in November 2020 itself, list of workers who were engaged by the contractors ie., the clients of the learned counsel, had been submitted to the Labour Commissioner. However, beyond the actual due payable to those workers who were engaged by them, based on the alleged verification or calculation given either by the Labour Union or by the BSNL authorities, the third respondent has paid excess amount to some of the workers to the extent of nearly about Rs.14.00 lakhs and those workers are no more workers of these contractors as they have left already. Therefore, those excess amount if paid to those workers cannot be either recovered or adjusted in future and therefore, these kind of problems have not been addressed so far, hence, he seeks the indulgence of this Court to address those issues also.

22. He would also submit that, insofar as the statutory dues are concerned, already these contractors have permanent account with various statutory authorities like EPF, ESI and GST authorities and through the said accounts, the dues payable from time to time have been paid regularly. When that being so, all of a sudden, if the BSNL, as claimed by them, are permitted to pay the statutory dues on behalf of these contractors to various statutory authorities directly, that may not be credited in the account of the contractors and in that case, it will be a double

payment or double entry and the contractors would be put to unnecessary embarrassment as these statutory authorities, in future, may claim for payment of statutory dues as whatever the dues payable to the statutory authorities would show in the record through the contractors, still as due and therefore, in order to rectify the same, BSNL can be directed to pay the amount payable to the contractors including the statutory dues from the contract amount to the contractors themselves directly and on receipt of the same, the contractors in turn would make the payment to the statutory authorities without fail.

23. By making these submissions, the learned counsel appearing for the contractors would seek suitable direction to this effect to the BSNL authorities to give the dues payable to the contractors forthwith including the statutory dues enabling the contractors to make the statutory dues from out of the amount to be paid by BSNL.

24. It is further submitted by Mr.R.Arumugam, learned counsel appearing for the contractors that, insofar as the fourth respondent is concerned, he has already paid the statutory dues payable to various statutory authorities, therefore, once again no deduction can be effected by BSNL for making the statutory dues on behalf of the fourth respondent.

25. The said statement made by the learned counsel appearing for the fourth respondent can very well be verified by BSNL and accordingly they can act upon as per the directions given. In this regard, it is open to the fourth respondent to produce the proof for having made such payment to the statutory authorities to the satisfaction of BSNL.

26. In this regard, Mr.S.Udhayakumar, learned Standing Counsel for BSNL, has also pointed out that, whenever the communication comes from the statutory authorities to the contractors to make the payment of statutory dues, the same shall be intimated to the principal employer ie., BSNL so that BSNL will be in a position to deduct the same and make payment directly to the statutory authorities. Therefore, the statutory authorities like ESI, EPF and GST, whenever they raise the payment of statutory dues from the contractors, a copy of the same can also be communicated or intimated to the principal employer i.e., BSNL to avoid the delay in payment, as the principal employer can deduct the same then and there and would make payment to the statutory authorities.

27. He also submits that, before making the statutory dues by the BSNL directly to various statutory authorities as indicated above, the BSNL would verify by getting the documents or proof of evidence from the contractors concerned, who are

respondents herein, as to whether they have paid the statutory dues and if so, up to which period and after taking note of those payment already made by the contractors, the remaining due can be quantified and accordingly the same can be paid by BSNL to the statutory authorities.

28. I have also heard the learned Standing counsel Mr.T.S.Sundaram, Mr.M.Palanimuthu and Mr.Kaushik appearing for EPF and ESI authorities, who made submissions stating that, there are statutory dues payable by these contractors on behalf of the workers to both EPF as well as ESI authorities and those dues could have been paid long back as per the provisions of the respective legislations under which these authorities are functioning. However, in view of the dispute with regard to the payment of wages payable to the workers and these litigation has been pending for some time, those statutory dues have not so far been paid. Therefore, suitable direction can be given to the BSNL to pay the statutory dues to these statutory authorities without any further delay.

29. I have heard Mr.V.Chandrasekaran, learned Standing Counsel for the Central Government, who have appeared for the third respondent Labour Commissioner. He has submitted by relying upon the last action taken report dated 26.04.2021 filed by the third respondent, as directed by this Court that, the entire dues payable to the workers, whose amount has not been disputed and whose identity has been accepted and whose account number as well as IFSC code since were tallied with the bank authorities, to the tune of Rs.32,07,51,841/- has been paid. What is the remaining amount available in the special account created in this regard at the third respondent has been stated at Para 6 of the report, which has been quoted herein above.

30. He further submits that, in this context, since the 543 workers due could not be paid even though their claim has been accepted by BSNL and the contractors to the extent of Rs.2,86,99,127/-, for want of correct account number and IFSC code, if at all the Court comes forward to give further direction to the third respondent to disburse that amount also to the 543 workers, on providing the proper account number and IFSC code, in due course, that job also would be undertaken by the third respondent.

31. He would also submit that, that apart, if those 543 workers are fully paid and the said amount of due of Rs.2,86,99,127/- is fully exhausted, then the remaining amount would be Rs.45,48,776/- and the said amount either can be returned back to the BSNL or if the Court feels that, those amount can also be utilised for disbursing the same towards the

due payable to the remaining workers whose claim are in dispute as on date, in this regard, by exercising the power of the third respondent under Section 15 of the Minimum Wages Act, and also pursuant to the directions, if any, to be issued in this regard by this Court, certainly those claims also, if comes to the third respondent, would be adjudicated after giving due opportunity of being heard to all the parties concerned and accordingly, whatever the due to be paid to such remaining workers whose claims are in dispute as on today, can also be verified and ultimately, if those claims are accepted with acceptable proof to the satisfaction of the third respondent, those workers also would be paid, for which the remaining amount of Rs.45,48,776/- would be best utilised.

32. He also submits that, after undertaking this task, if still any amount remains at the hands of the third respondent in the special account, that would be returned back to the BSNL. Therefore, in this regard, if this Court passes any further orders, that would be scrupulously followed and executed by the third respondent.

33. I have heard Mr.Udayakumar and Mr.Priya Kumar, learned Standing Counsels appearing for BSNL, who would submit that, out of Rs.35.40 Crores already deposited pursuant to the orders passed by this Court, only Rs.32,07,51,841 alone were disbursed as per the report dated 26.04.2021 of the third respondent. Therefore, the remaining amount of Rs.3,32,47,903.10/- can either be utilised for disbursing the wages due payable to the remaining workers including the 543 workers whose claim have already been accepted and thereafter if this Court feels that, the remaining amount shall also be utilised by the third respondent for identifying and to accept the disputed amount, that exercise can also be undertaken and thereafter if still any amount is lying in the account of third respondent, the same can be returned back to the BSNL.

34. They further submitted that, Insofar as the statutory dues payable by the contractors to various statutory authorities like EPF, ESI and GST, the BSNL has already filed two miscellaneous applications in W.M.P.Nos.8730 and 8734 of 2021. Taking note of the said facts and the plea raised by BSNL in this regard, suitable orders can be passed by this Court in these petitions enabling the BSNL to pay the statutory dues directly to these statutory authorities and after paying the statutory dues the remaining amount as per the claim of the contractors against their bill already approved by the BSNL can be disbursed to the contractors and in this regard, whatever directions to be issued by this Court, the BSNL would accept and act accordingly.

35. I have considered the submissions elaborately made by the learned counsel for the respective parties and have perused the materials placed on record.

36. Primarily these writ petitions were filed by the Employees Unions in order to get the wages, which were due for a longer period for the members / employees, of the petitioner union / working in BSNL or through their contractors under whom they worked for the principal employer BSNL.

37. As has been quoted extensively herein above, series of interim orders have been passed by this Court for the past nearly about six months or more, i.e., at least from October 2020 onwards. Pursuant to each of the interim order, progress has been made by all the parties concerned.

38. A series of action taken reports have also been filed by the third respondent Deputy Labour Commissioner pursuant to the orders passed by this Court. Every time after taking note of the development taking place, suitable further interim order has been passed by this Court as quoted herein above.

39. Ultimately, out of Rs.35.40 Crores deposited by BSNL for the purpose of disbursing of wages due to contract workers, who are mainly the members of the petitioner union, as per the last action taken report dated 26.04.2021, the third respondent has so far disbursed Rs.32,07,51,841/- to more than 4000 workers. The remaining amount in the account of the third respondent is Rs.3,32,47,903.10/-.

40. Out of this amount, Rs.2,86,99,127/- have already been quantified for the purpose of disbursement to 543 workers. However, the disbursement could not be taken place for want of proper account number and IFSC code for each of those 543 workers. Therefore, insofar as the said 543 workers are concerned, they are entitled to get their due as their claim has been quantified and accepted. Therefore, for the technical snag of tallying the account number and IFSC code, once again the focus cannot be shifted to any other forum as that would cause embarrassment to those 543 members, as they are also similarly placed and waiting for more than one year to get their wage dues.

41. Therefore, as has been pleaded by the learned counsel for the petitioner Employees Union, this Court feels that, those 543 workers also can be paid, of course, after getting the satisfactory documents with regard to the account number and IFSC code of each of those 543 workers. Therefore, for the said purpose and for the said task which can continue to be exercised by the third respondent, the amount of Rs.2,86,99,127/- can be

kept in the special account of the third respondent.

42. With regard to the remaining amount of Rs.45,58,776/-, since still there are many workers who made a claim, their claim have not been accepted so far or those claims are disputed, that can also be resolved by the third respondent by exercising the power under Section 15 of the Minimum Wages Act. In this regard, by way of adjudicatory process, the third respondent can accept or reject the claim to be made in this regard by other workers whose claim is in dispute as on today and in this task, no strict time frame can be fixed by this Court. Therefore, for the said purpose and ultimately to disburse the amount, if the third respondent comes to the conclusion that some of the workers whose claim as on today is disputed, would become an acceptable one and accordingly the accepted wage due can be quantified and disbursed to those workers also, for that purpose, the said amount of Rs.45,58,776/- can be utilized. Therefore, the said amount also can be retained in the special account for the time being.

43. After completing these tasks, the remaining amount, if any, still lying in the special account of the third respondent, the same can be returned back to BSNL. Even though there is no strict time line has been prescribed by this Court, a maximum period of six months is given by this Court to complete the task as indicated above. Within the six months period, whatever task as indicated above in respect of 543 workers as well as the other workers whose claim is disputed as of now, are completed or not, after six months period, the remaining due / claim made by any worker can be relegated to the Labour Court or Industrial Tribunal or any statutory authority or Law Courts to decide the same and whatever the amount still remaining after the six months period in the special account of the third respondent, that can be returned back to BSNL authorities with proper acknowledgement.

44. It is also made clear that, the third respondent after completing this task, shall furnish the complete list of employees after getting the list from bank ie., State Bank of India for having made payment to each of the employee, the bank account number, IFSC code and any other number or identity mentioned in respect of each employee or worker, to the BSNL, so that it would be made useful for the purpose of auditing at the end of BSNL.

45. Insofar as the statutory dues are concerned, the plea made by BSNL is accepted. Accordingly they are permitted to deduct the statutory dues payable by these contractors to various authorities like EPF, ESI and GST and these dues can be paid directly to those statutory authorities. It is made clear

that, while making such payment by BSNL to various statutory authorities, the said payment shall be made only through the permanent account number maintained by each of the contractors not otherwise and due intimation shall be given to the contractors concerned that, the statutory dues payable to various authorities with quantified amount and other details have been paid through the account number of the contractors and those details shall also be intimated then and there to the contractor concerned in writing.

46. The aforesaid task of making the payment of statutory dues shall be undertaken by BSNL and completed within a period of 30 days from today.

47. After making the payment of statutory dues, whatever amount remaining, which is payable to the contractors shall be immediately disbursed within a further period of 30 days to the respondents contractors herein.

48. In future, the BSNL shall ensure that, whatever the workers or employees or contract employees are engaged through the contractors like the respondents herein or any other contractor, the 30 days wage bill shall be claimed by the BSNL from such contractor on or before the 5th day of next English calendar month and on receipt of the bill, the workers shall be identified and the amount shall be quantified and accepted within five days thereafter and at any cost on or before 15th of the next English calendar month, the previous month's 30 days bill for each of the employees shall be settled directly to the employees / workers. Within the said time, if the BSNL has not disbursed the wage or salary, that amount would carry an interest of 6% per annum for any such belated payment.

49. Insofar as the submission made by Mr.R.Arumugam, learned counsel appearing for some of the contractors / respondents is concerned, with regard to the alleged excess payment paid to some of the workers, this Court feels that, the third respondent Labour Commissioner, after having verified the claim made by each of the employee, vouched and accepted both by the contractors and BSNL, payment has been made through the Bank. Though this Court had given repeated orders to give utmost co-operation to the third respondent, by all concerned, including the contractors, it seems that, in some area, the contractors have not given full co-operation, with the result, as per the approved claim based on the list furnished by the principal employer, namely, BSNL, those employees having been identified with individual claim, as quantified in this regard, payment has been ordered and accordingly, wage due has been paid to each of the employees. Therefore, the said plea now raised by the learned counsel appearing for some of the contractors may

not be countenanced at present.

50. At the best, if the concerned contractor is able to establish that, some excess payment has been received by some of the workers, as submitted by the counsel, it is for them, to recover from such employee in the manner known to law.

51. Mr.N.K.Srinivasan, learned counsel appearing for one of the petitioners has also raised the issue that, the workers are entitled to get bonus as per the terms and conditions of the work contract and that has not been taken care of by the contractors and no bonus so far has been paid.

52. The said issue since has not been agitated, has not been decided in these writ petitions and in this regard, it is open to the workers or the workers union to agitate the said issue with BSNL and contractors in the manner known to law and if such claim comes from the workers Union with regard to bonus, the same shall be resolved in accordance with law by BSNL by mutual negotiation after verifying the contract conditions in this regard and still the issue becomes unresolvable, it can be referred to the Labour Commissioner for adjudication. With these observation, that plea has been given a quietus.

53. Insofar as the prayer sought for in W.P.No.9515 of 2020 is concerned, since that prayer was asked for taking into account the pandemic situation that was prevailing in the year 2020, thereafter to some extent the normalcy has returned throughout the country including this State, again as of now due to the second wave of COVID-19 pandemic, the situation started going back to the earlier one that was prevailing in the year 2020, therefore, taking into account of this situation, the plea raised by the workers union in this writ petition can be considered by the BSNL and as far as possible, workers who have already been working or continuously being engaged, may not be disturbed, as that would be prejudicial to the life and liberty of the workers during this pandemic period and therefore, in this regard, a pragmatic decision can be taken by the BSNL.

54. Before closing the curtain, this Court wants to record its deep appreciation to the third respondent, who has taken best and enormous efforts to complete the task then and there given by this Court by series of interim orders and also this Court wants to appreciate all the respective learned counsel appearing for the parties for their valuable assistance to complete the task in a record time of about 9 months, within which already Rs.32 Crores and odd have been disbursed to more than 4000 workers and remaining about Rs.3 Crores and odd is going to be disbursed within a month or two or at the maximum of six months.

55. With these directions and observations, all these writ petitions are disposed of as indicated above. No costs. Consequently, all the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

KST / tsvn

To

1. Bharat Sanchar Nigam Ltd.
(A Govt. of India undertaking) Rep. by its
Chief General Manager Telecom TN Circle
No. 16 Greaves Road,
Chennai - 600006.
2. Bharat Sanchar Nigam Ltd.
(A Govt. of India undertaking) Rep. by its
Chairman cum MD Corporate Office
Harish Chander Mathur Lane,
Janpath, New Delhi - 110001.
3. Regional Labour Commissioner
O/o. Deputy Chief Labour Commissioner (Central)
No. 26 A Wing 6th Floor,
Sastri Bhavan
Haddows Road, Nungambakkam,
Chennai - 600034.

+1cc to M/s.T.R.Sundaram, Advocate SR.25963
+1cc to M/s.S.Udayakumar, Advocate SR.26123
+1cc to M/s.V.Chandrasekaran, Advocate SR.26506
+1cc to M/s.S.Udhayakumar, Advocate SR.26124
+5cc to M/s.R.Arumugam, Advocate SR.26150
+1cc to M/s.Row & Reddy, Advocate SR.26310
+1cc to M/s.T.N.C.Kaushik, Advocate SR.26318

W.P.Nos.34513 and 34570 of 2019
and W.P.No.9515 of 2020

SSN(CO)
CB(01/07/2021)