

**IN THE HIGH COURT OF DELHI AT NEW DELHI**  
**W.P.(C) 4946 of 2024**

**IN THE MATTER OF:**

UNION OF INDIA THROUGH ITS SECRETARY  
DEPARTMENT OF TELECOMMUNICATION & ORS.

...PETITIONER

VERSUS

ALL INDIA RETIRED BHARAT SANCHAR NIGAM  
LTD. EXECUTIVE WELFARE ASSO. AND ORS.

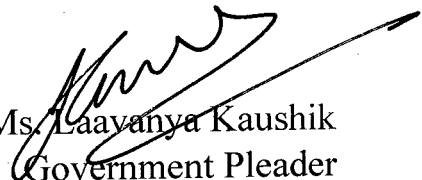
...RESPONDENT

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**PETITIONER**

**THROUGH: -**

  
Ms. Laavanya Kaushik  
Government Pleader

**(Union of India)**

**FOR RESPONDENT**

475, LAWYERS CHAMBERS

DELHI HIGH COURT,

NEW DELHI – 110 002

MOB. 9871049740

Email: [litigation@laavanyakaushik.com](mailto:litigation@laavanyakaushik.com)

DELHI

DATED 10.10.2025

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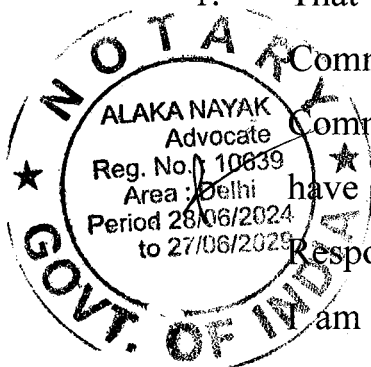
**REJOINDER ON BEHALF OF PETITIONER TO REPLY**  
**DATED 11.09.2025**

AFFIDAVIT OF SH. RAKESH JAIN, S/o Late SHRI KAILASH CHAND JAIN AGED ABOUT 48 YEARS PRESENTLY WORKING AS ASSISTANT CONTROLLER OF COMMUNICATION ACCOUNTS, O/o PRINCIPAL CONTROLLER OF COMMUNICATION ACCOUNTS, SANCHAR LEKHA BHAWAN, PRASAD NAGAR, NEW DELHI-110005.

I, Rakesh Jain, the above captioned deponent, do hereby solemnly affirm and state as under:-

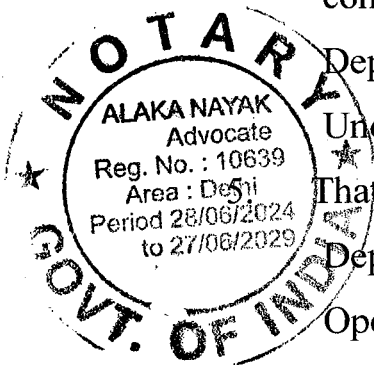
1. That presently I am working as Assistant Controller of Communication Accounts, O/o Principal Controller of Communication Accounts, Department of Telecommunication. I have gone through the Reply dated 11.09.2025 filed by the Respondents and understood its contents. In my official capacity, I am conversant with the facts of the case and competent and duly authorized to depose about the same.

2. At the outset, the Petitioner denies all the averments made on behalf of the Respondents in their Reply dated unless specifically



admitted or duly supported by their relevant annexures/ Nothing contained in the Reply shall be deemed to have been admitted, save as expressly admitted herein. The contents of the writ petition and Additional Affidavit may be read as part and parcel of the present rejoinder and hence are not being repeated for the sake of brevity.

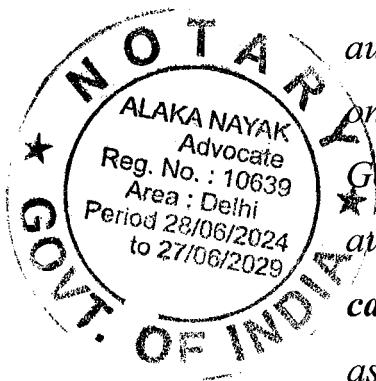
3. That the Petitioners have had a consistent stand in the present matter, having taken the same grounds before the Ld. Tribunal that the Pension Revision Orders issued for the Central Govt. employees retired on CDA Pay Scales vide OM dated 12.05.2017 are not applicable to the Combined Service IDA Pensioners. Even in the Writ Petition also this ground has been taken vide Para-4(G). It is OM dated 12.05.2017 which has been clarified by the Nodal Ministry vide their OM dated 17.07.2018 and 27.03.2025. Therefore, it is evident that the additional affidavit does not raise any fresh grounds.
4. That MTNL was formed on 01.04.1986 by converting Delhi and Mumbai telephone units of the Department of Telecom to the newly formed MTNL. The BSNL was formed on 01.10.2000 by converting the erstwhile Department of Telecom Services and Department of Telecom Operations into a Public Sector Undertaking i.e. BSNL. That vide OM dated 14.01.2002 the Government employees in Department of Telecom Services and Department of Telecom Operations were transferred en-masse to BSNL on deemed deputation. The employees who were on deemed deputation in BSNL and MTNL were given an option either to continue to be in government service or to seek absorption in BSNL/MTNL. At the time of exercising the option the Respondents were aware



that the salary of the absorbed employees would be government by Industrial Dearness Allowance (IDA) pattern.

6. That upon deciding to be permanently absorbed in BSNL and MTNL, the employees ceased to be Government Servants and were deemed to have retired from the Government Service from the date of absorption.
7. That Pension of the Respondents is being calculated on IDA Scales in the same manner and using the same formulas as applicable to the Central Government retired employees on CDA Pay Scales. This is in compliance of Para-b of OM dated 05.07.1989 and Rule 37-A of CCS(Pension) Rules, 1972. And there is no mention of the Revision of Pension either in the OM dated 05.07.1989 or in Rule 37-A of CCS(Pension) Rules, 1972.
8. That subsequent to the Cabinet Note, the Rule 37-A of CCS(Pension) Rules, 1972 was notified. Pension is being paid to the Combined Service IDA Pensioners as per Rule 37-A of CCS(Pension) Rules, 1972. Sub Rule-8 of Rule 37-A states as under-

*“A permanent Government servant who has been absorbed as an employee of a the public sector undertaking or autonomous body shall be eligible for pensionary benefits on the basis of combined service rendered by him in the Government and the public sector undertaking or autonomous body in accordance with the formula for calculation of pension/ family pension under these rules as may be in force at the time of his retirement from the public sector undertaking or autonomous body, as the case may be.”*

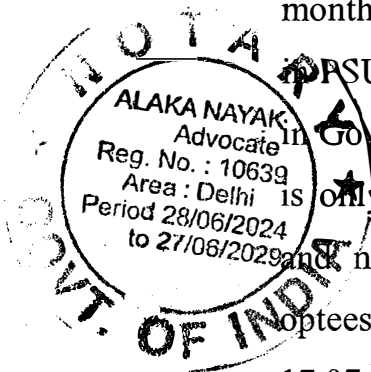


It is pertinent to mention that the meaning of the term 'Formula' by the Respondents is incorrect and wholly misplaced, as the same is not in accordance with Sub Rule-8 of Rule 37-A of CCS(Pension) Rules, 1972.

9. That the Rule 37-A of CCS(Pension) Rules, 1972 does not entitle the Combined Service IDA Pensioners for the revision of pension. The recommendations of the Pay Revision Committee (PRC) are applicable to the Combined Service IDA Pensioners also, as their Pension has been calculated and fixed based on the IDA Pay Scales only. The respondents have already availed the Pension Revision once after revision of IDA Pay Scales after 2<sup>nd</sup> PRC w.e.f 01.01.2007. This position is clarified vide OM dated 17.07.2018 and 27.03.2025 issued by the DoP&PW. The recommendations of the 7<sup>th</sup> CPC are not applicable to the Respondents.

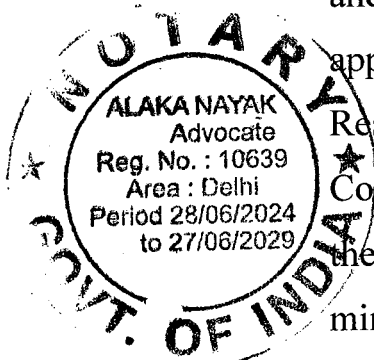
10. That Para 12 of OM dated 12.05.2017 clearly indicates that when the Government servant on permanent absorption in PSU/s continue to draw pension from the Government separately, then pension of such absorbees will be updated in terms of these orders. These Oms are applicable to the pensioners who are drawing monthly pension from the Government on permanent absorption in PSUs on pro-rata basis on CDA pattern based on their service in Government only. Therefore, Para 12 of OM dated 12.05.2017 is only applicable to Government Pensioners/family pensioners and not applicable to ex-absorbed combined service pension optees of BSNL/MTNL i.e. the Respondents herein. OMs dated 17.07.2018 and 27.03.2025 issued by the DoP&PW are mere clarifications of OM dated 12.05.2017.

11. That payment of the Pension to the Combined Service IDA Pensioners by the Govt. Of India from Consolidated Fund of



India and issue of Pension Payment Order (PPO) by the Department of Telecommunications (DoT) does not change their nature of employment- i.e. at the time of retirement they were not the Central Government Employees. They were the PSU employees whose pay was regulated based on the IDA Pay Scales, and on retirement also, their Pension was fixed based on the Last IDA Pay Drawn by them while serving in the PSU-BSNL. No Pension Revision is prescribed in the Rule 37-A of the CCS(Pension) Rules, 1972 under which these employees were absorbed in the BSNL. Therefore, the Respondents do not have any Statutory Right of Pension Revision.

12. That with respect to the Order dated 30.10.2019 in O.A. No. 180/00346/2018 before Ld. CAT Ernakulum Bench, and subsequent challenge to the said Order vide OP No. 60/2020 before Hon'ble High Court of Kerala; it is submitted that the Union of India, challenged the Order of the Hon'ble High Court of Kerala (Ernakulam Bench) in OP No. 60/2020 before the Hon'ble Supreme Court vide SLP bearing Diary no. 39478/2025. When the matter was taken up before the Hon'ble Supreme Court it was brought to its attention that a subsequent clarification dated 27.03.2025 has been issued by DOP&PW which unambiguously and expressly stated that the OM dated 12.05.2017 had no application whatsoever to IDA pensioners such as the Respondents herein. It is submitted before the Hon'ble Supreme Court that the said clarification was admittedly not before it when the Order/Judgment dated 07.02.2025 was passed. Keeping in mind the aforesaid, the SLP was withdrawn with liberty to approach the Hon'ble High Court of Kerala and place the said clarification for its consideration, the liberty was further given to approach the Hon'ble Supreme Court in case the Union was



aggrieved by any orders passed by the Hon'ble High Court subsequent thereto. Subsequently, a review has been filed by the Union of India which is pending before the Hon'ble High Court of Kerala.

*Rakesh Jain*

**DEPONENT**  
राकेश जैन/Rakesh Jain  
सहायक नियंत्रक/Assistant Controller  
कार्यालय प्रधान नियंत्रक संचार सेवा/O/o PR. CCA  
प्रसाद नगर, नई दिल्ली-110005  
Prasad,Nagar, New Delhi-110005

10 OCT 2025

*[Signature]*  
I identified the deponent who has signed in my presence.

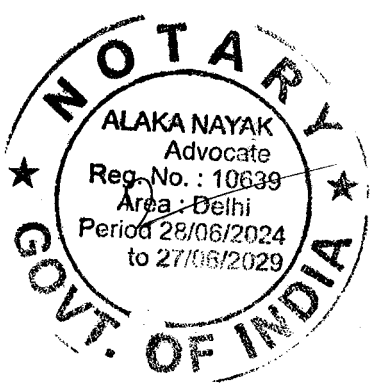
**VERIFICATION**

I, Rakesh Jain, the above named deponent do hereby solemnly affirm and verify the contents above affidavit are true and correct to my knowledge in my official capacity and on the basis of official records maintained in my office. No part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi in this 10 day of October, 2025.

*Rakesh Jain*

**DEPONENT**  
राकेश जैन/Rakesh Jain  
सहायक नियंत्रक/Assistant Controller  
कार्यालय प्रधान नियंत्रक संचार सेवा/O/o PR. CCA  
प्रसाद नगर, नई दिल्ली-110005  
Prasad,Nagar, New Delhi-110005



CERTIFIED THAT THE DEPONENT  
Shri/Smt./K... *Rakesh Jain*  
S/o, W/o R/o.....  
Identified by Shri/Smt. *Laxmi Kulkarni*  
Has solemnly affirmed before me at  
Delhi on..... as OI. No. *100*  
That the contents of the affidavit which  
have been read & explained to him/her  
are true & correct to his/her knowledge

10 OCT 2025

*[Signature]*  
NOTARY