

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. 34144 OF 2026

[Against the common impugned final judgment and order dated 01.07.2026 passed by the Hon'ble High Court of Delhi at New Delhi in W.P.(C) No. 4946 of 2024]

IN THE MATTER OF:-

All India Retired Bharat Sanchar Nigam ... Petitioners
Limited Executive Welfare Association
& Anr.

Versus

Union of India & Ors. ... Respondents

With

I.A. No. _____ of 2026

[Application seeking permission to file lengthy synopsis and list of dates]

And

I.A. No. _____ of 2026

[Application seeking permission to place on record subsequent event and document marked as Annexure P-32]

PAPER BOOK

(FOR INDEX KINDLY SEE INSIDE)

VOLUME I

[Pages 1 to 274]

ADVOCATE FOR THE PETITIONERS

SONALI JAIN

RECORD OF PROCEEDINGS

1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		
20.		
21.		
22.		
23.		
24.		
25.		

MASTER INDEX

S No.	Particulars of Documents	Page No. of part to which it belongs		Remarks
		Part I (Contents of Paper Book)	Part II (Contents of file alone)	
(i)	(ii)	(iii)	(iv)	(v)
VOLUME I				
1.	Court Fee			
2.	Office Report on Limitation	A	A	
3.	Listing Performa	A1- A2	A1 – A2	
4.	Cover Page of Paper Book		A3	
5.	Index of Record of Proceeding		A4	
6.	Limitation Report prepared by Registry		A5	
7.	Defect List		A6	

8.	Note Sheet		NS1 to ...	
9.	Synopsis and List of dates	B - MM		
10.	True certified copy of the common impugned final judgment and order dated 01.07.2026 passed by the Hon'ble High Court of Delhi at New Delhi in W.P.(C) No. 4946 of 2024	1 - 109		
11.	Special Leave Petition along with Affidavit	110 - 164		
12.	ANNEXURE P-1: True typed copy of the Office Memorandum dated 05.07.1989 issued by DoP&PW	165 - 167		
13.	ANNEXURE P-2: True typed copy of the Note for the Cabinet dated 25.09.2000 issued by DTS	168 - 171		
14.	ANNEXURE P-3: True typed copy of the Office Memorandum dated 30.09.2000 issued by DTS	172 - 180		

15.	ANNEXURE P-4: True typed copy of the Notification dated 30.09.2000 issued by DoP&PW whereby Rule 37A was inserted in the CCS (Pension) Rules, 1972	181 - 183		
16.	ANNEXURE P-5: True typed copy of the Circular dated 09.11.2000 issued by the DoT	184		
17.	ANNEXURE P-6: True typed copy of the Order dated 14.01.2002 issued by BSNL	185 - 191		
18.	ANNEXURE P-7: True typed copy of the Presidential Order dated 12.02.2004 issued by the DoT	192 - 193		
19.	ANNEXURE P-8: True typed copy of the Office Memorandum dated 01.09.2008 issued by DoP&PW	194 - 198		
20.	ANNEXURE P-9: True typed copy of the Office Memorandum dated	199 - 206		

	02.09.2008 issued by DoP&PW			
21.	ANNEXURE P-10: True typed copy of Office Memorandum dated 26.11.2008 issued by DPE implementing recommendations of the 2nd Pay Revision Committee	207 - 215		
22.	ANNEXURE P-11: True typed copy of the Office Memorandum dated 27.04.2009 issued by DoP&PW	216 - 217		
23.	ANNEXURE P-12: True typed copy of Circular dated 04.05.2009 issued by DoT	218		
24.	ANNEXURE P-13: True typed copy of the Order dated 15.03.2011 bearing No. 40-17/2008-Pen(T)- Vol. III issued by DoT	219 - 226		
25.	ANNEXURE P-14: True typed copy of Notification dated 21.12.2012 issued by DoP&PW whereby Rule 37A of the CCS	227 - 235		

	(Pension) Rules, 1972 was amended			
26.	ANNEXURE P-15: True typed copy of the Order dated 20.02.2014 bearing No. 4-12(11)/2012-PAT issued by DOT	236 - 237		
27.	ANNEXURE P-16: True typed copy of the Office Memorandum dated 20.07.2016 bearing No. 40-13/2013-Pen(T) issued by DoT	238 - 239		
28.	ANNEXURE P-17: True typed copy of the Office Memorandum dated 04.08.2016 issued by DoP&PW	240 - 244		
29.	ANNEXURE P-18: True typed copy of the Office Memorandum dated 16.03.2017 bearing No. 47-63/2015-Pen(T)(pt) issued by DoT	245 - 246		
30.	ANNEXURE P-19: True typed copy of the Office Memorandum dated 21.03.2017 issued by BSNL	247 - 248		

31.	ANNEXURE P-20: True typed copy of the Office Memorandum dated 12.05.2017 issued by DoP&PW	249 - 253		
32.	ANNEXURE P-21: True typed copy of the Office Memorandum dated 03.08.2017 issued by DPE	254 - 270		
33.	ANNEXURE P-22: True typed copy of the Office Memorandum dated 10.07.2018 issued by DPE	271 - 272		
34.	ANNEXURE P-23: True typed copy of the Office Memorandum dated 08.03.2019 issued by DoP&PW	273 - 274		
VOLUME II				
35.	ANNEXURE P-24: True copy of O.A. No. 1272/2020 dated 08.09.2020 titled as “All India Retired BSNL Executive Welfare Association & Ors. vs. Union of India & Ors.” filed before the Hon’ble	275 - 363		

	Central Administrative Tribunal, Principal Bench, New Delhi			
36.	ANNEXURE P-25: True typed copy of the Final Order dated 20.09.2023 passed by the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 1272/2020 titled as "All India Retired BSNL Executive Welfare Association & Ors. vs. Union of India & Ors." and other connected matters	364 - 384		
37.	ANNEXURE P-26: True copy of W.P. (C) 4946/2024 dated 21.03.2024 titled as "Union of India & Ors. vs. All India Retired BSNL Executive Welfare Association & Ors." filed before the Hon'ble High Court of Delhi at New Delhi	385 - 430		
38.	ANNEXURE P-27: True copy of the Index of the	431 - 432		

	Documents dated 08.08.2024 filed by the Union of India/DOT before the Hon'ble High Court of Delhi at New Delhi in W.P. (C) 4946 of 2024			
39.	ANNEXURE P-28: True copy of the Order dated 19.08.2025 passed by the Hon'ble High Court of Delhi at New Delhi in W.P.(C) No. 4946/2024 and connected matters	433 - 435		
40.	ANNEXURE P-29: True typed copy of the Additional Affidavit (along with annexures) dated 19.08.2025 filed by the Union of India before the Hon'ble High Court of Delhi at New Delhi in W.P.(C) No. 4946/2024	436 - 472		
41.	ANNEXURE P-30: True copy of the Order dated 19.11.2025 passed by the Hon'ble High Court of Delhi at New Delhi in W.P.(C) No. 4946/2024 & other connected matters	473 - 475		

42.	ANNEXURE P-31: True copy of the Judgment dated 24.03.2026 passed by the Hon'ble High Court of Kerala at Ernakulam in R.P. 1158/2025	476 - 488		
43.	I.A. No. ____ of 2026 Application to file lengthy synopsis and list of dates	489 - 491		
44.	I.A. No. ____ of 2026 Application seeking permission to place on record subsequent events and documents marked as Annexure P-32	492 - 494		
45.	ANNEXURE P/32: True copy of the Order dated 31.08.2026 passed by this Hon'ble Court in SLP (C) Diary No. 47131/2026 titled as "Union of India & Ors. vs. All India BSNL Pensioners Welfare Association & Anr."	495 - 496		
46.	Vakalatnama along with Board Resolution		497 - 499	
47.	Memo of Parties		500 - 502	

INDEX – VOLUME I

S No.	Particulars of Documents	Page No. of part to which it belongs		Re mar ks
		Part I (Contents of Paper Book)	Part II (Content s of file alone)	
(i)	(ii)	(iii)	(iv)	(v)
1.	Court Fee			
2.	Office Report on Limitation	A	A	
3.	Listing Performa	A1 - A2	A1 – A2	
4.	Cover Page of Paper Book		A3	
5.	Index of Record of Proceeding		A4	
6.	Limitation Report prepared by Registry		A5	
7.	Defect List		A6	
8.	Note Sheet		NS1 to ...	
9.	Synopsis and List of Dates	B - MM		
10.	True certified copy of the common impugned final judgment and order dated 01.07.2026 passed by the Hon'ble High Court of	1 - 109		

	Delhi at New Delhi in W.P.(C) No. 4946 of 2024			
11.	Special Leave Petition along with Affidavit	110 - 164		
12.	ANNEXURE P-1: True typed copy of the Office Memorandum dated 05.07.1989 issued by DoP&PW	165 - 167		
13.	ANNEXURE P-2: True typed copy of the Note for the Cabinet dated 25.09.2000 issued by DTS	168 - 171		
14.	ANNEXURE P-3: True typed copy of the Office Memorandum dated 30.09.2000 issued by DTS	172 - 180		
15.	ANNEXURE P-4: True typed copy of the Notification dated 30.09.2000 issued by DoP&PW whereby Rule 37A was inserted in the CCS (Pension) Rules, 1972	181 - 183		
16.	ANNEXURE P-5: True typed copy of the Circular	184		

	dated 09.11.2000 issued by the DoT			
17.	ANNEXURE P-6: True typed copy of the Order dated 14.01.2002 issued by BSNL	185 - 191		
18.	ANNEXURE P-7: True typed copy of the Presidential Order dated 12.02.2004 issued by the DoT	192 - 193		
19.	ANNEXURE P-8: True typed copy of the Office Memorandum dated 01.09.2008 issued by DoP&PW	194 - 198		
20.	ANNEXURE P-9: True typed copy of the Office Memorandum dated 02.09.2008 issued by DoP&PW	199 - 206		
21.	ANNEXURE P-10: True typed copy of Office Memorandum dated 26.11.2008 issued by DPE implementing recommendations of the 2nd Pay Revision Committee	207 - 215		

22.	ANNEXURE P-11: True typed copy of the Office Memorandum dated 27.04.2009 issued by DoP&PW	216 - 217		
23.	ANNEXURE P-12: True typed copy of Circular dated 04.05.2009 issued by DoT	218		
24.	ANNEXURE P-13: True typed copy of the Order dated 15.03.2011 bearing No. 40-17/2008-Pen(T)-Vol. III issued by DoT	219 - 226		
25.	ANNEXURE P-14: True typed copy of Notification dated 21.12.2012 issued by DoP&PW whereby Rule 37A of the CCS (Pension) Rules, 1972 was amended	227 - 235		
26.	ANNEXURE P-15: True typed copy of the Order dated 20.02.2014 bearing No. 4-12(11)/2012-PAT issued by DOT	236 - 237		
27.	ANNEXURE P-16: True typed copy of the Office Memorandum dated 20.07.2016 bearing No.	238 - 239		

	40-13/2013-Pen(T) issued by DoT			
28.	ANNEXURE P-17: True typed copy of the Office Memorandum dated 04.08.2016 issued by DoP&PW	240 - 244		
29.	ANNEXURE P-18: True typed copy of the Office Memorandum dated 16.03.2017 bearing No. 47-63/2015-Pen(T)(pt) issued by DoT	245 - 246		
30.	ANNEXURE P-19: True typed copy of the Office Memorandum dated 21.03.2017 issued by BSNL	247 - 248		
31.	ANNEXURE P-20: True typed copy of the Office Memorandum dated 12.05.2017 issued by DoP&PW	249 - 253		
32.	ANNEXURE P-21: True typed copy of the Office Memorandum dated 03.08.2017 issued by DPE	254 - 270		

33.	ANNEXURE P-22: True typed copy of the Office Memorandum dated 10.07.2018 issued by DPE	271 - 272		
34.	ANNEXURE P-23: True typed copy of the Office Memorandum dated 08.03.2019 issued by DoP&PW	273 - 274		

A

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. _____ OF 2026

IN THE MATTER OF:-

All India Retired Bharat Sanchar Nigam ... Petitioners
Limited Executive Welfare Association
& Anr.

Versus

Union of India & Ors. ... Respondents

OFFICE REPORT ON LIMITATION

1. The Appeal is/are within time.
2. The Appeal is barred by time and there is delay of _____ days in filing the same against order dt. 1.07.2026 and petition for condonation of _____ days delay has been filed.
3. There is delay of _____ days in refiling the Appeal and Appeal for condonation of _____ days delay in refiling has been filed.

BRANCH OFFICER

New Delhi

Date: 20.09.2026

PROFORMA FOR FIRST LISTING**SECTION XVII**

Central Act: Constitution of India

Section: Article 309

Central Rule : **Central Civil Service (Pension) Rules, 1972**

Rule No(s) : **Rule 37A**

State Act : N.A

Section :N.A

State Rule : N.A

Rule No(s) : N.A

Impugned Interim Order: N.A

Impugned Final Order: **1.07.2026**

High Court : **Hon'ble High Court of Delhi at New Delhi**

Names of Judges: **Hon'ble Mr. Justice C. Hari Shankar and
Hon'ble Mr. Justice Om Prakash Shukla**

Tribunal / Authority: N.A.

1. Nature of Matter : Civil
2. (a) Petitioner/Appellant : **All India Retired Bharat
Sanchar Nigam Limited Executive Welfare Association**
(b) e-mail ID : N.A
(c) Mobile No. N.A
3. (a) Respondent No. 1 : **Union of India**
(b) e-mail ID: N.A
(c) Mobile/ Phone No. : N.A
4. (a) Main Category Classification : **43**
(b) Sub Classification : **4304**
5. Not to be listed before : N.A
6. (a) Similar Disposed of matter with citation, if any & case
details : No similar disposed matter
(b) Similar/Pending Matter : **SLP (C) Diary No.**

47131/2026 titled “*Union of India vs. All India BSNL Pensioners Welfare Association & Anr*”

7. Criminal Matters :

- (a) Whether accused/convicted Surrendered : N.A
- (b) FIR No. N.A Date : N.A
- (c) Police Station : N.A
- (d) Sentence Awarded : N.A
- I Sentence Undergone : N.A

8. Land Acquisition Matters :

- (a) Date of Section 4 notification : N.A
- (b) Date of Section 6 notification : N.A
- (c) Date of Section 17 notification : N.A

9. Tax Matters : State the tax effect : N.A

10. Special Category (first petitioner/appellant only)

Senior citizen: N.A

SC/ST :N.A

Woman/Child: N.A

Disabled : N.A

Legal Aid Case : N.A

In custody : N.A

11. Vehicle Number (in case of MAC matters) : N.A

12. Whether there was/is litigation on the same point of law, if yes,

Details thereof: Yes - SLP(C) Diary No. 47131/2026 titled "*Union of India v. All India BSNL Pensioners Welfare Association & Anr.*"

Filed by:



New Delhi

Date: 20.09.2026

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B

SYNOPSIS

1. At the outset, this Hon'ble Court *vide* Order dated 31.08.2026 in SLP (C) Diary No. 47131/2026 titled “*Union of India vs. All India BSNL Pensioners Welfare Association & Anr.*” has issued notice in a similar matter, wherein the Hon'ble High Court of Kerala at Ernakulam decided the issue of revision of pension as per 7th CPC *vis-à-vis* a similarly situated person as the Petitioners. The Petitioners seek similar relief, which was granted by the Hon'ble Central Administrative Tribunal, Principal Bench (“**Ld. Tribunal**”) *vide* Final Order dated 20.09.2023 but set aside by way of the common impugned Judgment dated 01.07.2026 passed by the Hon'ble Division Bench of the High Court of Delhi at New Delhi in W.P.(C) No. 4946 of 2024 and connected petitions (“**Impugned Judgment**”).
2. The Impugned Judgment is unsustainable in law, in as much as it proceeds to interpret a Rule enacted to protect the payment of pension of employees in a pedantic manner to render it obscure. The Impugned Judgment is erroneous for the following reasons, *inter alia*:
 - (i) Historically, pension revision of government employees has been done through Office Memorandums issued by the Department of Pension & Pensioners' Welfare (“**DoP&PW**”), which are made applicable to all pensioners/family pensioners who were drawing pension under the Central Civil Service (Pension) Rules, 1972 (“**CCS (Pension) Rules**”).

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- (ii) The Petitioners herein are all combined service pensioners who are drawing pension from the government under Rule 37A of the CCS (Pension) Rules, promulgated under Article 309 of the Constitution of India. As per Sub-Rule (8), the Petitioners are eligible for pensionary benefits on the basis of their combined service rendered in the government and PSU (i.e. BSNL/MTNL) in accordance with the formula for calculation of such pensionary benefits as may be in force at the time of retirement from the PSU, which amount shall be calculated in the same way as calculated in the case of a Central Government servant retiring or dying, on the same day.
- (iii) The entitlement of the Petitioners to revision of pension at par with their counterparts in the government, has further been affirmed and reiterated in several Office Memorandums, circulars etc. which the Impugned Judgment failed to consider viz.:

S. No.	Document	Relevant portion
1.	05.07.1989	DoP&PW OM wherein the President was pleased to issue a direction at Paragraph (b) that the pension of government servants in the case of <i>en masse</i> transfer of employees shall at the time of retirement, be <u>“in accordance with the Central Government Rules in force at that time”</u> .
2.	25.09.2000	Cabinet Note by DOT stating that <u>all employees would be entitled to government’s scheme of pension/family pension</u> even after absorption

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		and pension framework is part of the CCS Rules.
3.	09.11.2000	Circular issued by DOT stating that employees of DOT absorbed in BSNL will be entitled to <u>government's scheme of pension/family pension.</u>
4.	14.01.2002	Clause 5 of the terms & conditions of the circular calling for absorption, states that officers who opt for absorption would be governed by Rule 37A of the CCS Rules and the word formula in Sub-Rule (8) " <u>means payment of pension as per Government rules in force at that time</u> ".
5.	02.09.2008	DoP&PW OM for 6 th CPC for central government employees governed by CCS Rules.
6.	27.04.2009	DoP&PW OM stating that the <u>formula applicable to central government pensioners in the OM dated 02.09.2008</u> shall be applicable to the absorbees too.
7.	15.03.2011	DOT OM for revision of pension after the 6 th CPC and the benefit was to reach the pensioners expeditiously since upon pay revision from 01.01.2007, an anomaly arose.
8.	20.07.2016	DOT OM by which pension liability of absorbed officers would remain with the Govt. of India

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9.	04.08.2016	DoP&PW OM for implementation of 7 th CPC. Para 1 extends this to all pensioners/family pensioners covered under CCS (Pension) Rules, 1972. Para 7 states that pension of government servants on permanent absorption will be updated in terms of this order. Para 4.1 provides formula for pension revision
10.	21.03.2017	BSNL Order extending benefits of the 7 th CPC in terms of the OM dated 04.08.2016 except pension revision.
11.	12.05.2017	OM issued by DoP&PW for implementation and revision of pension as per 7 th CPC and at Para 12, the pensioners who are drawing pension from the Government upon permanent absorption in PSUs/autonomous bodies was to be revised.

(iv) Assuming for the sake of argument that Rule 37A was silent on the aspect of revision of pension of the Petitioners, however, it is no longer *res integra* that if the rules are silent on any particular point Government can fill up the gaps and supplement the rules and issue instructions not inconsistent with the rules already framed as has been held by this Hon'ble Court in ***Sant Ram Sharma v. State of Rajasthan*, 1967 SCC OnLine SC 16.**

(v) While Rule 37A does not expressly state that pension is to be revised, however, it protects the status of BSNL/MTNL absorbed officers, who while are deemed to have retired from government service (Department of Telecom) as per Sub-Rule

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(4), shall be eligible for pensionary benefits. The intent of Rule 37A was to ensure that the status of the Petitioners as government employees upon retirement remains intact. In fact, it is for this reason that all nine benefits of 7th CPC (retiral benefits) have been extended in favour of the Petitioners, who are also entitled to CGHS facilities akin to their counter parts in the government. Notably, a coordinate Bench of the Hon'ble High Court of Delhi in “***Union of India v. All India BSNL Pensioners Welfare Association***” 2020 SCC OnLine Del 158, observed the following as regards Rule 37A, which the Impugned Judgment fails to consider viz.:

“9. Prior to en masse transfer of DOT employees to the BSNL on deemed deputation basis with effect from 1st October 2000, several rounds of discussions were held with the unions. It was agreed to extend the retirement benefits in the BSNL in accordance with the CCS (Pension) Rules, 1972. This led to insertion of Rule 37A in the CCS (Pension) Rules which came to be published on 30th September, 2000. It provided for the conditions for payment of pension and absorption upon conversion of a Government Department into a Central Autonomous Body (‘CAB’) or a Public Sector Undertaking (PSU).

...

11. In other words, Rule 37A provided that those Government servants permanently absorbed in PSU or the CAB would be entitled to pension in the same manner as Central Government employees.”

(vi) The Impugned Judgment is violative of Article 14 as it tantamount to unreasonable classification of the Petitioners, all of whom upon retirement, form a homogeneous class of pensioners akin to government pensioners and any

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classification thereof, is impermissible in view of the judgment passed by this Hon'ble Court in *Union of India & Anr. vs SPS Vains (Retd.) & Ors. (2008) 9 SCC 125*.

- (vii) In accordance with the law laid down therein, the Petitioners are entitled to have their pension revised notionally, in accordance with the revised pension being given to their counter parts in government and accordingly have their pension determined. As such, even previously, the revision of pension of the Petitioners at the time of implementation of the recommendations of the 6th CPC was done before as per the orders issued to the government employees applicable to those governed by the CCS (Pension) Rules. In the same vein, even the 7th CPC recommendations govern those employees covered under the CCS (Pension) Rules such as government employees as also the Petitioners under Rule 37A.
- (viii) The Petitioners at the time of absorption, were assured that their pension would be at par with the government employees, which is why they left their status of a government employee in DoT and sought absorption in BSNL/MTNL respectively. Therefore, the principles of legitimate expectation and promissory estoppel prevent the Union of India from taking a contrary stand now, particularly since the Petitioners have rendered maximum service in the government rather than BSNL/MTNL.
- (ix) Pension is the protection of a compensation in the august years of life, and as held by this Hon'ble Court in *Kerala SRTC v. K.O. Varghese, (2003) 12 SCC 293*, it assures socio-economic justice and economic security in the foil of life when physical and mental powers start ebbing corresponding

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to the aging progress. Denial of pension revision of the Petitioners is inconsistent with the right to live with dignity guaranteed by Article 21 of the Constitution of India. The lowest paid amongst the Petitioners Group 'D' pensioners continue to subsist upon Rs. 3,500/- per month, as against the minimum of Rs. 9,000/- per month payable to a Central Government pensioner, is a state of affairs incompatible with Article 21 of the Constitution of India.

- (x) Moreover, when financial rules framed by the Government such as Pension Rules are capable of more interpretations than one, the Courts should lean towards that interpretation which goes in favour of the employee as held by this Hon'ble Court in "***State of Rajasthan v. O.P. Gupta***", (2022) SCC OnLine SC 1248.
- (xi) Lastly, the conclusion by the Hon'ble High Court that the Petitioners drawing IDA scale cannot be placed equally to government employees drawing CDA scale as regards applicability of pension revision orders issued by DoP&PW is flawed and misplaced in as much as similarly situated employees who were transferred from the Department of Food & Public Distribution to the Food Corporation of India and were drawing IDA scale, have been extended the benefit of 7th CPC on 13.12.2023 by using the fitment factor of 2.57.

Hence, the present Special Leave Petition.

I

LIST OF DATES

DATE	EVENTS
05.07.1989	Office Memorandum issued by the Department of Pension & Pensioners' Welfare ("DoP & PW"), whereby the question of settlement of pensionary terms upon conversion of a Government Department, or a segment thereof, into a Central Public Sector Undertaking/autonomous body was reviewed, and the terms and conditions applicable in the case of <i>en masse</i> transfer of employees were issued, amongst other terms and conditions the OM specifically stipulated as under:-

“...

The President is now pleased to decide that...

...

(b) The Government servants who opt to be governed by the pensionary benefits available under the Government, shall at the time of their retirement, be entitled to the pension etc. in accordance with the Central Government rules in force at that time.

...

7. These Orders will also be applicable to those Government servants who would be absorbed in the Mahanagar Telephone Nigam Ltd./ Videsh Sanchar Nigam Ltd./ National Airports Authority of India.

... ” (Emphasis Supplied)

As per this OM, the Petitioners were assured that upon conversion, their entitlement of pension upon retirement would stand protected akin to the government servants.

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True typed copy of the Office Memorandum dated 05.07.1989 issued by DoP&PW is attached herewith as **Annexure P-1 [Pg. 165 to 167]**.

25.09.2000 Note for the Cabinet seeking approval for the HRD and financial issues arising out of the corporatisation of the Department of Telecom Services (“DTS”) and the Department of Telecom Operations (“DTO”). The decision of the Government in June 2000 to achieve corporatisation by 01.10.2000 had activated all Federations, Staff Unions of Group ‘C’ and ‘D’ and Associations of Group ‘A’ and ‘B’ to put forth demands pertaining to their respective cadres, in particular their retirement and pensionary benefits, before corporatisation. Accordingly, the following framework for retirement and pensionary benefits was approved:

“Pension & Retirement benefits

“

(i) all employees were to be entitled to the Government scheme of pension/family pension even after their absorption;

(ii) payment of pension would be made by the Government;

(iii) an arrangement would be worked out for obtaining pension contribution from the PSU, to be deposited with the Government; and

(iv) the pension framework was made a part of the CCS (Pension) Rules, 1972 by insertion of Rule 37-A, by amending Rule 37 in exercise of powers under Article 309 of the Constitution of India.

....” (Emphasis Supplied)

K

True typed copy of the Note for the Cabinet dated 25.09.2000 issued by DTS is attached herewith as **Annexure P-2 [Pg. 168 to 171]**.

30.09.2000 Office Memorandum issued by the Department of Telecommunication Services (“DTS”) transferring the telecom services provided by DTS and DTO to Bharat Sanchar Nigam Limited (“BSNL”) w.e.f. 01.10.2000.

True typed copy of the Office Memorandum dated 30.09.2000 issued by DTS is attached herewith as **Annexure P-3 [Pg. 172 to 180]**

30.09.2000 On the even date, after several agitations by the employees in respect of their terms of service and retirement benefits upon absorption in the PSU, in exercise of powers conferred under Article 309 and Clause 148(a) of the Constitution of India, Rule 37A was inserted in the CCS (Pension) Rules, 1972 setting out the “*Conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Public Sector Undertaking*”.

Sub-rules (4) and (8) & (21) of Rule 37A provided *inter alia*:-

“ ...

(4) *The permanent absorption of the Government servants as employees of the public sector undertaking or autonomous body shall take effect from the date on which their options are accepted by the government and on and from the date of such acceptance, such employees shall cease to be*

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Government servants and they shall be deemed to have retired from Government service.

...

(8) A permanent Government servant who has been absorbed as an employee of a the [sic] 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.

...

(21) Nothing contained in sub-rules (12) to (20) shall apply in the case of conversion of the Department of Telecom Service and Telecom Operations into Bharat Sanchar Nigam Limited, in which case the pensionary benefits shall be paid by the Government."

True typed copy of the Notification dated 30.09.2000 issued by DoP&PW whereby Rule 37A was inserted in the CCS (Pension) Rules, 1972 is attached herewith as **Annexure P-4 [Pg. 181 to 183]**.

Notably, BSNL has two sets of employees, one set of employees were absorbed from DOT who were given assurance of pension at par with their counterparts in DOT and are known as BSNL combined service pensioners, and the other set of BSNL employees who were directly recruited and

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are not entitled to the benefit of pension under Rule 37A. The Petitioners are the first set of employees known as BSNL combined service pensioners/BSNL absorbed officers/employees.

09.11.2000 Circular issued by the DoT bearing DOT No. 36-15/2000-Pen(T) wherein it was stated that

“The employees getting absorbed in BSNL would continue to receive Government’s scheme of pension/ family pension after their absorption” (Emphasis Supplied)

True typed copy of the Circular dated 09.11.2000 issued by the DoT is attached herewith as **Annexure P-5 [Pg. 184]**.

14.01.2002 Order issued by BSNL calling for options for absorption of Group ‘B’ officers who had been transferred to BSNL & MTNL on deemed deputation basis w.e.f. 01.10.2000, as also of those who remained in DoT.

Pension was governed under the General Terms & Conditions for absorption of Group ‘B’ Officers in BSNL stated *inter alia*:-

“

5. Payment of Pension

The officers who opt for permanent absorption in BSNL would be governed by the provisions of Rule 37 - A of CCS (Pension) Rules, notification for which was issued by the Department of Pension & Pensioners Welfare on 30.09.2000. For the purpose of reckoning emoluments or calculation of pension and pensionary benefits, The emoluments as defined in CCS

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(Pension) Rules, in PSU in the IDA pay scales shall be taken.

DOT has already clarified that the word "formula" mentioned in clause 8 of Rule 37 - A means payment of pension as per Government Rules in force at that time.

BSNL will not dismiss/remove an absorbed officer without prior approval of the Administrative Ministry/Department

... ” (Emphasis Supplied)

True typed copy of the Order dated 14.01.2002 issued by BSNL is attached herewith as Annexure **P-6 [Pg. 185 to 191]**.

28.12.2002 Amendment to Rule 37A notified *vide* No. 4/61/99-P&PW(D) which read as follows:

“ ...

2. In the Central Civil Services (Pension) Rules, 1972, in rule 37 A.

(a) after sub rule (8), the following explanation shall be inserted, namely:-

“EXPLANATION:-

The amount of pension/family pension of the absorbed employee on superannuation from public sector undertaking/ autonomous body shall be calculated in the same way as would be the case with a Central Government servant, retiring on superannuation, on the same day”

28.07.2003 DoT notified the IDA pay scales corresponding to the CDA pay scales of DoT, as approved for the Executives of BSNL.

12.02.2004 Presidential Order issued by DoT for its employee seeking permanent absorption in BSNL with the following terms and conditions:

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“ ...

3. Pension / Gratuity:- *Shri/ Smt/ Kumari AMIT KUMAR GUPTA shall be eligible for pensionary benefits including gratuity as per provisions of Rule 37-A of CCS (Pension), Rules as amended from time to time.*

4. Family Pension:- *The family of Shri / Smt/ Kumari AMIT KUMAR GUPTA shall be eligible for family pension as per provisions of Rule 37-A read with Rule 54 (13-B) of CCS (Pension) Rules, 1972 as amended from time to time... ”*

True typed copy of the Presidential Order dated 12.02.2004 issued by the DoT is attached herewith as **Annexure P- 7 [Pg. 192 to 193]**

01.09.2008 Office Memorandum issued by DoP&PW for implementation of government's decision on recommendations of the 6th Central Pay Commission (“CPC”) which also governed the Central Government employees who have been permanently absorbed in PSUs and provided as under:-

“ ...

7. The cases of Central Government employees who have been permanently absorbed in Public Sector Undertaking/autonomies bodies will be regulated as follows:-

(a) PENSION

Where the Governments servants on permanent absorption in public sector undertakings /autonomous bodies continue to draw pension separately from the Government, the pension of such absorbees will be updated in terms of these orders. In cases where the Government servants have

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drawn one-time lump sum terminal benefits equal to 100% of their pensions and have become entitled to the restoration of one third commuted portion of the pension as per Supreme Court judgement dated 15.12.1995, their cases will not be covered by these orders.

...” (Emphasis Supplied)

True typed copy of the Office Memorandum dated 01.09.2008 issued by DoP&PW is attached herewith as Annexure **P-8 [Pg. 194 to 198]**.

02.09.2008 Office Memorandum issued by DoP&PW for 6th CPC revising the provisions for calculation of pension and family pension, Gratuity, commutation, age-related additional pension etc.

True typed copy of the Office Memorandum dated 02.09.2008 issued by DoP&PW is attached herewith as Annexure **P-9 [Pg. 199 to 206]**.

26.11.2008 OM issued by Department of Public Enterprises (“**DPE**”) notifying the recommendations of the 2nd Pay Revision Committee (“**PRC**”) for the CPSUs employees following IDA pattern of pay scale w.e.f. 01.01.2007 with 30% fitment.

Notably, no provision for pension revision in Terms of Reference was made in the said OM and the same only dealt with pay revision of Executives of the CPSUs.

True typed copy of Office Memorandum dated 26.11.2008 issued by DPE implementing recommendations of the 2nd Pay Revision

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Committee is attached herewith as **Annexure P-10** [Pg. 207 to 215].

27.04.2009 OM issued by DoP&PW clarifying the applicability of the revised rules with reference to the recommendations of the 6th CPC regarding enhanced DCRG and the calculation of emoluments for pension/family pension in respect of ex-DOT employees absorbed in BSNL, whose pensionary benefits are regulated under Rule 37A of the CCS (Pension) Rules, 1972. The said OM, *inter alia*, stated as follows:

“ ...

Consequent upon the implementation of the Government decision on the recommendation of 6th Central Pay Commission and as per Department of Pension and Employees Welfare O.M. dated 01.09.2008 (read 2.9.2008), rule regarding limit of DCRG, Calculation of emoluments for pension/ family pension. Commutation of pension and qualifying service etc. have changes with effect from 01.01.2006.

In this connection, it is submitted that the Explanation given under Sub-Rule (8) of Rule 37-A of CCS (Pension) Rules, 1972 says that the amount of pension/family pension of the absorbed employees on superannuation from PSU/ AB shall be calculated in the same way as would be the case with a Central Government servant retiring on superannuation, on the same date. It is worthwhile to add that BSNL is the only PSU that has been granted a special dispensation under sub rule (21) of Rule 37-A of CCS (Pension) Rules, 1972 to the effect that the

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pensionary benefits including family pension to the absorbed employees of BSNL is paid by the Government. This Department is of the view that the change as per DoP&PW's OM dated 02.09.2008 as mentioned in para 2 above are also applicable to IDA pensioners of BSNL.

... ” (Emphasis Supplied)

True typed copy of the Office Memorandum dated 27.04.2009 issued by DoP&PW is attached herewith as **Annexure P-11 [Pg. 216 to 217]**.

04.05.2009 Circular issued by DoT intimating that the revised rules of pension calculation as per the 6th CPC with regard to limit of DCRG, Calculation table, emoluments, qualifying service etc. is applicable to IDA pensioners of BSNL covered under Rule 37 A w.e.f. 01.01.2006

True typed copy of Circular dated 04.05.2009 issued by DoT is attached herewith as **Annexure P-12 [Pg. 218]**.

16.08.2010 Clarification issued by DOT on applicability of revised rules of CCS (Pension) Rules, 1972 to BSNL employees as per which the amendment in the CCS Pension Rules as regards admissibility of full pension upon completion of 20 years of service was applicable to the absorbed employees of BSNL too. It was thereafter revised to 10 years of qualifying service which was extended to BSNL IDA pensioners.

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29.12.2010 Note for cabinet for revision of pension for absorbed employees of BSNL, who retired after 01.10.2000 and before 01.01.2007.

15.03.2011 Order No. 40-17/2008-Pen(T)-Vol. III issued by DoT for revision of pension/family pension of BSNL employees who retired between 01.10.2000 and 31.12.2006. The said Order stated *inter alia*:-

“ ...

3. The undersigned is directed to convey the decision of Government of India to regulate the pension/ family pension of all the BSNL absorbed pensioners/ family pensioners, who retired during the period 1.10.2000 to 31.12.2006, with effect from 1.1.2007, in the manner mentioned in the succeeding paragraphs.

...

4.1. The pension/ family pension of pre-2007 BSNL pensioners/ family pensioners will be consolidated with effect from 1.1.2007 by adding together:

i. The existing pension/family pension, including commuted portion of pension, if any;

ii. Dearness Relief upto AICPI (IW) average index 126.33 (Base year 2001=100) i.e. @68.8% of Basic Pension/ Basic family pension;

iii. Fitment weightage @ 30% of the sum of existing pension/ family pension and Dearness Relief thereon.

The amount so arrived at will be regarded as consolidated pension/ family pension with effect from 1.1.2007.

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4.2. The fixation of pension will be subject to the provision that the revised pension, in no case, shall be lower than fifty percent of the minimum of the pay in the pay scale corresponding to the pre-revised pay scale from which the BSNL pensioner had retired.

...

4.4 The lower and upper ceiling on pension/ family pension shall be Rs. 3500/- and Rs. 45000/- respectively.

... ”

True typed copy of the Order dated 15.03.2011 bearing No. 40-17/2008-Pen(T)-Vol. III issued by DoT is attached herewith as **Annexure P-13 [Pg. 219 to 226]**.

21.12.2012 The CCS (Pension) Rules, 1972 were amended thereby modifying the sub-rules thereunder. For the sake of completion, the relevant extracts are reproduced hereunder:

“(1) On conversion of a department of the Central Government into a Public Sector Undertaking, all Government servants of that Department shall be transferred en-masse to that Public Sector Undertaking, on terms of foreign service without any deputation allowance till such time as they get absorbed in the said undertaking, and such transferred Government servants shall be absorbed in the Public Sector Undertaking with effect from such date as may be notified by the Government.

...

(8) A permanent Government servant who has been absorbed as an employee of a Public Sector Undertaking and his family shall be eligible for pensionary benefits

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(including commutation of pension, gratuity, family pension or extra-ordinary pension), on the basis of combined service rendered by the employee in the government and in the Public Sector Undertaking in accordance with the formula for calculation of such pensionary benefits as may be in force at the time of his retirement from the Public Sector Undertaking or his death or at his option, to receive benefits for the service rendered under the Central Government in accordance with the orders issued by the Central Government.

“Explanation:- The amount of pension or family pension in respect of the absorbed employee on retirement from the Public Sector Undertaking or on death shall be calculated in the same way as calculated in the case of a Central Government servant retiring or dying, on the same day”.

...

(22) Nothing contained in sub-rules (13) to (21) shall apply in the case of conversion of the Departments of Telecom Services and Telecom Operations into Bharat Sanchar Nigam Limited, in which case the pensionary benefits including family pension shall be paid by the Government.

(23) For the purposes of payment of pensionary benefits including family pension referred to in sub-rule (22), the Government shall specify the arrangements and the manner including the rate of pensionary contributions to be made by Bharat Sanchar Nigam Limited to the Government and the manner in which financial liabilities on this account shall be met.”

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True typed copy of Notification dated 21.12.2012 issued by DoP&PW whereby Rule 37A of the CCS (Pension) Rules, 1972 was amended is attached herewith as **Annexure P-14 [Pg. 227 to 235]**.

20.02.2014 Order No. 4-12(11)/2012-PAT issued by DOT wherein the CGHS facilities were extended to BSNL retired employees who are in receipt of Central Civil Pension.

True typed copy of the Order dated 20.02.2014 bearing No. 4-12(11)/2012-PAT issued by DOT is attached herewith as **Annexure P-15 [Pg. 236 to 237]**.

31.12.2015 DoT requested DPE to add the revision of pensionary benefits of BSNL & MTNL pensioners to the terms of reference of the 3rd PRC.

20.07.2016 OM bearing No. 40-13/2013-Pen(T) issued by DoT regarding modifying the liability of BSNL towards payment of pensionary benefits to the retired employees. The said OM stated that the pension liability was to be solely borne by the Government and BSNL will have no liability thereof. BSNL continued to discharge pension liability by way of pension contribution in accordance with FR 116 and the Petitioners have contributed to this on their IDA Pay scale.

True typed copy of the Office Memorandum dated 20.07.2016 bearing No. 40-13/2013-Pen(T) issued

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by DoT is attached herewith as **Annexure P-16 [Pg. 238 to 239]**.

04.08.2016 Resolution issued by DoP&PW bearing reference No. 38/37/2016-P&PW(A) noting that the Government had accepted the recommendations on pensionary benefits to central government civil employees.

04.08.2016 OM bearing no. F.No.38/37/2016-P&PW(A) (i) issued by the DoP&PW regarding implementation of Government's decision on the recommendation of the 7th CPC of provisions regulating pension/ gratuity/ commutation of pension/ family pension/ disability pension/ex-gratia lump sum compensation, etc.

04.08.2016 OM No. F.No.38/37/2016-P&PW(A) (ii) issued by the DoP&PW in respect of implementation of pension revision as per the recommendations of the 7th CPC for pre-2016 pensioners/family pensioners. Similar to the OM issued for implementation of the recommendations of the 6th CPC *vide* Order dated 01.09.2008, the said OM for 7th CPC was made applicable to all pensioners/family pensioners drawing pension/family pension before 01.01.2016 under the CCS (Pension) Rules, 1972.

The said OM extended to all pensioners and provided as under:-

“ The undersigned is directed to say that in pursuance of Government's decision on the recommendations of Seventh Central Pay Commission, sanction of the President is

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hereby accorded to the regulation, with effect from 01.01.2016, of pension/ family , pension of all the pre-2016 pensioners/ family pensioners in the manner indicated in the succeeding paragraphs. Separate orders are being issued in respect of employees who retired/died on or after 01.01.2016.

.....

4.1 For existing pensioners, who have retired before 01.01.2016, the revised pension/family pension with effect from 01.01.2016 shall be determined by multiplying the pension/family pension, as had been fixed at the time of implementation of 6th Central Pay Commission (CPC) recommendations, by 2.57. The amount of revised pension/family pension so arrived at shall be rounded off to next higher rupee.

.....

7. The cases of Central Government employees_ who have been permanently absorbed in public sector undertakings/autonomous bodies will be regulated as follows:-

(a) PENSION

Where the Government servants on permanent absorption in public sector undertakings/ autonomous bodies continue to draw pension separately from the Government. the pension of such absorbees will be updated in terms of these orders. In cases where the Government servants have drawn one-time lump sum terminal benefits equal to 100% of their pensions and have become entitled to the restoration of one-third commuted portion of pension as per the instructions issued by this Department from time to time, their cases will not be covered

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by these orders. Orders for regulating pension of such pensioners will be issued separately.

(b) FAMILY PENSION

In cases where, on permanent absorption in public sector undertakings/autonomous bodies, the terms of absorption and/or the rules permit grant of family pension under the CCS (Pension) Rules, 1972 or the corresponding rules applicable to Railway employees/members of All India Services, the family pension being drawn by family pensioners will be updated In accordance with these orders.

.... ”

True typed copy of the Office Memorandum dated 04.08.2016 issued by DoP&PW is attached herewith as **Annexure P-17 [Pg. 240 to 244]**.

16.03.2017 OM issued by DoT wherein the 7th CPC recommendation regarding revised payment of death gratuity as per OM dated 04.08.2016 was made applicable to the BSNL retired officers.

True typed copy of the Office Memorandum dated 16.03.2017 bearing No. 47-63/2015-Pen(T)(pt) issued by DoT is attached herewith as **Annexure P-18 [Pg. 245 to 246]**.

21.03.2017 Order issued by BSNL extending the applicability of the revised payment of death gratuity as per OM dated 04.08.2016 as directed by DOT *vide* OM dated 16.03.2017.

True typed copy of the Office Memorandum dated 21.03.2017 issued by BSNL is attached herewith as **Annexure P-19 [Pg. 247 to 248]**.

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12.05.2017 In continuation of the OM dated 04.08.2016, DoP&PW issued another OM with respect to fixation of pension as per the 7th CPC as the first option for pensioners and family pensioners who retired or died prior to 01.01.2016. The said OM provided *inter alia*:-

“ ...

2. Based on the decisions taken by the Government on the recommendations of the 7th CPC, orders for revision of pension of pre-2016 pensioners/family pensioners in accordance with second Formulation were issued vide this Department's OM No. 38/37/2016-P&PW (A) (ii) dated 04.08.2016. It was provided in this O.M. that the revised pension/family pension w.e.f. 1.1.2016 of pre-2016 pensioners/family pensioners shall be determined by multiplying the pension/family pension as had been fixed at the time of implementation of the recommendations of the 6th CPC, by 2.57.

...

12. The pension of the pensioners who are drawing monthly pension from the Government on permanent absorption in public sector undertakings/autonomous bodies will also be revised in accordance with these orders. However, separate orders will be issued for revision of pension of those pensioners who had earlier drawn one time lump sum terminal benefits on absorption in public sector undertakings, etc. and are drawing one-third restored pension as per the instructions issued by this Department from time to time.

... ”

Notably, the OM dated 12.05.2017 has been upheld by the Hon’ble High Court of Kerala at Ernakulam in O.P (CAT) No. 60 of 2020 titled “*All India BSNL Pensioners Welfare Association & Anr. vs. Union of India & Ors.*” extending the benefit to a BSNL IDA Pensioner.

True typed copy of the Office Memorandum dated 12.05.2017 issued by DoP&PW is attached herewith as **Annexure P-20 [Pg. 249 to 253]**.

03.08.2017 OM issued by DPE notifying the recommendations of the 3rd Pay Revision Committee (“**PRC**”) for the CPSUs employees.

This appointment of the 3rd PRC was done by way of a Gazette Notification dated 09.06.2016 bearing No. W-08/0005/2016-DPE (WC).

True typed copy of the Office Memorandum dated 03.08.2017 issued by DPE is attached herewith as **Annexure P-21 [Pg. 254 to 270]**.

28.08.2017 Representation made by All India Retired BSNL

04.09.2018 Executive Welfare Association/Petitioner No. 1 to

17.09.2018 the Hon’ble Minister of Communications seeking pension revision consequent to the recommendations of the 7th CPC.

10.07.2018 OM issued by DPE stating that the recommendations of the 7th CPC, regarding raising the Gratuity ceiling from Rs.10 lakhs to Rs.20 lakhs w.e.f. 01.01.2016 were not applicable to the employees of CPSEs. However, the BSNL retired officers were given the

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benefit of the 7th CPC as regards the increased gratuity *vide* Order dated 16.03.2017 issued by DoT. True typed copy of the Office Memorandum dated 10.07.2018 issued by DPE is attached herewith as **Annexure P-22 [Pg. 271 to 272]**.

08.03.2019 Office Memorandum issued by DoP&PW wherein DoT was requested to examine the issue of revision of pension of the combined service pensioners of BSNL/MTNL. It was stated that DoT had not brought out as to what would be the formula for revision of pension on pre-2017 absorbee pensioners and what would be financial implications on revision of pension as per that formula. Further, DoT was asked as to how would the anomaly in pension between the past pensioners and fresh pensioners for whom no pay revision took place would be resolved. DoT was asked to examine issues raised by Associations of BSNL/MTNL.

True typed copy of the Office Memorandum dated 08.03.2019 issued by DoP&PW is attached herewith as **Annexure P-23 [Pg. 273 to 274]**.

30.10.2019 ERNAKULAM BENCH: Order passed by the Hon'ble Tribunal, Ernakulam Bench in O.A. No. 180/00346/2018 titled "*All India BSNL Pensioners' Welfare Association vs. Union of India & Ors.*", whereby the O.A. seeking extension of the benefit of the OM dated 12.05.2017 to the pre-2006 DoT absorbed BSNL IDA pensioners was dismissed.

08.09.2020 Original Application No. 1272/2020 (“**Original Application**”) titled as “*All India Retired BSNL Executive Welfare Association & Ors. vs. Union of India & Ors.*” filed by the Petitioners before the Hon’ble Central Administrative Tribunal. Principal Bench, New Delhi, seeking *inter alia*:-

- (i) *Revision of pension/family pension/minimum pension w.e.f. 01.01.2017 for the BSNL combined service pensioners who were absorbed from DOT/DTS/DTO w.e.f. 01.01.2000 and retired prior to 01.01.2017 by applying the fitment formula on IDA pension as on 01.01.2017*
- (ii) *Revision of pension/family pension/minimum pension w.e.f. 01.01.2017 for the BSNL combined service Pensioners, who were absorbed from DOT/DTS/DTO w.e.f. 01.10.2000 analogous to the revision of pension/family pension/minimum pension for the Central Government Pensioners based on the recommendations of the 7th Central Pay Commission;*
- (iii) *Revision of the pension for BSNL combined service pensioners parallel to the revision of pension of the Central government servants without linking with Pay revision in BSNL*

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True copy of O.A. No. 1272/2020 dated 08.09.2020 titled as “*All India Retired BSNL Executive Welfare Association & Ors. vs. Union of India & Ors.*” filed before the Hon’ble Central Administrative Tribunal, Principal Bench, New Delhi is attached herewith as **Annexure P-24 [Pg. 275 to 363]**.

20.09.2023 The Hon’ble Central Administrative Tribunal, while allowing the Original Application, was pleased to rely upon various documents, including, *inter alia*, the O.M. dated 05.07.1989, Cabinet Note dated 25.09.2000, and Orders/Circulars dated 09.11.2000, 14.01.2002 and 20.07.2016, amongst others, and directed the competent authority to revise the pension and family pension wherever applicable, strictly in accordance with the relevant rules and the entitlement governing pension to various sets of employees of the Central Government, maintaining strict parity. It was further directed that the benefits of revision of pension and family pension as notified by the Central Government on the recommendations of the Pay Commission, shall stand extended in favour of the Petitioners analogous to the revision of such pension in case of Central Government pensioners.

True typed copy of the Final Order dated 20.09.2023 passed by the Hon’ble Central Administrative Tribunal, Principal Bench, New Delhi in O.A No. 1272/2020 titled as “*All India Retired BSNL Executive Welfare Association & Ors. vs. Union of*

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India & Ors.” and other connected matters is attached herewith as **Annexure P-25 [Pg. 364 to 384]**.

21.03.2024 The Union of India, belatedly assailed the Final
/ Order dated 20.09.2023 by filing W.P (C) 4946/
01.04.2024 2024 titled as “*Union of India & Ors. vs. All India Retired BSNL Executive Welfare Association & Ors.*” before the Hon’ble High Court of Delhi (“**Writ Petition**”).

True copy of W.P (C) 4946/ 2024 dated 21.03.2024 titled as “*Union of India & Ors. vs. All India Retired BSNL Executive Welfare Association & Ors.*” filed before the Hon’ble High Court of Delhi at New Delhi is attached herewith as **Annexure P-26 [Pg. 385 to 430]**.

The official Respondents filed three Writ Petitions against the respective Original Applications, details of which are as under:

Writ Petition	Original Application	Associations
W.P (C) 4946/2024	O.A. 1272/2020	1. All India Retired BSNL Executive Welfare Association 2. Sanchar Nigam Pensioners Welfare Association
W.P (C) 4955/2024	O.A. 1329/2020	All India BSNL Pensioners' Welfare Association

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W.P (C) 4985/2024	O.A. 1271/2020	1. Retired Telecom Officers' Welfare Association, Delhi 2. Retired Telecom Officers' Welfare Association, Mumbai 3. MTNL Pensioners' Welfare Association
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- 03.08.2024** Pursuant to an Order dated 01.08.2024 passed by the Hon'ble Delhi High Court, a Common Convenience Compilation was filed by the Petitioners and Respondents in all the connected Writ Petitions.
- 06.08.2024** Written Submissions filed on behalf of the Petitioners herein before the Hon'ble High Court.
- 07.08.2024** Written Submissions filed on behalf of the Union of India/DOT in W.P (C) 4946 of 2024.
- 08.08.2024** Documents filed on behalf of the Union of India/DOT filing certain Office Memorandums and orders issued by DOT and DOP&PW. Neither were these documents filed before the Hon'ble Central Administrative Tribunal, nor was any leave taken by the Hon'ble High Court to file these documents, as the same are unsupported by any application. The Official Respondents merely relied upon the same at the time of hearing, which was permitted by the

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Hon'ble High Court of Delhi and relied upon in the Impugned Judgment too.

True copy of the Index of the Documents dated 08.08.2024 filed by the Union of India/DOT before the Hon'ble High Court of Delhi at New Delhi in W.P (C) 4946 of 2024 is attached herewith as **Annexure P-27 [Pg. 431 to 432]**.

07.02.2025 HIGH COURT OF KERALA: The Hon'ble High Court of Kerala at Ernakulam in O.P (CAT) No. 60 of 2020 titled "*All India BSNL Pensioners Welfare Association & Anr. vs. Union of India & Ors.*", set aside the Order dated 30.10.2019 passed by the Ernakulam Bench of the Ld. Tribunal and extended the benefit of the DoP&PW's OM dated 12.05.2017 to one pre-2006 DoT absorbed BSNL IDA pensioner, and did not extend the relief to the members of the Applicant Association therein.

08.08.2025 SLP (Civil) Diary No. 39478 of 2025 titled "*Union of India & Ors. vs. P. Vadivel & Anr.*" filed by the Union of India assailing the Judgment dated 07.02.2025 passed by the Hon'ble High Court of Kerala at Ernakulam in O.P (CAT) No. 60 of 2020 which was withdrawn with liberty to seek review of the Judgment dated 07.02.2025 before the Hon'ble High Court of Kerala at Ernakulam.

19.08.2025 The Writ Petition and connected matters were listed for final hearing, however, the Union of India/DOT on the even date filed an Additional Affidavit to

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place on record additional documents to bring on record the subsequent facts and documents.

Notably, some of the facts and documents were not subsequent and dated even before the filing of the Original Application and Writ Petition. The following was stated in the Additional Affidavit:

- OM dated 17.07.2018: DoP&PW states that the OM dated 04.08.2016 and 12.05.2017 issued for revision of pension w.e.f. 01.01.2016 is applicable to Central Government Civil Pensioners drawing pension on CDA pattern and is not applicable to the BSNL absorbee pensioners getting pension under IDA pattern.
- OM dated 27.03.2025: DoP&PW reiterated the clarification earlier issued *vide* OM dated 17.07.2018.
- Proceedings arising from the Hon'ble Central Administrative Tribunal, Ernakulam Bench wherein benefit of the OM dated 12.05.2017 was sought by the Applicants therein (similarly situated persons like the Petitioners albeit claiming relief with different prayers).
 - (i) Order dated 30.10.2019 in O.A. No. 180/ 00346/ 2018 titled "*All India BSNL Pensioners' Welfare*

II

Association vs. Union of India & Ors.”

- (ii) Judgment dated 07.02.2025 in O.P (CAT) No. 60 of 2020 titled “*All India BSNL Pensioners Welfare Association & Anr. vs. Union of India & Ors.*”
- (iii) Order dated 08.08.2025 passed by this Hon’ble Court in SLP (Civil) Diary No. 39478 of 2025 titled “*Union of India & Ors. vs. P. Vadivel & Anr.*”

To ensure that no delay is further caused in the hearing of the matter on account of the Additional Affidavit being filed, it was submitted on behalf of the Petitioners’ counsel that they will not be placing any reliance on the Judgment of the High Court of Kerala, Ernakulam in OP (CAT) No.60/2020, referred to hereinabove as the said Judgment pertained to an altogether different issue. This statement was being made in view of the fact that since several dates the Union of India/DOT had been taking time to argue the matter and in view of the difference in prayers made by the Petitioners in the Original Application vis-à-vis the prayer made by the Applicants in the proceedings at Ernakulam, Kerala.

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True copy of the Order dated 19.08.2025 passed by the Hon'ble High Court of Delhi at New Delhi in W.P.(C) No. 4946/2024 and connected matters is attached herewith as **Annexure P-28 [Pg. 433 to 435]**.

True typed copy of the Additional Affidavit (along with annexures) dated 19.08.2025 filed by the Union of India before the Hon'ble High Court of Delhi at New Delhi in W.P.(C) No. 4946/2024 is attached herewith as **Annexure P-29 [Pg. 436 to 472]**.

13.09.2025 Reply to the Additional Affidavit filed on behalf of the Petitioners herein in the Writ Petition.

10.10.2025 Rejoinder filed by the Union of India/DOT to the Reply filed on behalf of the Petitioner herein in the Writ Petition.

19.11.2025 During the hearing of the Writ Petition and other connected matters, the Hon'ble High Court of Delhi passed an Order taking the submission of the Petitioners (Respondents therein) on record that they did not want refixation of their pay in terms of the 3rd PRC but placed reliance on the OM dated 04.08.2016.

True copy of the Order dated 19.11.2025 passed by the Hon'ble High Court of Delhi at New Delhi in W.P.(C) No. 4946/2024 & other connected matters is attached herewith as **Annexure P-30 [Pg. 473 to 475]**.

24.03.2026 HIGH COURT OF KERALA: R.P. 1158/2025 filed by the Union of India pursuant to the liberty granted

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by this Hon'ble court was dismissed by the Hon'ble High Court of Kerala at Ernakulam observing that the OMs dated 17.07.2018 and 27.03.2025 were merely documents and cannot supersede the CCS Pension Rules.

True copy of the Judgment dated 24.03.2026 passed by the Hon'ble High Court of Kerala at Ernakulam in R.P. 1158/2025 is attached herewith as **Annexure P-31 [Pg. 476 to 488]**.

[Note: *SLP (C) Diary No. 47131/2026 has been preferred assailing the said Judgment*]

- 28.04.2026** Final Arguments heard in the Writ Petition & other
12.05.2026 connected Petitions by the Hon'ble High Court of
21.05.2026 Delhi.
28.05.2026 Written Arguments filed by the Petitioners herein as
30.05.2026 also the Union of India/DOT after Judgment had
been reserved as directed by the Hon'ble High Court
of Delhi *vide* Order dated 21.05.2026.
01.07.2026 Impugned Judgment passed by the Hon'ble Delhi
High Court in W.P. (C) No. 4946/2024 titled as
*"Union of India & Ors. vs. All India Retired Bharat
Sanchar Nigam Limited Executive Welfare
Association & Ors."* and connected writ petitions
wherein the Hon'ble High Court allowed the Writ
Petitions thereby setting aside the Final Order passed
by the Hon'ble Central Administrative Tribunal.
Principal Bench dated 20.09.2023. The Impugned
Judgment held as under:-

“ ...

CONCLUSION

269. *Rule 37A of the CCS (Pension) Rules, 1972 prescribes special statutory framework governing erstwhile Government servants who were permanently absorbed in PSUs. Upon such absorption, the respondents ceased to be Government employees, their posts under the Government stood abolished and they were fitted under the IDA scale. Accordingly, consequent to such absorption, they shall be governed by the rules of the concerned PSU and be subjected to recommendations of the Pay Revision Committee. Hence, they cannot claim benefit of recommendations of the Central Pay Commission.*

270. *As per Rule 37A, while the Government bears the pensionary liability of the absorbed employees, such employees are still subject to sub-Rule 8 for the calculation of their pension. The source of payment does not determine the nature or extent of the right.*

271. *Properly construed, Sub-Rule 8 is nothing but a promise of extending the same formula to the absorbed employees which is applied for Central Government employees for the calculation of pension. The formula referred to is the one which shall be in force at the time of retirement or death of such absorbed employee. The Rule neither preserves the status of the absorbee as a Government servant nor creates a continuing right to claim every future benefit that may be extended to*

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Central Government pensioners. Accordingly, this Rule does not entitle the respondents to any other benefit that may arise in the future after their retirement.

272. We accordingly hold that neither Rule 37A nor any of the Office Memoranda relied upon by the respondents confer a right upon combined service pensioners governed by the IDA regime to claim revision of pension pursuant to the recommendations of the 7th CPC. This is because the recommendations of the 7th CPC only apply to Central Government employees and absorbees of BSNL/MTNL who draw pension on pro-rata basis from the Government. The respondents do not fall under either category. Moreover, since the underlying pay structure applicable to the respondents has not been revised as per the 3rd PRC, the question of consequential revision of pension does not arise.

273. For all the aforesaid reasons, the impugned order dated 20.09.2023 passed by the learned Tribunal cannot be sustained and is set aside. Accordingly, this batch of writ petitions stands allowed in the aforesaid terms. Pending applications, if any, stand disposed of. There shall be no order as to costs.”

20.09.2026 Hence, the present Special Leave Petition.



2026:DHC:5241-DB



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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment reserved on: 21.05.2026

Judgment pronounced on: 01.07.2026

Uploaded : 02/07/26

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W.P.(C) 4946/2024, CM APPL. 20274/2024

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

.....Petitioners

Through: Mr. Kirtiman Singh, Sr. Adv.
with Ms. Laavanya Kaushik, GP with Mr.
Maulik Khurana, Mr. Ritik Saha and Ms.
Khyati Bansal, Advs.

versus

ALL INDIA RETIRED BHARAT
SANCHAR NIGAM LIMITED EXECUTIVE
WELFARE ASSOCIATION AND ORS.

.....Respondents

Through: Mr. Ankur Chhibber, Ms. Gauri
Puri and Mr. Kashish Bhardwaj, Advs.

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W.P.(C) 4955/2024, CM APPL. 20291/2024

UNION OF INDIA & ORS.

.....Petitioners

Through: Mr. Kirtiman Singh, Sr. Adv.
with Ms. Laavanya Kaushik, GP with Mr.
Maulik Khurana, Mr. Ritik Saha and Ms.
Khyati Bansal, Advs.

versus

ALL INDIA BSNL PENSIONERS
WELFARE ASSOCIATION & ORS.

.....Respondents

Through: Mr. Sanjoy Ghose, Sr. Adv.
with Ms. Asmita Singh, Mr. Shashank Jain,
Mr. Rohan Mandal and Ms. Ankita Makan,
Advs.

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W.P.(C) 4985/2024 & CM APPL. 20392/2024

UNION OF INDIA & ORS.

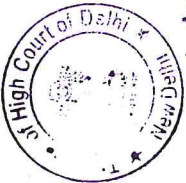
.....Petitioners

Through: Mr. Kirtiman Singh, Sr. Adv.
with Ms. Laavanya Kaushik, GP with Mr.
Maulik Khurana, Mr. Ritik Saha and Ms.

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W.P.(C) 4946/2024 and connected matters

Page 1 of 108



Khyaati Bansal, Advs.

versus

RETIRED TELECOM OFFICERS

WELFARE ASSOCIATION & ORS.

.....Respondents

Through: Mr. Ankur Chhibber and Ms.
Gauri Puri, Advs.

CORAM:

HON'BLE MR. JUSTICE C.HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT

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01.07.2026

OM PRAKASH SHUKLA, J.

1. This batch of writ petitions preferred under Article 226 of the Constitution of India assails the order dated 20.09.2023 passed by the Central Administrative Tribunal, Principal Bench, New Delhi¹, whereby three Original Applications² filed by the respondents herein, were heard together and came to be allowed.

2. By the impugned order, the Tribunal, while acknowledging parity with Central Government employees, directed the petitioners to revise the pension of the respondents in accordance with the recommendations of the Central Pay Commission³.

3. It must be noted at the outset that this batch of writ petitions raises a common question of law and fact, namely, whether the respondents, being erstwhile employees of the Department of

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Page 2 of 108

¹ "CAT" or "Tribunal" alternatively

² O.A. No. 1272/2020 (lead), O.A. No. 1271/2020 and O.A. No. 1329/2020

³ "CPC", hereinafter



Telecommunications⁴ and thereafter choosing to be permanently absorbed in *Bharat Sanchar Nigam Limited*⁵ and *Mahanagar Telephone Nigam Limited*⁶, are entitled to revision of pension in accordance with the recommendations of the 7th CPC.

4. In view thereof, since the present batch of petitions rests on the same set of facts and legal framework, they have been heard together and are being disposed of by this common judgment, with W.P.(C) No. 4946 of 2024, titled as, "*Union of India Through its Secretary Department of Telecommunication & Ors. v. All India Retired Bharat Sanchar Nigam Ltd. Executive Welfare Association & Ors.*", being treated as the lead matter for the purposes of adjudication.

COMMON FACTUAL BACKGROUND

5. These writ petitions are brought before us by the Union of India, through DoT. The respondents, who were applicants before CAT, were erstwhile employees of DoT and were subsequently absorbed in BSNL/MTNL.

6. The respondents in W.P.(C) Nos. 4946/2024 and 4955/2024 are pensioners of BSNL, whereas the respondents in W.P.(C) No. 4985/2024 are pensioners of MTNL. Pertinently, all the respondents herein are combined service pensioners.

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⁴ "DoT", hereinafter

⁵ "BSNL", hereinafter

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The Bharatiya Sakshya Adhiniyam, 2023



7. The facts necessary for adjudication qua the controversy may be summarized as follows.

8. The Government of India, in the interest of efficiency and corporatization of telecommunication services, transferred the service provision and commercial functions of DoT into two separate entities, namely, MTNL and BSNL.

9. MTNL was incorporated on 01.04.1986, comprising the DoT branches in Delhi, Bombay, New Bombay, and Thane districts. Thereafter, the Department of Telecommunication Services⁷ and the Department of Telecommunication Operations⁸ were merged and corporatized into BSNL, which commenced operations on 01.10.2000. Both MTNL and BSNL are Public Sector Undertakings⁹.

10. The seeds of this controversy stem from the *en masse* transfer of DoT employees to BSNL on an 'as is where is' basis, on deemed deputation without deputation allowance, effective from 01.01.2000, in accordance with the Office Memorandum¹⁰ dated 30.09.2000 issued by DTS. This OM stipulated that these employees would continue to be governed by all Rules and Regulations applicable to Government servants, including the Central Civil Services (Pension) Rules, 1972¹¹ until they opted for permanent absorption in BSNL. However, the said

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⁶ "MTNL", hereinafter

⁷ "DTS", hereinafter

⁸ "DTO", hereinafter

⁹ "PSU", hereinafter

¹⁰ "OM", hereinafter

¹¹ "CCS (Pension) Rules" or "Rules" alternatively



OM did not explicitly address the aspect of pension, gratuity, or other retiral benefits.

11. On the same date as the aforesaid OM i.e., 30.09.2000, Rule 37A came to be inserted in the CCS Pension Rules in light of the aforesaid transfer.

12. Rule 37A lays down the conditions for payment of pension upon absorption of Government employees into a PSU or a Central Autonomous Body¹². In essence, it provided that at the time of retirement from a PSU/CAB, Government servants who are permanently absorbed in the PSUs/CABs shall be entitled to a pension calculated on a “combined service” basis, which includes service rendered under the Government and PSU both, using the same formula applicable to Central Government employees.

13. Following the *en masse* transfer, the deputed employees were granted the option to either seek permanent absorption in the PSU or revert to Government service. The officers who opt for the former would be governed by the aforesaid Rule 37A alone and the ones who choose the latter would continue to be governed by the standard framework under the CCS Rules.

14. As per Rule 37A, if an employee opts for absorption in the PSU, three consequences would follow: (i) they cease to be a Government employee from the date of acceptance of their option, (ii)

¹² “CAB”, hereinafter



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the post held under the Government by such employee will be abolished, and (iii) they would be governed by the rules of the PSU.

15. On the other hand, if an employee chose to revert to Government service, they would be placed in a surplus cell on account of their post being abolished under the Government and would be re-deployed accordingly.

16. These options were crucial in crystalizing the respective liabilities of the Government and the PSUs pertaining to the payment of pensionary benefits.

17. Rule 37A (22)¹³ provides that the Government shall pay the pension of BSNL employees, and for other PSUs, a Pension Fund was to be established in accordance with the sub-Rules 13 to 21. The Government would make a one-time lumpsum contribution, and the PSU concerned would contribute towards the pensionary benefits for service rendered by an employee.

18. In this regard, the aforesaid special dispensation granted to BSNL employees that pensionary benefits would be paid by the Government, was also extended to MTNL *vide* amendment dated 03.03.2014.

¹³ As it stood on 21.12.2012



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2026:DHC:5241-DB



19. In furtherance of such absorption, the DoT, *vide* OM dated 28.07.2003, implemented the IDA¹⁴ pay scale as applicable for PSUs corresponding to the CDA¹⁵ pay scale for Central Government employees.

20. It is the petitioners' case that the respondents chose to opt for such absorption because service in the PSU was more lucrative since IDA pay scale was higher and there were greater chances of career progression in PSUs than under Government service. On the other hand, the respondents maintain that they were assured that the rules under Government service would continue to apply to them even after absorption, hence they opted for such absorption.

21. It is relevant to note that as per the record before us, while exercising the aforesaid option to be permanently absorbed in the PSU or revert to Government service, the respondents were furnished with the terms and conditions governing such transfer. Clause 5 of these terms and conditions stipulates that the officers who opt for permanent absorption, i.e., the respondents, would be governed by Rule 37A under IDA pay scale.

22. After having explained the underlying procedure for the *en masse* transfer of Government employees to BSNL/MTNL in the preceding paragraphs, we now turn to the genesis of the dispute at hand.

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¹⁴ Industrial Dearness Allowance

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23. According to the petitioners, the present dispute has arisen due to the respondents' misplaced claim of parity with Central Government employees. It is their case that since the pensions of Central Government employees have been timely revised as per CPCs, and the pensions of the respondents have plateaued after 2007 because the 3rd Pay Revision Committee¹⁶ for PSUs did not come into effect, the respondents are now claiming entitlement under 7th CPC for revision of their pensions. A claim which, as per the petitioners, was never earlier sought by the respondents since they were receiving comparatively greater benefits under the IDA pay scale.

24. Coming back to the present dispute, we shall now delineate the parallel timelines of CPC and PRC recommendations and their consequential effects on pension revision.

25. The 6th CPC was introduced with effect from 01.01.2006, pursuant to which the pay scales of Central Government employees were revised. Accordingly, pensions were revised for pensioners who retired prior to 01.01.2006.

26. Significantly, PSUs are generally governed by PRC recommendations and not CPCs. However, at this juncture we note that DoT did indeed apply the revised rules as per the 6th CPC to the absorbed BSNL pensioners with respect to DCRG¹⁷, pension and commutation of pension *vide* OM dated 12.08.2009.

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¹⁵ Central Dearness Allowance
¹⁶ "PRC", hereinafter
¹⁷ Death-cum-Retirement Gratuity



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27. With respect to PSUs, the 1st PRC was effected from 01.01.1997 for a period of ten years. Thereafter, by OM dated 26.11.2008, the 2nd PRC was notified w.e.f. 01.01.2007.

28. According to the petitioners, the pay scales of the respondents were revised pursuant to the 2nd PRC w.e.f. 01.01.2007. This created a situation where BSNL/MTNL employees who retired after 01.01.2007 were receiving a higher pension than the employees who retired prior to that date. To remove this anomaly, the Government extended corresponding revision of pensions for the BSNL/MTNL combined service pensioners prior to 01.01.2007 as well. The aforesaid was done by OM dated 15.03.2011 for BSNL and for MTNL, *vide* OM dated 01.10.2012.

29. The respondents claim that their pensions were revised pursuant to the 6th CPC whereas the petitioners maintain that this revision was made pursuant to the 2nd PRC. This distinction is material for the dispute at hand because the basis of the respondents' claim in the underlying OAs before the CAT was that they are entitled to revision as per 7th CPC as they were extended benefits under the 6th CPC as well.

30. Thereafter, with the advent of the 7th CPC, the pay scales of Central Government employees were again revised, and accordingly, their pensions stood revised w.e.f. 01.01.2016. This revision was notified under four OMs, as follows:

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The Bharatiya Sakshya Adhinivam 2022

Page 9 of 108



(i) Resolution dated 04.08.2016 accepts 7th CPC recommendations.

(ii) OM dated 04.08.2016 for post-01.01.2016 retirees based on the fitment formula.

(iii) OM dated 04.07.2016 for pre-01.01.2016 retirees based on the fitment formula.

(iv) OM dated 12.05.2017 approved the fitment formula and directed that either formula, whichever is higher, could be opted for pre-2016 pensioners.

31. Although CPC recommendations do not ordinarily apply to PSUs, by OM dated 21.03.2017, the rate for death gratuity revised as per 7th CPC was extended to the combined service pensioners of BSNL/MTNL.

32. From a bird's eye perspective, it is on the strength of the OMs dated 12.08.2009 and 21.03.2017, whereby certain benefits of the 6th CPC and 7th CPC respectively were extended to the respondents, that the respondents claim entitlement to pension revision of pension terms of 7th CPC.

33. After the 2nd PRC and 7th CPC, the 3rd PRC for PSUs was notified by way of OM dated 03.08.2017. However, as per its

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High Court of Delhi
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paragraph no. 3, its implementation was subject to the financial affordability of the PSU.

34. It is undisputed that since BSNL/MTNL were incurring losses, the recommendations of the 3rd PRC could not be extended to the respondents.

35. It is in view of the aforesaid that the petitioners claim that since the 3rd PRC did not come into effect, there was no change in pension drawn after 01.01.2017, hence there existed no anomaly in pensions drawn between pre- and post-01.01.2017 pensioners of BSNL/MTNL in order to warrant revision.

36. Aggrieved by the lack of revision of their pension, the respondents submitted multiple representations, but to no avail.

37. It was in this backdrop that the respondents approached CAT by filing three OAs, which were heard together, seeking the following reliefs in the lead O.A. No. 1272/2020:

“(a) Pass an Order directing the Department of Telecommunications to revise the pension/family pension/minimum pension w.e.f. 01.01.2017 for the BSNL combined service Pensioners, who were absorbed from DOT/DTS/DTO w.e.f. 01.10.2000 and retired prior to 01.01.2017 by applying the fitment formula on IDA pension as on 01.01.2017;.

(b) Pass an Order directing the Department of Telecommunications to revise the pension/family pension/minimum pension w.e.f. 01.01.2017 for the BSNL combined service Pensioners, who were absorbed from DOT/DTS/DTO w.e.f. 01.10.2000 analogous to the revision of

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High Court of Delhi
Authorized Under Section 75 of
The Bharatiya Sakshya Adhiniyam, 2023





pension/family pension/minimum pension for the Central Government Pensioners based on the recommendations of the 7th Central Pay Commission;

(c) Pass an Order directing the Department of Telecommunications to revise the pension for BSNL combined service pensioners parallel to the revision of pension of the Central government servants without linking with Pay revision in BSNL”

38. The Tribunal, by way of the impugned order, allowed the OAs and returned the following findings:

(i) At the time of absorption in BSNL/MTNL, it was assured that the respondents would continue to be governed by their existing terms and conditions of service, i.e., they shall be treated as Government employees.

(ii) Rule 37A of CCS (Pension) Rules shall govern the payment of pension to the respondents. Sub-Rule 21 thereunder mandates that their pension shall be paid by the Government.

(iii) Since BSNL/MTNL are corporate entitles, the liability of pension shall be borne by the Government.

(iv) Certain CPC recommendations applicable to Government servants were also extended to the respondents.

(v) The various OMs boil down to only one inference that it was consciously decided to retain the respondents' terms and conditions under Government service even after their absorption into BSNL/MTNL, including the aspect of pension.

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Further, no document was shown to support the argument that the protection granted to the respondents was only limited to a specific period.

(vi) The government made a promise in black and white and cannot retract at this stage.

39. In view of the aforesaid findings, the Tribunal directed the petitioners to revise the pension of the respondents in parity with Central Government pensioners, within a period of ten weeks, as follows:

"28. In view of the elaborate discussion above, the OA stands allowed. The competent authority amongst the respondents is directed to forthwith revise the pension and family pension wherever applicable, strictly in accordance with the relevant rules and the entitlement governing pension to various sets of employees of the Central Government, maintaining strict parity. It is clarified that the benefits of revision of pension and family pension as notified by the Central Government on the recommendations of the Pay Commission, shall stand extended in favor of the applicants, analogous to the revision of such pension in case of Central Government pensioners."

40. Aggrieved by the aforesaid directions issued by the Tribunal, the petitioners preferred the present writ petition.

SUBMISSIONS

41. Mr. Kirtiman Singh, learned Senior Counsel appearing on behalf of the petitioners in all connected petitions, advanced his

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W.P.(C) 4946/2024 and connected matters

Examination and Judicial Department

High Court of Delhi

Page 13 of 108

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The Bharatiya Sakshya Adhiniyam, 2023



arguments with force and eloquence to highlight fatal errors in the impugned order.

42. Mr. Singh laid down the backdrop of the dispute by explaining the process governing revision of pay and pensions of Central Government and CPSUs employees. It was submitted that after every 10 years, the Central Government ordinarily constitutes a CPC for revision of pay, allowances and pensionary benefits of Central Government employees, and similarly, PRC is constituted for PSUs. However, the recommendations of the PRC are only extended if the concerned PSU meets the profitability criteria. It was clarified that CPC also covers the aspect of revision of pension for absorbees in PSUs who opt for pro-rata pension. Whereas the employees who are permanently absorbed and choose to draw combined service pension, i.e., pension based on service jointly rendered under the Government and the PSU, is regulated by Rule 37A of the CCS (Pension) Rules, 1972.

43. The learned Senior Counsel further sought to explain the distinction between the CDA and IDA scale pattern: CDA applies to Central Government employees. Upon superannuation, the pension is fixed at 50% of the last drawn basic pay and is also granted Dearness Relief (DR) at the same rate as Dearness Allowance (DA) for serving employees. On the other hand, IDA scale is applicable to CPSU employees. Such employees may either opt for pro-rata pension, which is governed under CDA as per CPC recommendations, or for

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Examiner, Judicial Department

High Court of Delhi Page 14 of 108

Authorized Under Section 75 of
The Bharatiya Sakshya Adhiniyam, 2023



combined service pension, as per Rule 37A under IDA pay scale which is governed by the PRC framework.

44. Mr. Singh largely pivoted on the premise that as per Rule 37A (8), the respondents are only entitled to the same formula as Central Government employees for calculation of pension at the time of retirement and not to any other benefit subsequent to such retirement including revision of pension. Hence, it was submitted that the respondents cannot claim revision of pension under the 7th CPC as a matter of right.

45. Mr. Singh further submitted that the present dispute circles around the respondents' claim for revision of pension on account of parity with Central Government employees. It was averred that the impugned order has proceeded on a very simplistic understanding of the situation and that the Tribunal failed to acknowledge that CPC recommendations are only applicable to Central Government employees and not CPSUs, which are instead governed by PRCs. It was hence submitted that the formula for revision of pension under 7th CPC only applies to Central Government employees under CDA scale, whereas the respondents fall under the IDA scale and are subject to PRCs. It was further submitted that the respondents' pensions were revised as per the 2nd PRC and thereafter remained unchanged since the recommendations of the 3rd PRC were not effected due to financial constraints of the PSU. Consequently, it was submitted that the respondents cannot seek pension revision under the 7th CPC merely on the basis of parity with Central Government pensioners.

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Page 15 of 108
High Court of Delhi

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46. Mr. Singh categorically submitted that the finding of the Tribunal that there existed no ambiguity in the terms and conditions of service of the respondents, and that they would continue to be governed as per Central Government rules even after absorption, is blatantly incorrect. Reference was made to paragraph no. 8 of the Notification dated 14.01.2002, whereby options were called from Group 'B' officers. It explicitly stipulated that once the employee chose to be absorbed into the PSU, they would be moved to the IDA scale and only till such option is exercised will these employees be governed by the CDA scale. This was also mentioned in Clause 4 of the terms and conditions for absorption of Group 'B' officers. Further, Clause 5 of these terms clarified that payment of pension shall be payable under the IDA scale. It was further submitted that the aforesaid Option Form clearly indicated to the respondents that, they would cease to be government servants, their terms of service after absorption would be governed by the rules of BSNL/MTNL, they would be fitted under the IDA scale, and their pension would be regulated under Rule 37A. Mr. Singh also highlighted that the legislative intent behind Rule 37A was that upon absorption into BSNL/MTNL, the absorbees/transferees would no longer remain Government servants.

47. It was submitted that the Tribunal largely relied on Rule 37A (21), however, the said provision does not have much bearing on the present dispute. In this light, Mr. Singh drew our attention to the bare words of Rule 37A, particularly sub-Rules (4) & (5), which stipulated

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The Bharatiya Sanstha Adhiniyam, 2023





that once employee's option is accepted, they cease to be Government servants, they are deemed to have retired from Government service, and upon absorption, their post held under the Government stands abolished. It was submitted that sub-Rule 8 only promises the same formula for pension as Government servants as on the date of absorbee's retirement. Emphasis was laid on "at the time of his retirement" to submit that this restricts the applicability of the formula to the date of retirement and do not extend to subsequent revisions.

48. Mr. Singh further relied on Rule 37A (13) to (21) to explain the corpus of the Pension Fund to be maintained by PSUs. It was submitted that as far as BSNL is concerned, sub-Rules 22 and 23 provide that the payment shall be made by the Government, and the Government may specify the manner of contribution by BSNL. Hence, the reliance of the Tribunal on sub-Rule 22 (quoted as sub-Rule 21 in the impugned order) is therefore misleading and it is the finding in para no. 22 that the respondents would continue to be governed by rules of government service is starkly contradictory to the scheme of Rule 37A.

49. The learned Senior Counsel further contested the finding of the impugned order that it was a conscious decision to protect the respondents' terms and conditions under DoT post-absorption. It was submitted that the circulars and OMs referred to by the Tribunal had no consequence on the entitlement of the respondents. Mr. Singh further contested the finding in para no. 24 that no document was placed on record to substantiate the claim that the respondents could

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not claim protection in perpetuity. It was also submitted that the finding that BSNL/MTNL are corporate entities, hence the government must pay pension, has no consequence on the issue of revision of pension of the respondents.

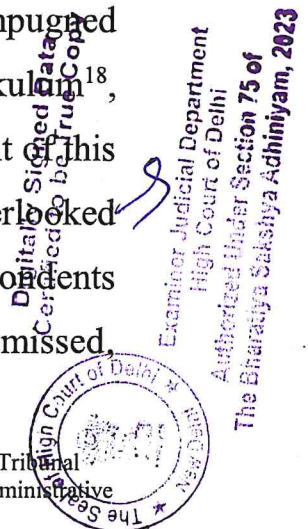
50. Mr. Singh averred that the Tribunal's direction to grant pension to the respondents at par with Central Government employees will open the Pandora's box and is contrary to the Scheme of Rule 37A, particularly since Rule 37A stipulates that on absorption, these employees shall cease to be Government servants, and therefore, claims for revision based on CPC parity are not tenable.

51. It was argued that two circulars dated 09.11.2000 and 27.04.2009, referred to in para no. 16 of the impugned order, were not dealt with by the Tribunal. It was highlighted that para no. 2 of the circular dated 27.04.2009 stipulated, "*this OM contains instructions for revision of pension of pre 2006 Central Government pensioners only*". Hence, it did not apply to the respondents.

52. Attention was drawn to para nos. 19 and 20 of the impugned order, which relied on three CAT Orders from Ernakulum¹⁸, Bangalore¹⁹ and Hyderabad²⁰ Benches, specifically on the point of this dispute, however, they were not properly considered and overlooked by CAT. Out of these decisions, it was submitted that the respondents had filed the OA before the Ernakulum Bench, which was dismissed.

¹⁸ Order in O.A. No 346/2018 dated 30.10.2019 by the Ernakulam Bench, Central Administrative Tribunal

¹⁹ Order in O.A. No 116-134/2018 dated 27.11.2019 by the Bangalore Bench, Central Administrative Tribunal





and the High Court subsequently reversed the decision²¹. Thereafter, they filed an SLP, which was withdrawn with liberty to file a review before the High Court²². This review petition was dismissed on 24.03.2026²³. It was further submitted that the 7th CPC recommended two formulae for revision of pension: “notional fixation” and “fitment method”. Before the Ernakulum Bench, the respondents sought revision based on the notional fixation method as per OM dated 12.05.2017. However, the respondents submitted before this Court on 19.11.2025 that they are claiming revision as per OM dated 04.08.2016, i.e., by applying multiplier of 2.57.

53. Thereafter, our attention was drawn to an order dated 19.08.2025 of this Court, wherein the respondents had undertaken to not rely on the Kerala High Court judgment. Even otherwise, it was submitted that this judgment was not applicable because: (i) it was passed on the basis that OM dated 12.05.2017 does not exclude its applicability to IDA pensioners, without considering the entire scheme of OMs or the distinction between IDA and CDA; (ii) para no. 2 therein holds that a petition filed by an Association is otherwise not maintainable, which principle is also applicable in the present case; (iii) similar claims cannot be agitated repeatedly, since the present O.A. and the O.A. before Ernakulum Bench were both filed by the respondents.



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8

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High Court of Delhi

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²⁰ Order in O.A. No 21/813/2017 dated 10.12.2018 by the Hyderabad Bench, Central Administrative Tribunal

²¹ Judgment dated 07.02.2025 passed by the High Court of Kerala, Ernakulam in OP (CAT) No.60/2020

²² Order dated 08.08.2025 in SLP (C) Diary No. 39478/2025

²³ Judgment dated 24.03.2026 in R.P. No. 1158/2025 in O.P. (CAT) No. 60/2020



54. It was submitted that there exists precedent on this issue. In 2007, 2nd PRC was effected with fitment factor of 2.19, which was revised to 2.31. In contrast, 6th CPC was effected with a fitment factor of 1.86. Reliance was placed on the following chart to submit that the respondents did not have any grievance at the time of 2nd PRC, and only because the 3rd PRC is not given effect due to financial health of BSNL/MTNL that the respondents seek entitlement of the 2.57 multiplier as per the 7th CPC, which notably only applies exclusively to CDA pensioners and not IDA pensioners:

Particulars	BSNL Combined Service IDA Pensioners	Central Government CDA Pensioners
Pension Revision	2 nd PRC Pension Revision	6 th CPC Pension Revision
Year of Revision	2011 (effective from 01.01.2007)	2008 (Effective from 01.01.2006)
Trigger for Revision of Pension	Pay Revision w.e.f. 01.01.2007 as per 2 nd PRC	Pay Revision w.e.f. 01.01.2006 as per 6 th CPC
Relevant OM for Pension Revision	DoT OM No. 40-17/2008-Pen (T)-Vol.III dated 15.03.2011	DoP&PW OM No. 38/31/08-P&PW(A) dated 01.09.2008
Multiplying Factor	2.31 Eg: Let us take old basic pension before revision = 100 New basic pension after revision = 100*2.31 = 231	1.86 Eg: Let us take old basic pension before revision = 100 New basic pension after revision = 100*1.86 = 186
Trigger for next Pension Revision	There is no Trigger for Pension Revision	Pay Revision as per 7 th CPC w.e.f. 01.01.2016
Next Pension Revision	Can not be done as there is no 3 rd PRC implementation in BSNL	Pension Revision as per 7 th CPC w.e.f. 01.01.2016

55. It was also submitted that the IDA pay scale was higher and the respondents were in fact receiving a higher pension than their Central Government counterparts even without the 3rd PRC. But since 3rd PRC did not come into force, there was no consequent revisions; hence, the

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Certified to be True CopyExaminer Judicial Department Page 20 of 108
High Court of Delhi

Authorized Under Section 75 of



respondents seek revision as per the 7th CPC, which grants a higher fitment. This calculation is as follows:

PARAMETERS	CASE: 1 Employee A who opted to remain in the Government in the year 2000	CASE: 2 Employee B who opted to be absorbed in BSNL in the year 2000
Pay drawn before absorption process as on 30.09.2000	Assume, Employee A - Rs. 5000 in the Government (CDA) Pay Scale of 4500-125-7000.	Employee B - Rs. 5000 in the Government (CDA) Pay Scale of 4500-125-7000.
Pay drawn after the absorption process in BSNL as on 01.10.2000	Employee A - Rs. 5000 in the Government (CDA) Pay Scale of 4500-125-7000.	Employee B - His pay scale got converted into IDA pay scale (6550-185-9325) and his pay was fixed as Rs. 7290. Basic pay enhanced by 46%
Pay Revision:	Employee A obtained benefits of 6 th CPC w.e.f. 01.01.2006 and 7 th CPC w.e.f. 01.01.2016	Employee B obtained benefit of 2 nd PRC w.e.f. 01.01.2007
Pay after revision:	w.e.f. 01.01.2006 (6th CPC) Earlier pay of Employee A (i.e. Rs. 5000/-) revised to Rs. 12100. w.e.f. 01.01.2016 (7th CPC) Earlier pay of Employee A revised to Rs. 31900.	After 2nd PRC - w.e.f. 01.01.2007 Earlier pay of Employee B (Rs. 7290/-) revised to Rs. 16890 /- 3rd PRC - w.e.f. 01.01.2017 Benefit not available to Employee B since the conditions for the applicability of the 3 rd PRC have not been met by the BSNL.
Assume both employees retired on 01.01.2017	Basic Pension of Employee A - Rs. 31900/2 = Rs. 15950/-	Basic Pension of Employee B - Rs. 16890/2 = Rs. 8445/-
Gross Pension of Both employees	Gross Pension of Employee A with Central Dearness relief of 4% = Rs. 15950/- X 1.04 = Rs. 16588/-	Gross Pension of Employee B with Industrial Dearness relief of 119.5% = Rs. 8445 /- X 2.195 = Rs. 18537/-

56. Based on the aforesaid comparative calculation, it was submitted that basic pension of Employee A under the IDA scale was more than that of Employee B under the CDA scale. However, the gross pension of Employee B was more due to higher IDA scale. Further, the respondents seek to apply the fitment factor as provided by 7th CPC to their IDA pay scale, which will give them an even higher pension. It was also submitted that if the respondents were granted relief, the resultant financial liability to the Government would be north of Rs. 16,938 crores.

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High Court of Delhi
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57. In support of their contentions, reliance was placed on *S.I. Roop Lal v. UOI*²⁴ and *K. Ajit Babu & Ors. v. UOI*²⁵, and certain decisions rendered by CAT.²⁶

58. Lastly, Mr. Singh emphasized the distinction between *fixation* of pension at the time of retirement, as provided under Rule 37A and the *revision* of pension pursuant to a subsequent revision of pay. It was submitted that Rule 37A (8) & (9) provide that the pension of absorbees shall be calculated using the same formula applicable to Central Government employees retiring on the same date. It was submitted that this formula has been extended to absorbees for fixation of pension at the time of their retirement; Rule 37A does not envisage revision of pension subsequent to retirement. It was categorically submitted that the respondents are not entitled to revision because: (i) pay scale was not revised; (ii) lack of a provision allowing for revision of pay under the IDA scale. Therefore, the direction of the Tribunal, being directly in the teeth of the present legal framework, is liable to be set aside.

59. *Per contra*, the arguments on behalf of the respondents were advanced by learned Senior Counsel Mr. Sanjoy Ghose in W.P.(C) No. 4955/2024 and by learned Counsel Mr. Ankur Chhibber in W.P.(C) Nos. 4946/2024 and 4985/2024.



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²⁴ (2000) 1 SCC 644

²⁵ (1997) 6 SCC 473

²⁶ Order in O.A. No 2287/2008 dated 03.06.2009 by the Principal Bench, Central Administrative Tribunal;
Order in O.A. No 533/CH/2013 dated 05.11.2014 by the Chandigarh Bench, Central Administrative Tribunal;
Order in O.A. No. 526/1988 dated 03.10.1989 by the Ahmedabad Bench, Central Administrative Tribunal

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60. Mr. Chhibber, the learned Counsel on behalf of the respondents, ably assisted the Court and resisted the present petition with considerable force. He submitted that the impugned order was cogent in its reasoning and did not warrant our interference. It was submitted that the pension of the respondents was last revised almost 17 years ago, as on 01.01.2007.

61. Mr. Chhibber submitted that the respondents were given assurance that their service conditions would remain unchanged post absorption and that this assurance was embodied in Rule 37A, in terms of which, the respondents are entitled to the same pension scheme as Central Government employees. In this regard, reliance was placed on various OM's dated 05.07.1989, 25.09.2000, 30.09.2000, 09.11.2000, 14.01.2002 and 20.07.2016. Mr. Chhibber sought to specifically bring our attention to the abovementioned documents, as follows:

(i) OM dated 05.07.1989 mandates that the government servants who opt for absorption in a PSU would be governed by Central Government rules at the time of their retirement.

(ii) Note dated 25.09.2000 issued by DTS for Cabinet approval states that absorbees are entitled to the Government pension scheme post absorption and in this regard, Rule 37A was inserted.



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(iii) Circular dated 09.11.2000 stipulated that the employees absorbed in BSNL shall be entitled to the Government's pension scheme even after their absorption and the payment will be made by the Government.

(iv) Notification dated 14.01.2002 called for options from Group B employees. Para 8 stipulates that till they are absorbed, they will remain under CDA scale. Clause 5 of the terms and conditions therein, states that the officers who opt for permanent absorption in BSNL would be governed by Rule 37A.

62. Mr. Chhibber relied on OM dated 20.07.2016 to aver that the liability for pensionary benefits of BSNL employees except those recruited after 01.10.2000, shall be borne by the Government, and BSNL shall continue to pay pension contribution in accordance with Fundamental Rule 116. Hence, the respondents are entitled to pension revision irrespective of the financial condition of the PSU.

63. Mr. Chhibber clarified that the respondents do not seek enhancement of their pay scale, but only application of the pension formula extended to Central Government employees for revision of pension, as promised under Rule 37A. It was argued on the strength of Rule 37A (8) and (9) and its accompanying explanation, that the respondents were clearly entitled to revision of pension equivalent to Central Government employees.



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High Court of Delhi
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64. It was categorically submitted that the respondents' pensions were revised as per 6th CPC by OM 15.03.2011 and as per OM dated 04.05.2009, including other benefits such as limits of DCRG, commutation table, emoluments, qualifying service, etc. were extended to them. Emphasis was laid on para no. 3.1 which stated these orders were to apply to all combined service pensioners entitled to draw pension on 01.01.2007 as per Rule 37A (21). It was also argued that para no. 11 demonstrated the intent that pensions were to be disbursed expeditiously. Emphasis was also laid on a communication dated 27.04.2009 from the Department of Pension & Pensioners' Welfare²⁷, which in its para no. 2 clarified that since the formula applicable to Central Government pensioners was revised by OM dated 02.09.2008 after 6th CPC, the same will apply to combined service pensioners who were absorbed in PSUs.

65. It was contended that the recommendations of the 6th CPC did not discriminate or create a separate class for the respondents, as was evident by OM dated 01.09.2008 which blanketly applied to "*all pensioners/family pensioners who were drawing pension/family pension on 1.1.2006*" under CCS Rules. Since the respondents drew pension under Rule 37A of CCS (Pension) Rules, they were also entitled to the implementation of these recommendations on the same basis as other combined service pensioners.

66. With respect to 7th CPC, it was submitted that it applied uniformly to all CCS pensioners without creating a separate class for

²⁷ "DP&PW", hereinafter

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Examiner Judicial Department Page 25 of 108
High Court of Delhi

Authorized Under Section 75 of



absorbees such as the respondents, as evident from OM F. No. 38/37/2016-P&PW(A)(ii) dated 04.08.2016. This OM granted a 2.57 multiplier to pre-01.01.2006 pensioners. Reliance was placed on para no. 7, which stipulated that the pensions of Central Government employees who were permanently absorbed in PSUs would be revised as per 7th CPC. It was submitted that this multiplier is particularly what the respondents are seeking before this Court. It was further submitted that the rate of death gratuity as per 7th CPC was also extended to the respondents by OMs dated 16.03.2017 and 21.03.2017. It was argued that if recommendations of the 7th CPC were not to be applied to the respondents, then how were they extended gratuity under 7th CPC. Reliance was also placed on OM dated 12.05.2017, which issued revision of pension of pre-2016 pensioners as per 7th CPC, to submit that para no. 12 therein stated that it applied to pensioners who were absorbed in PSUs i.e., the respondents.

67. With respect to the contention that respondents' pensions cannot be revised since their pay is not revised, it was submitted that pay revision under a PSU is dependent upon profitability and affordability of the PSU and has no connection with pension revision, which is rather governed by Rule 37A. It was also submitted that PRC do not govern revision of pension for the respondents, since no reference was made in this respect in the PRC recommendations.

68. It was submitted that non-consideration of the 3 CAT decisions (Ernakulam, Hyderabad, and Bangalore Benches) in the impugned

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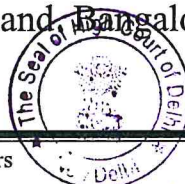
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High Court of Delhi

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The Bharatiya Sakshata Adhiniyam, 1986

Page 26 of 108



order was not fatal since those Orders were passed by Single Benches of CAT at Ernakulum and Hyderabad and the Division Bench at Bangalore Bench had passed a non-speaking order. It was submitted that these decisions were otherwise also distinguishable on facts. It was further submitted that the High Court of Kerala upheld the applicability of OM dated 12.05.2017 to an absorbee, similarly placed as the respondents. It was submitted that the SLP²⁸ filed by the petitioners against this decision was withdrawn with the liberty to file a review before the Kerala High Court, which was ultimately dismissed. Mr. Chhibber relied on para no. 10 of the judgment rendered in review²⁹. Further, it was averred that the petitioners were taking the respondents' undertaking of 19.08.2025 out of context; they undertook to not rely on the Kerala judgment in light of petitioners' submission that they were challenging the same before the Supreme Court and did not waive their substantive entitlement.

69. It was submitted that the petitioners were seeking to bring on record certain documents dated 17.07.2018 and 27.03.2025, which were not placed before CAT. It was also submitted that the Kerala High Court, in para no. 20 of the review decision, rejected these very documents by observing that they were internal in nature and to agitate a review on their basis would be far-fetched. It was submitted that presently, there exists a High Court judgment in favor of the respondents directly on the point of controversy.

²⁸ SLP(C) Dairy No. 39478/2025, order dated 07.02.2025

²⁹ RP No. 1158/2025, order dated 24.03.2026

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High Court of Delhi

Authorized Under Se-Page 27 of 108
The Bharatiya Sakshya Adhiniyam, 2023

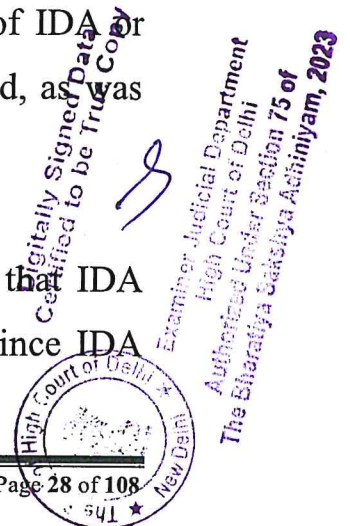


70. Conclusively, Mr. Chhibber submitted that as such, payment of pension has no link with pay revision or the fact that the respondents ceased to be Government employees in light of Rule 37A. The failure to revise pension has caused grave prejudice to the respondents herein, who are all senior citizens. It was submitted that a Group 'D' retiree was drawing a meagre pension of Rs. 3500/- per month, whereas the minimum pension as per the 7th CPC is Rs. 9000/- per month.

71. Mr. Sanjoy Ghose, the learned Senior Counsel appearing on behalf of the respondents in W.P.(C) No. 4955/2024, advanced certain submissions in addition to the arguments put forth by Mr. Chhibber.

72. Mr. Ghose submitted that since 2007 the pension of the respondents has not been revised. It was argued that the contention regarding difference between IDA and CDA pay scale was a red herring since the respondents do not seek pay revision; revision of pension can be done regardless, as per the formula under Rule 37A. It was also submitted that it is not within the remit of PRC to revise pension. It was submitted that the respondents should be extended the benefit of the same formula for fitment of 2.57 in view of the assurance of similar treatment with Central Government employees. It was argued that the Tribunal did not direct any alteration of IDA or CDA pay scales, but it only directed parity to be maintained, as was assured to the respondents at the time of their absorption.

73. It was also submitted that it is fallacious to suggest that IDA pensioners receive more pension than CDA counterparts; since IDA





pay scale is higher than CDA, the DR for CDA is higher than in IDA and hence the multiplication factor for pay revision in CDA is greater than for IDA to balance out the difference.

74. With respect to the petitioners' contention before CAT that granting relief to the respondents will create a rift with other BSNL/MTNL employees, it was submitted that the same was not tenable since the respondents constitute a separate class, i.e., erstwhile Government employees absorbed in BSNL/MTNL, and hence, there exists *intelligible differentia* for such differential treatment.

75. It was asserted that the respondents were not seeking general parity with central government employees but merely seeking revision of pension pursuant to the revision granted to central government employees based on the assurance of similar treatment. It was further submitted that classification of absorbees and the ones who were recruited in BSNL is overinclusive and violative of Article 14 since only the absorbees were granted protection under Rule 37A and therefore constitute a *suis generis* class and that this *suis generis* class has been consistently granted parity with central government pensioners by virtue of Rule 37A. Reliance was placed on OMs dated 27.04.2009, 04.05.2009, 12.08.2009, 15.03.2011 and 20.07.2016. To demonstrate the assurance granted to respondents at the time of their absorption, reliance was placed on OM dated 05.07.1989, Note dated 25.09.2000 and Circular dated 09.11.2000. To demonstrate parity, it was highlighted that the absorbees continued with GPF³⁰ post

³⁰ General Provident Fund

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V.P.(C) 4946/2024 and connected matters



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High Court of Delhi

Page 29 of 108

Authorized Under Section 75 of
The Bharatiya Sakshata Adhikaran, 2022



absorption, which was not permitted for other PSU employees and were eligible for CGHS facilities (OM dated 20.02.2014), this is because their pensions are disbursed from the Central Civil Estimates at power with Central Government pensioners.

76. It was submitted that once it is accepted that the Government is to bear the liability for pension of the respondents, it is counterintuitive to suggest that their revision of pension would be dependent on recommendation of PRC or the financial health of the PSUs. By OM dated 20.07.2016, DoT reaffirmed this position by rescinding its earlier OM whereby liability of the Government was restricted to 60%. It was clarified that as per 3rd PRC, pay revision is dependent on the financial health of BSNL and does not govern revision of pension. This distinction was acknowledged by DP&PW in its OM dated 08.03.2019 whereby it sought clarification from DoT regarding revision of pension for pre-2017 BSNL pensioners.

77. It was submitted that the General Terms and Conditions floated along with the option forms, did not provide any option to opt for pro-rata pension and, therefore, there are no pro-rata pensioners in BSNL, and all absorbed employees, including the respondents, are combined service pensioners.

78. Reliance was also placed on sub-Rule 8 to submit that respondents are entitled to revision of pension. It was averred that the Explanation inserted on 21.12.2012 to Sub-rule 8 of Rule 37A, which clarifies that pension for absorbees must be calculated on the same

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High Court of Delhi

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basis as for Central Government pensioners. It was contended that IDA scales, granted in light of Rule 37A (10), relate solely to pay and have no bearing to the aspect of revision of pension.

79. With respect to petitioners' submission that combined service pensioners are receiving more pension than their Central Government counterparts, it was submitted that as per OM dated 15.03.2011, respondents are drawing minimum pension of Rs. 3500/-, whereas the Central Government employees draw a minimum of Rs. 9000/- as per 7th CPC.

80. Pertaining to the CAT decisions cited by the petitioners, it was submitted that issues of interpretation of statutes or statutory rules should be considered by Division Bench of the Tribunal³¹. Nevertheless, both decisions fail to appreciate the explanation to Rule 37A(8) and writ petitions against both are pending before respective High Courts. Further, the decision of the Division Bench at Bangalore, is *sub-silento* enhanced does not constitute a binding precedent³².

81. It was reiterated that all benefits as per 7th CPC, except for revision of pension, were extended to the respondents.



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High Court of Delhi
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The Bharatiya Sakshya Adhiniyam, 2023

³¹ Mahabal Ram (Dr) v ICAR, (1994) 2 SCC 401; L Chandra Kumar v Union of India, (1997) 3 SC 261; Govt. of T.N. v. S. Balasubramanian, (1995) 6 SCC 642; State of M.P. v. B.R. Thakare, (2002) 10 SCC 338; Union of India v. Madras Bar Assn., (2010) 11 SCC 1

³² Municipal Corporation of Delhi v Gurnam Kaur, (1989) 1 SCC 101



82. In rejoinder, Mr. Singh submitted that the reliance on the OM dated 05.07.1989 Cabinet Note dated 25.09.2000 is of no avail, since they have materialized into Rule 37A.

83. Mr. Singh clarified that there were two kinds of pensioners absorbed into BSNL/MTNL: (i) pro-rata pensioners who draw pension separately from the Government for the period for their service till their date of absorption under CDA scale. They are defined in Para d(ii) of the OM dated 05.07.1989. It was submitted that the OMs dated 02.09.2008 and 04.08.2016 pertain to these pensioners; (ii) combined service pensioners are governed under Rule 37A. Their pension becomes payable once they retire from the PSU and is calculated based on the service rendered under both the Government and the PSU together. These employees are fitted into the IDA scale. All respondents fall under this latter category. In this light, Mr. Singh sought to distinguish the OMs/communications relied upon by the respondents as follows:

(i) OM dated 01.09.2008 gives effect to 6th CPC. applies to pre-01.01.2006 retirees. It pertains to pro-rata pensioners, not combined service pensioners as per para no. 7.

(ii) OM dated 02.09.2008 applies to post-01.01.2006 retirees for revision of various provisions in terms of 6th CPC. It will not apply to respondents since they ceased to be Government employees after absorption.

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Authorized Under Section 75 of
The Bharatiya Sakshya Adhiniyam, 2023



(iii) OM dated 15.03.2011 was issued for revision of pension of BSNL pensioners pursuant to the 2nd PRC and has nothing to do with CPC recommendations.

84. It was submitted that the OMs dated 01.09.2008 and 02.09.2008 operates as a cohesive scheme. Since the former applies to pre-01.01.2006 retirees, it pertains to revision of pension and the latter applies to post-01.01.2006 retirees, therefore, it is for fixation. In this regard, it was submitted that the OM dated 27.04.2009 is only a clarification on OM dated 02.09.2008 (fixation), It only clarifies that that the formula revised as per OM of 02.09.2008 shall also be applied to combined service pensioners and that the previous OM dated 01.09.2008 has no application whatsoever since it deals with revision of pension of pre-2006 Central Government retirees. In other words, the change in formula for fixation of pension (02.09.2008) will be applicable to the respondents but not the formula for revision of pension (01.09.2008). It was submitted that this mechanism is indeed aligned with Rule 37A and was mirrored in the 7th CPC framework.

85. Mr. Singh argued that 3 OMs issued on the same date (04.08.2016) gain significance for the purpose of 7th CPC, as follows:

(i) OM No. 38/37/2016-P&PW(A) is a resolution by which 7th CPC recommendations were accepted. It provides two formulae: fitment and notional fixation. Fitment factor of 2.57 was to be applied immediately, and the latter was subject to feasibility.

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(ii) OM No. 38/37/2016-P&PW(A)(i) is for revision of pension for post-01.01.2016 retirees. Hence, it was submitted that it essentially fixates pension.

(iii) OM No. 38/37/2016-P&PW(A)(ii) applies to revision of pension of pre-01.01.2016 retirees.

86. In light of these three OM, it was submitted that the OM 12.05.2017, (ultimately relied upon by the respondents), completes the chain. It was highlighted that this OM accepted the notional fixation method to revise pension for pre-01.01.2016 Central Government retirees. It was also submitted that these OM did not apply to BSNL/MTNL combined service pensioners governed by the IDA pay pattern, as also clarified by the Department by OM dated 17.07.2018 and 27.03.2025. It was, however, also submitted that these clarifications were not part of the record in the underlying OAs but were subsequently placed before the High Court of Kerala at Ernakulum in the proceedings arising from a similar dispute.

87. Mr. Singh submitted that the respondents were extended the benefit of enhanced gratuity pursuant to the 7th CPC as per OM dated 16.03.2017 because gratuity form part of the pensionary formula under Rule 37A (8). This OM also clearly stipulates that there is no change in the existing formula for pension post 7th CPC and the absorbees shall remain on the existing formula.

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9

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The Bharatiya Sakshya Adhiniyam, 2023



88. It was submitted that there is a direct link between revision of pension and revision of the pay scale. Accordingly, if the pension of the respondents were to be revised in the manner claimed, it would result in an anomalous situation whereby employees who retired earlier would get a much higher pension as opposed to the employees who retire now on the same pay scale. It was further submitted that this anomaly was covered by the OM dated 18.03.2019.

89. Reliance was also placed on Section 149 of the Finance Act, 2025 to contest the argument of parity since this provision entitles the Central Government to differentiate between different classes of pensioners.

90. Lastly, it was submitted that the benefits as envisaged by Rule 37A have already been extended to the respondents. Further, it was again clarified that the respondents were never extended the benefit of the 6th CPC, which only applies to Central Government employees and pro-prata absorbees, instead, they received benefits of the 2nd PRC and therefore, cannot claim entitlement to pension revision under the 7th CPC.

91. In surrejoinder, Mr. Chhibber submitted that the 6th or the 7th CPC do not create any distinction between the IDA and CDA pensioners, as evident from para no. 19 of the OM dated 12.05.2017 which explicitly applies uniformly to all pensioners drawing pension before and after 01.01.2016 under the CCS (Pension) Rules. It was further submitted that the IDA-CDA distinction is a legal fiction, and was not argued by the petitioners before the Tribunal.

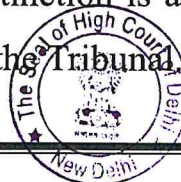
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Page 35 of 108
Authorized Under Section 75 of
The Bharatiya Sakshya Adhiniyam



92. Mr. Chhibber reiterated that the respondents were guaranteed parity with their Central Government counterparts at the time of their absorption, which was solidified by insertion of Rule 37A. It was averred that Mr. Singh's contention that pension revision was only applicable to Central Government employees under CDA scale was fallacious since no such classification has been made in the statute or the various Orders/OMs. These orders instead apply to "pensioners/family pensioners" governed by CCS Rules.

93. It was highlighted that a conjoint reading of sub-Rules 8 and 10 of Rule 37A provides that the respondents are entitled to revision of pension after retirement in the same manner as Central Government employees. It was reiterated that the respondents were extended various benefits in furtherance of 7th CPC, thereby evidencing continued parity in matters of pensionary benefits.

94. With respect to the finding of the Kerala High Court that an OA by an Association is not maintainable, Mr. Chhibber sought to clarify that an Association can indeed file an OA as per Rule 5 of the Administrative Tribunal Rules, also evident from the fact that their OA was allowed and regardless, there were also independent applicants in the present matter.

95. While concluding, it was contended that a mere difference in pay structure (IDA-CDA) does not amount to forfeiture of the statutory right to draw an equivalent pension under Rule 37A. The respondents were extended the benefit of 6th CPC and various benefits

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Examiner Judicial Department

Page 36 of 108

The Bharatiya Sakshya Adhiniyam, 2023



under 7th CPC except pension revision. The respondents have a legitimate expectation for pension revision since they were assured at the time of their absorption that they would be at par with government employees. Hence, they cannot be denied revision of pension by linking it with IDA pay revision (especially since IDA pay revision of working employees does not deal with pensioners governed under CCS Rules). The Tribunal has only ordered adherence to the scheme envisaged under Rule 37A and committed no error warranting interference under Article 226 of the Constitution of India.

REASONING AND ANALYSIS

96. We have heard the learned Counsel appearing for all parties at great length and carefully perused the material on record. We record our appreciation for the valuable assistance rendered by the learned Counsels before us, which has been of significant aid in adjudicating this matter.

97. Notice in the present matter was issued on 01.08.2024. Thereafter, on 19.08.2025, the learned Senior Counsel and Mr. Ankur Chhibber on behalf of the respondents, submitted that they will not place reliance on the judgment of the High Court of Kerala, Ernakulum in OP (CAT) No. 60/2020. Subsequently, on 19.11.2025, it was submitted on behalf of the respondents that they only seek revision of their pension as per the same formula extended to Central Government employees in terms of OM No. F.No.38/37/2016-P&PW(A)(i) dated 04.08.2016, i.e., by applying the multiplier of 2.57

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and categorically submitted that they do not seek re-fixation of pay in terms of the 3rd PRC.

98. After having given due consideration to the present *lis*, we can safely deduce that the primary grievance of the petitioners is that the respondents cannot be treated at par with Central Government employees for the purposes of revision of their pension as per the 7th CPC recommendations, particularly since: (i) the respondents ceased to be Government employees upon their permanent absorption in BSNL/MTNL; (ii) they are governed by PRC recommendations and not CPC recommendations; (iii) they are fitted under a different pay scale, i.e., the IDA scale; and (iv) Rule 37A only grants them the same formula as Central Government employees for calculation of pension at the time of retirement. On the other hand, the respondents maintain that they were assured that their service conditions as under the Government shall remain intact even after their absorption. It is their case that such assurance also materialized in the form of Rule 37A of the CCS (Pension) Rules, 1972, specifically sub-Rule (8).

99. While this Court has met with the opportunity to interpret and apply Rule 37A on numerous occasions since its advent, the question before us today is quite peculiar.

100. As per the aforementioned facts, the question of the hour is whether the respondents before us, who were erstwhile DoT employees, and thereafter permanently absorbed into BSNL/MTNL and fitted in the

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Examiner Judicial Department Page 38 of 108
High Court of Delhi
Authorized Under Section 78 of



IDA pay scale, are entitled to revision of their pension as per the 7th CPC, in light of Rule 37A?

101. In our endeavor to fairly adjudicate the present dispute, we are required to undertake a comprehensive reading of the rigmarole of the legislative framework, relevant Circulars, Office Memoranda, and other communications issued by the Government of India and BSNL/MTNL, so as to arrive at a coherent and harmonious understanding of the entire statutory and administrative scheme governing pension of absorbees as envisaged by the Government and Legislature.

102. Needless to state, that this Court must exercise its extraordinary jurisdiction under Article 226 of the Constitution of India sparingly and in a circumscribed manner. Further, re-appreciation of evidence is impermissible unless the impugned decision of the learned Tribunal is, *inter alia*, rendered dehors its jurisdiction, is perverse or suffers from manifest illegality or procedural irregularity³³. Judicial review in matters of economic policy should be exercised on the anvil of, *inter alia*, manifest arbitrariness, patent illegality, and legislative competence.³⁴

103. Before embarking on this journey, we deem it appropriate to refer to judicial precedents relevant to the dispute at hand. However,

³³ Ajay Singh v. Khacheru, (2025) 3 SCC 266; Chandavarkar Sita Ratna Rao v. Ashalata Guram, (1986) 4 SCC 447; Subhash Chander v. UOI in W.P(C) No. 2468/2025

³⁴ Rattan Chand v. Bhakra Beas Management Board & Ors., MANU/PH/1158/2002; UOI & Ors v Sub Trilok Chand Retd No. JC374073A & Anr., W.P.(C) 12781/2024, pronounced on 29.05.2026 (2026:DHC:4843-DB)

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High Court of Delhi
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The Bharatiya Sakshya Adhiniyam, 2023





we do not wish to burden this judgment with innumerable excerpts. Hence, we deem it fit to objectively recapitulate the relevant precedents without reproduction as far as possible.

104. It is well settled that pension is neither a bounty nor an act of grace of the employer, instead, it is a valuable right of a government employee for the service rendered by him. It is the legal obligation of an employer to pay pension as it accrues³⁵. However, this right is subject to the provisions of Rule 9 of the CCS (Pension) Rules, which reserves the power to withhold or withdraw pension under certain circumstances³⁶.

105. It is also well settled that any discriminatory action of the Government is liable to be quashed unless it can be established that such action was based on some rationale and cogent principle and was not arbitrary³⁷.

106. The Supreme Court in *A.K. Bindal v. UOI*³⁸ recognized that a government company is legally distinct from the Government and that employees of the Government company are not civil servants and, therefore, are not entitled to protection under Article 311 of the Constitution of India. It was also held that since these employees are not Government servants, they have no legal right to claim that their

³⁵ *D.S. Nakara v. UOI*, 1983 SCC (L&S) 145

³⁶ *BSNL v. Manilal Ambalal Patel*, (2019) 14 SCC 232 : (2020) 1 SCC (L&S) 845 : 2019 SCC OnLine SC 344

³⁷ *Ramana Dayaram Shetty v. International Airport Authority of India*, (1979) 3 SCC 489, 506 : AIR 1979 SC 1628

³⁸ (2003) 5 SCC 163 : 2003 SCC (L&S) 620 : (2003) 114 Comp Cas 520 : 2003 SCC OnLine SC 580; *Pyare Lal Sharma v. Managing Director*, (1989) 3 SCC 448 : 1989 SCC (L&S) 484 : AIR 1989 SC 1854



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High Court of Delhi

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salaries should be paid by the Government. This responsibility is to be borne by the Government company, and if such company is not financially viable, the employees cannot claim any legal right to ask for a direction to the Central Government to meet this expenditure.

107. However, in the present case, we note that the liability to pay pensionary benefits for BSNL/MTNL absorbees lies with the Government itself in terms of Rule 37A. Hence, the aforementioned decision is applicable to the extent that it carves out a distinction between government servants and employees of government companies.

108. Further, the Supreme Court has consistently highlighted that the financial ability of an employer/government undertaking is crucial and cannot be ignored, as otherwise, the unit itself may not be able to function³⁹. We note that while these decisions were rendered in context of fixing of wages/pay to workers and revision thereof, the reasoning adopted squarely applies to the dispute at hand.

109. The Supreme Court in *VSNL v. Ajit Kumar Kar*⁴⁰ duly recognized that IDA and CDA scales are distinct. It was held that the respondent-retirees therein did not have any right to receive Dearness Relief as per CDA scale on the pension drawn by them under IDA scale.



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³⁹ *Officers & Supervisors of I.D.P.L. v. Chairman & M.D., I.D.P.L.*, (2003) 6 SCC 490 : 2003 SCC (L&S) 916 : 2003 SCC OnLine SC 738; A.K. Bindal (supra)

⁴⁰ (2008) 11 SCC 591 : (2008) 2 SCC (L&S) 1047 : 2008 SCC OnLine SC 599



110. Significantly, a three-Judge Bench of the Supreme Court held that classifications created by an expert body after detailed study should not be disturbed except for compelling reasons which may indicate arbitrariness or unreasonableness⁴¹. It was further clarified in *UOI v. M.V. Mohanan Nair*⁴² that the Pay Commission is an expert body, and when such body has comprehensively examined all issues to arrive at a conclusion, the court should not interfere with its recommendations. Once the government has accepted its recommendations and implemented the same, any interference by the court would have grave impact on public exchequer. Since the Pay Commission goes to the root of the matter, it is the proper authority, and interference is only warranted if there is “hostile discrimination”⁴³. The decision of the Pay Commission should not ordinarily be subject to judicial review⁴⁴. The Supreme Court and this Court have held that the Tribunal cannot substitute its own views for the views of the Government or direct a new policy based on its views⁴⁵.

111. Further, it is trite that a classification is within the bounds of Article 14 if it is based on some intelligible differentia and has some rational nexus with the object sought, and Article 14 of the Constitution of India will only get triggered if there is discrimination

⁴¹ *Shyam Babu Verma v. Union of India*, (1994) 2 SCC 521

⁴² (2020) 5 SCC 421

⁴³ *Union of India v. M.V. Mohanan Nair*, (2020) 5 SCC 421 : (2020) 2 SCC (L&S) 1 : 2020 SCC OnLine SC 302

⁴⁴ *State of U.P. v. U.P. Sales Tax Officers Grade II Assn.*, (2003) 6 SCC 250; *State of Haryana v. Haryana Civil Secretariat Personal Staff Assn.*, (2002) 6 SCC 72 : 2002 SCC (L&S) 822

⁴⁵ *State of T.N. v. S. Arumugham*, (1998) 2 SCC 198 : 1998 SCC (L&S) 493; *UOI v. M.V. Mohanan Nair*, (2020) 5 SCC 421; *Ekta Shakti Foundation v. Govt. of NCT of Delhi*, (2006) 10 SCC 337 : AIR 2006 SC 2609; *UOI v. P.V. Hariharan*, 1997 SCC (L&S) 838; and *UOI v. Makhan Chandra Roy* (1997) 11 SCC 182 : AIR 1997 SC 239; *Virendra Kumar v. UOI*, 2024 SCC OnLine Del 1059



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8

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between same classes of employees. On similar lines, it was held that the State, while implementing a new scheme for pensionary benefits, may deny the same to a class of retired employees who were governed by different set of rules⁴⁶.

112. The Supreme Court held that pension is akin to a right of property and has a direct nexus with the salary payable to the employees as on the date of retirement⁴⁷. The formula adopted for determining last average emoluments drawn has an impact on the quantum of pension⁴⁸. It is also settled that in order to get similar pay there must be “complete and wholesale identity between two groups”⁴⁹. To find out such identity, the competent authority is an expert body, not the writ court. It was further warned that granting pay parity by a court may result in an adverse cascading effect⁵⁰.

113. With respect to entitlement to revised pension, the Supreme Court in *V. Kasturi v. Managing Director, State Bank of India*⁵¹, carved out two categories, of which Category-I is relevant to the present dispute. Hence, it merits reproduction hereinbelow:

“Category I

22. If the person retiring is eligible for pension at the time of his retirement and if he survives till the time of subsequent amendment of the relevant pension scheme, he would become eligible to get enhanced pension or would become eligible to get more pension as

⁴⁶ U.P. Raghavendra Acharya v. State of Karnataka, (2006) 9 SCC 630

⁴⁷ U.P. Raghavendra Acharya v. State of Karnataka, (2006) 9 SCC 630

⁴⁸ D.S. Nakara case [(1983) 1 SCC 305 : 1983 SCC (L&S) 145

⁴⁹ S.C. Chandra v. State of Jharkhand, (2007) 8 SCC 279 : (2007) 2 SCC (L&S) 897; State of Haryana v. Tilak Raj, (2003) 6 SCC 123 : 2003 SCC (L&S) 828; State of Bihar v. Bihar Veterinary Assn., (2008) 11 SCC 60 : (2008) 2 SCC (L&S) 1111 : 2008 SCC OnLine SC 361

⁵⁰ S.C. Chandra v. State of Jharkhand, (2007) 8 SCC 279

⁵¹ (1998) 8 SCC 30 : 1999 SCC (L&S) 78

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High Court of Delhi
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The Bharatiya Sakshya Adhiniyam, 2023





per the new formula of computation of pension subsequently brought into force, he would be entitled to get the benefit of the amended pension provision from the date of such order as he would be a member of the very same class of pensioners when the additional benefit is being conferred on all of them. In such a situation, the additional benefit available to the same class of pensioners cannot be denied to him on the ground that he had retired prior to the date on which the aforesaid additional benefit was conferred on all the members of the same class of pensioners who had survived by the time the scheme granting additional benefit to these pensioners came into force. The line of decisions tracing their roots to the ratio of Nakara case [(1983) 1 SCC 305 : 1983 SCC (L&S) 145] would cover this category of cases."

114. In light of the aforementioned excerpt, we note that in the present case, while the respondents fall in this category, their entitlement to revision of their pension as per the 7th CPC stands on murky waters, since the 3rd PRC has not been given effect, i.e., there is no "new formula of computation of pension" or amendment in the pension scheme in order to give rise to their right to enhancement of pension.

115. Pertinently, the Supreme Court in *Sureshchandra Singh v. Fertilizer Corpn. of India Ltd.*⁵², held as follows:

"4. By OM's dated 25-1-1991 and 8-4-1991, the Ministry of Programme Implementation and Department of Public Enterprises made it clear that all instructions/guidelines issued by the Government of India would be of two kinds: (a) directives issued in the name of the President of India, and (b) guidelines. Directives would be issued by the Administrative Ministry in the name of the President while all other instructions issued by the Department of Public Enterprises or by the Administrative Ministry are only advisory which the Board of Directors of the public sector undertakings concerned may in their discretion adopt or not for reasons to be recorded in writing.

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⁵² (2004) 1 SCC 592 : 2004 SCC (L&S) 244 : 2003 SCC OnLine SC 1406



5. *Here the Government of India took a policy decision to increase the retirement of Central Government employees. Application of that decision in respect of employees of public sector enterprises is dependent upon so many factors that are to be taken into account in the light of the peculiar characteristics of each company or corporation or department. So the first OM itself provides that the order will come into force only with effect from the date of notification of amendment to the relevant rules and regulations. So it is for the authority concerned to make necessary changes in the rules and regulations after taking into account all the relevant aspects. Immediately after the first OM dated 13-5-1998 the Department of Public Enterprises, Ministry of Industry, Government of India issued OM dated 19-5-1998 wherein the modalities of the implementation of the first OM in this Department was detailed. Here it is pertinent to note that the OM dated 19-5-1998 is not an instruction issued in the name of the President. On the other hand, it was issued by the Department of Public Enterprises, which is advisory in nature. It accorded a broad discretion to the corporations or companies for the implementation of the enhanced retirement age after taking into account all the relevant factors...*

6. *It is also to be noted that the OM dated 19-5-1998 itself does not raise the retirement age to sixty years. It is only an administrative direction and court cannot issue a writ to enforce such administrative instructions that is not having the force of law. The appellants do not have any right to continue in service till the age of sixty years. The decision of the Board of Directors is not arbitrary or unreasonable or unrelated to the question of enhancement in the age of retirement. Hence the first contention stands rejected."*

116. It is evident from the aforesaid extract that the instructions/guidelines issued by the Government through Department of Public Enterprises⁵³ are of two categories: instructions/guidelines issued by the Government of India and directives issued in the name of the President of India. The former is only advisory in nature.

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117. Having considered the judicial precedents relevant to the present dispute, we now deem it fit to delineate Rule 37A, as it lies at the center of the controversy.

Scheme of Rule 37A of CCS (Pension) Rules, 1972

118. On 30.09.2000, OM No. 2-29/2000-Restg. was issued by DTS regarding setting up of BSNL. In pursuance thereof, Rule 37A was inserted in the CCS (Pension) Rules, 1972.

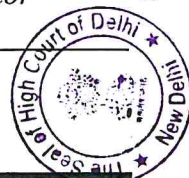
119. While interpreting Rule 37A, a co-ordinate Bench of this Court in *Indian Telecom Service Association v. UOI*⁵⁴, held that the Court must give a meaningful effect to all provisions of this Rule, as much as possible, and not read it in isolation without considering the intent and purpose behind the sub-Rules.

120. In the aforesaid light, we deem it fit to analyse Rule 37A, as inserted in 2000, to understand the Scheme which would have formed the basis for the respondents' choice to be absorbed in the PSUs. The relevant sub-Rules are reproduced thus:

“(1) On conversion of a department of the Central Government into a public sector undertaking or an autonomous body, all Government servants of that Department shall be transferred en masse to that public sector undertaking or autonomous body, as the case may be, on terms of foreign service without any deputation allowance till such time as they get absorbed in the said undertaking or body, as the case may be and such transferred Government servants shall be absorbed in the public sector”

⁵³ “DPE”, hereinafter

⁵⁴ 2012 SCC OnLine Del 2168



Examiner Judicial Department
High Court of Delhi
Authorized Under Section 75 of
The Biharatiya Sakanya Adhiniyam, 2023



undertaking or autonomous body, as the case may be, with effect from such date as may be notified by the Government.

(4) The permanent absorption of the Government servants as employees of the Public Sector Undertaking or Autonomous Body shall take effect from the date on which their options are accepted by the Government and on and from the date of such acceptance, **such employees shall cease to be Government servants and they shall be deemed to have retired from Government service.**

(5) Upon absorption of Government servants in the public sector undertaking or autonomous body, **the posts which they holding in the Government before such absorption shall stand abolished.**

(7) The employees including quasi-permanent and temporary employees but excluding casual labourers, who opt for permanent absorption in the Public Sector Undertaking or Autonomous Body, shall on and from date of Absorption, **be governed by the rules and regulations or bye-laws of the Public Sector Undertaking or Autonomous Body, as the case may be.**

(8) A permanent Government servant who has been absorbed as an employee of a 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 such 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.**

(9) The pension of an employee under sub-rule (8) shall be calculated on the basis of his last ten months' average pay.

(10) In addition to pension or family pension, as the case may be, the employees shall also be eligible to Dearness relief as per Industrial Dearness Allowance pattern.

(21) Nothing contained in sub-rules (12) to (20) shall apply in the case of conversion of the Departments of Telecom Services and Telecom Operations into Bharat Sanchar Nigam Limited, in which case the **pensionary benefits including family pension shall be paid by the Government.**

(22) The arrangements under sub-rule (22) shall be applicable to the existing pensioners and to the employees who are deemed to have retired from the Government service for absorption in Bharat Sanchar Nigam Limited and shall not apply to the employees directly recruited by the Bharat Sanchar Nigam Limited for whom it shall devise its own pension scheme and make arrangements for funding and disbursing the pensionary benefits."

(emphasis supplied)

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121. Upon a plain reading of this Rule, it can be discerned that once the transferees opt to be absorbed in the PSU, they shall cease to be Government servants and are deemed to have retired from Government service. The Government post held by them would also stand abolished. From the date of such absorption, they shall be governed by the rules of the PSU. The heart of this Rule is sub-Rule (8), which mandates that a government servant who has been absorbed in a PSU shall be eligible for pensionary benefits at the time of his retirement based on combined service rendered by him under the Government and the PSU, as per the formula provided under the CCS Rules. It is stipulated that Dearness Relief would be ascertained as per the IDA scale. Further, the pensionary benefits shall be paid by the Government.

122. Therefore, we note that Rule 37A, as it stood on 30.09.2000, created a legal fiction that upon absorption, such employees would be deemed to have retired from Government service. It also mandated that upon such absorption, the employees would be governed by the rules of the PSU. There is a stipulation that absorbed employees are not Government servants. Notably, sub-Rule (8) only provided for combined service pension and does not contemplate other ancillary benefits beyond those specified.

123. Further, the words in sub-Rule (8), "*in accordance with the formula for calculation of such pension/family pension under these rules as may be in force at the time of his retirement from the public*"

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High Court of Delhi
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The Bharatiya Sakshya Adhiniyam, 2023





sector undertaking”, clearly stipulate that the formula extended to Central Government servants will be applied to such absorbed employee for the purposes of calculation of pension which is in force at the time of retirement of the absorbed employee from the PSU. The provision does not extend any entitlement to subsequent revisions arising from future Pay Commissions.

124. Since an employee ceases to be a Government servant upon absorption and is arguably promised retention of his Government service conditions post such absorption, the same formula as that of Central Government servants is extended to such absorbee by way of Rule 37A (8) in furtherance of this promise. Sub-Rule 8, therefore, only extends the formula for calculating pension, which is applicable at the time of his retirement from the PSU. Thus, this promise of retention of the same conditions as under government service is only with respect to the calculation of pension and is restricted to the time of retirement. To extend any other subsequent benefits would be giving an expansive reading to the black and white letters of this provision, which may have not been envisaged by the Legislature.

125. We also note that a co-ordinate Bench of this Court in *UOI v. All India BSNL Pensioners Welfare Assn.*⁵⁵, while interpreting Rule 37A, noted as follows:

“13. A clarification was issued by the DOT on 19th February, 2001 stating that “the word formula in clause ‘8’ of rule 37-A

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High Court of Delhi Page 49 of 108

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The E-Procurement Act, 2008



means payment of pension as per Government rules in force at the relevant time” and further stating that “for the purpose of reckoning emoluments for calculation of pension and pensionary benefits, the emoluments as defined in CCS (Pension) Rules, in PSU in the IDA pay scales shall be treated as emoluments”.

15. On 20th December, 2002 a clarification was issued by the DPPW in respect of Rule 37A(8), (9) & (10) of the CCS (Pension) Rules to the effect that “for the purposes of calculating the average emoluments for determining the pension the same shall be done on the IDA pattern of scale with dearness relief in IDA pattern.”

126. Therefore, as per DoT, sub-Rule 8 refers to payment of pension as per Rules in force “at the relevant time” and further that emoluments for this purpose would be calculated under the IDA scale.

127. We now take the liberty to reproduce this Rule as it stood on 21.12.2012 after various amendments⁵⁶ overtime, as follows:

“(8) A permanent Government servant who has been absorbed as an employee of a Public Sector Undertaking and his family shall be eligible for pensionary benefits (including commutation of pension, gratuity, family pension or extra-ordinary pension), on the basis of combined service rendered by the employee in the government and in the Public Sector Undertaking in accordance with the formula for calculation of such pensionary benefits as may be in force at the time of his retirement from the Public Sector Undertaking or his death or at his option, to receive benefits for the service rendered under the Central Government in accordance with the orders issued by the Central Government.

“Explanation:- The amount of pension or family pension in respect of the absorbed employee on retirement from the Public Sector Undertaking or on death shall be calculated in the same way as calculated in the case of a Central Government servant retiring or dying, on the same day”.

⁵⁶ (i) On 28.12.2002, by OM No.4/61/99-P&PW(D) issued by DP&PW, the Explanation to sub-Rule 8 was inserted; (ii) On 21.12.2012, sub-Rule 9 was modified and sub-Rule 22 was modified to incorporate the content of sub-Rule 21

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(9) The pension of an employee under sub-rule (8) shall be calculated on fifty percent of emoluments or average emoluments, whichever is more beneficial to him.

(10) In addition to pension or family pension, as the case may be, the employee who opts for pension on the basis of combined service shall also be eligible to dearness relief as per industrial Dearness Allowance pattern.

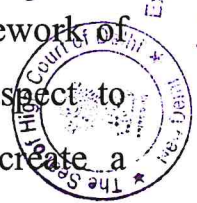
(22) Nothing contained in sub-rules (13) to (21) shall apply in the case of conversion of the Departments of Telecom Services and Telecom Operations into Bharat Sanchar Nigam Limited, in which case the pensionary benefits including family pension shall be paid by the Government."

128. It is evident from sub-Rule (8) and its accompanying explanation that a permanent Government servant absorbed into a PSU may get pension in two ways. The first is based on the combined service rendered by the employee, i.e. for the purposes of pension, the employee's service under the Central Government and the PSU would be counted together. The second way of computation is based on government service alone, i.e. the employee would draw pension for the service rendered under the Government till the date of his absorption and draw a separate pension from the PSU upon retirement therefrom. It is an admitted position that the respondents are not pro-rata pensioners, i.e., they fall under the first category. The explanation to sub-Rule (8) further clarifies that the method of calculation of pension for absorbed employees will be the same as adopted for Central Government employees.

129. Further, sub-Rules (13) to (21) shed light on the framework of liability shared by the PSU and the Government with respect to pension. It provides that the Central Government shall create a

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Examiner Judicial Department
High Court of Delhi
Authorized Under Section 75 of
The Bharatiya Sakshya Adhiniyam, 2023





Pension Fund in the form of a Trust, and the pensionary benefits are to be paid from this Fund. Further, the Government shall make a one-time lumpsum payment to this Fund for the service rendered till the date of absorption of the employee in the PSU. The PSU is also required to make contribution to this Fund for the period of service to be rendered by the employees of the said PSU. This Fund is envisaged to be self-sustaining. If the pension liability cannot be fulfilled by the Fund and the PSU is also not able to cover-up the shortfall, the Government is liable to meet such expenditure. However, by virtue of sub-Rule 22, this aforesaid framework shall not apply to BSNL/MTNL; the consequence being that for BSNL/MTNL, pension shall be paid by the Government directly.

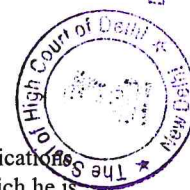
130. In this light, we also note that MTNL was brought at par with BSNL, as notified by DP&PW by G.S.R. No. 138(E) dated 03.03.2014. Consequently, for the purposes of pensionary liability, employees absorbed in BSNL and MTNL shall stand on the same footing, and the obligation to disburse pensionary benefits in both cases rests upon the Central Government.

131. Further, Rule 3(c) of the Rules defines “emoluments” to mean emoluments as stipulated under Rule 33. Hence, Rule 33 is as follows:

“33. Emoluments.—The expression ‘emoluments’ means basic pay as defined in Rule 9(21)(a)(i)⁵⁷ of the Fundamental Rules

⁵⁷ Rule 9 (21)(a)(i) the pay, other than special pay or pay granted in view of his personal qualifications which has been sanctioned for a post held by him substantively or in an officiating capacity, or to which he is entitled by reason of his position in a cadre, and (ii) overseas pay, special pay and personal pay, and (iii) any other emoluments which may be specially classed as pay by the President.

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Examiner Judicial Department
High Court of Delhi
Authorized Under Section 75 of
The Bharatiya Sakshya Adhiniyam, 2023



which a government servant was receiving immediately before his retirement or on the date of his death, and also includes non-practising allowance granted to medical officers in lieu of private practice."

Note 10 below Rule 33 provides:

"Note 10.—When a government servant has been transferred to an autonomous body consequent on the conversion of a department of the Government into such a body and the government servant so transferred opts to retain the pensionary benefits under the rules of the Government, the emoluments drawn under the autonomous body shall be treated as emoluments for the purpose of this Rule."

132. Thus, the aforesaid Note clarifies that if an absorbee opts to retain pensionary benefits under the Government (pro-rata pension), they shall draw emoluments as per the CCS Rules i.e., CDA scale.

133. After laying down the scope of Rule 37A and relevant judicial precedents, we shall now proceed to give a comprehensive reading to the various OMs and Circulars relied upon by the parties.

(i) OM dated 05.07.1989

134. The genesis, as per the respondents, is the OM No.4/18/87-P&PW(D) dated 05.07.1989 issued by DP&PW, inasmuch, it provides the overarching framework for absorption of Government servants to PSUs. The relevant excerpt is reproduced below for convenience:

"Subject:- Settlement of pensionary terms etc., in respect of Government employees transferred en masse to Central Public Sector Undertakings/Central Autonomous bodies. Digitally Signed Data Certified to be True Copy"



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17:23:08

Authorized Under Sec 53 of 108
The Bharatiya Sakshya Adhiniyam, 2023



The President is now please to decide that, in a partial modification of above mentioned Office Memoranda, the following terms and conditions will be applicable in the case of en masse transfer of employees:

a) The permanent Government servants shall have an option to retain the pensionary benefits available to them under the Government rules or be governed by the rules of the Public Sector Undertaking/Autonomous Body, This option shall also be available to quasi-permanent and temporary employees after they have been conformed in the Public Sector Undertaking/Autonomous Body.

b) The Government servants who opt to be governed by the pensionary benefits available under the Government, shall at the time of their retirement, be entitled to pension etc. in accordance with the Central Government rules in force at that time.

d) The permanent Central Government servants who have completed 10 years or more of service and who opt for the retirement benefits of a PSU/Autonomous Body will receive pro-rata retirement benefits for the service rendered under the Government. These will be regulated as follows:-

i) Employees who have an option either to draw pro-rata pension monthly or to draw a lump sum amount in lieu of 100% pro-rata pension.

ii) Where the employees opt in favor of monthly payment of pro-rata pension, the same shall be allowed to be drawn with effect from the date of permanent absorption in a PSU/Autonomous Body. No part of pro-rata pension will be allowed to be commuted either at the time of permanent absorption or any time thereafter.

iii) In the case of employees who opt in favor of a lumpsum amount in lieu of 100% pro-rata pension, the lumpsum value shall be worked out on the basis of table prescribed under the CCS (Commutation of Pension) Rules, 1981.

iv) In the case of employees covered by clause (if), the retirement gratuity and for those covered by clause (iii) above, both retirement gratuity as well as lumpsum commuted value shall be paid on the expiry of a period of 7 years from the date of permanent absorption. The amounts,

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High Court of Delhi
Authorized Under Section 75 of
The Bharatiya Sakshya Adhiniyam, 2023





however, can be paid earlier in the event of death/retirement/resignation/discharge from service.

v) The amounts of retirement gratuity and lump sum value in lieu of pension mentioned in clause (iv) above shall remain with the Government, and earn interest at the rate prescribed for General provident Fund deposits from time to time for the period they remain with the Government.

2. The family pension entitlements will be regulated in accordance with the instructions being issued separately.

3. As soon as a Central Government Department, Office or segment of a Government Department is converted into a PSU/Autonomous Body, the concerned Government servants will be transferred to such new organisation on foreign service terms in the initial period. The Government servants will be permanently absorbed in the PSU/Autonomous Body with effect from prospective date to be fixed by the concerned administrative Ministry/Department and from that date they will cease to be Government servants. Such of the Government servants who are not willing to be absorbed will have an option to revert back to Govt. service. In that event, if no suitable vacancies are available in the Office/Department/Ministry for such employees, their names will be transferred to Surplus Staff Cell.

4. The Public Sector Undertaking/Autonomous Body will formulate the terms and conditions of service in the new body at the earliest possible date. The employees will however have an option to retain Government pay scales till their promotion or retirement (whichever is earlier) or to come over to the service conditions of the PSU/Autonomous Body. However, until the exercise of this option, they will continue to be governed by the pay scales, leave entitlements and terminal benefits under the Government."

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The Bharatiya Sakshya Adhiniyam, 2023



35. A plain reading of this OM provides that Government servants shall have the option to retain pensionary benefits of Government service or be governed by the rules of the PSU. Those who opt for the former shall, at the time of their retirement, be entitled to pension in accordance with the Central Government rules in vogue. Paragraph No. 3 provides that those who opt for the latter option i.e., permanent absorption in the PSU, will cease to be Government servants and those

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Signing Date: 02.07.2023 V.P.(C) 4946/2024 and connected matters

17:23:08



who are not willing to be absorbed, shall have the option to revert to government service. However, till this option is exercised, the Government service rules shall remain applicable to them. It is noteworthy that this OM provides pro-rata pensionary benefits under clause (d) and is silent on combined service pension.

136. It is clear as day from the said OM that an alternative was extended to the respondents that either be absorbed in the PSU and hence be governed by its rules and cease to be Government servants or to remain in Government service. By the very fact, that such an option was extended, does not leave room for the possibility that the absorbees were promised retention of their Government service conditions post absorption, especially in the light of the explicit disclaimer that they shall cease to be Government servants.

(ii) Note dated 25.09.2000

137. A Note bearing No. 2-2/00-Restg. (Vol. I) dated 25.09.2000 was sent for Cabinet approval regarding formulation of BSNL. It was submitted seeking additional approvals highlighting the financial ramifications, the change in structure of DTS and DTO and the conditions of the vast number of the employees absorbed in BSNL. In this regard, it was suggested that all employees would be entitled to the Government scheme of pension, even after their absorption, and that the payment would be made by the Government. The Note also proposed the insertion of the relevant pension framework into the CCS Rules by amending Rule 37.

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Signing Date: 02.07.2026 V.P.(C) 4946/2024 and connected matters

17:23:08



High Court of Delhi Page 56 of 108
Authorized Under Section 75 of

The Electronic Right to Information Act, 2002



138. It is, however, well settled that a Cabinet Note is only an administrative proposal and does not carry the force of law. Therefore, it is needless to state that this Note is merely an approval sought by DTS. Nevertheless, the respondents have laid reliance on the same as it may reveal the intent of DTS and may have also formed the basis of the information available to the respondents while exercising their options. In this context, we deem it important to analyze the same.

139. With respect to pension and retirement benefits, it stipulated that, *“all employees will be entitled to Government's scheme of pension/family pension even after their absorption”* and further that, pensionary framework in this respect was to be incorporated in the CCS Pension Rules by inserting Rule 37A.

140. Paragraph No. 12 of this Note delineates the approvals ultimately sought, as follows:

“12. Approvals sought

Accordingly, approval of the cabinet is sought to the following:-

(A) Approval for HRD Issues
(reference para 4 above)

(a) *All officers and employees other than those being retained in Department of Telecommunications (DoT), would be transferred w.e.f. 1.10.2000 on deemed deputation without deputation allowance to Bharat Sanchar Nigam Ltd. On as is where is basis along with their posts on existing terms and conditions. Their status as Central Government employees would continue till the date of absorption.*

(b) *As per agreement with the ‘C’ & ‘D’ categories of employees, such of those who agreed to get absorbed w.e.f.*

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Examiner Judicial Department
High Court of Delhi
Authorized Under Section 75 of
The Bharatiya Sakshya Adhiniyam, 2023



1.10.2000 would be given the benefit of pay scale of PSUs as and when they get fixed and an ad hoc sum of Rs.1000/- would be given to be adjusted against their future salary. A cutoff date would be given for giving their options.

*(e) Pension & retirement, job security benefits would be as per the scheme at **Annexure-I**.*

*(i) **All employees will be entitled to Government's scheme of pension/family pension even after their absorption.***

(ii) Payment of pension would be made by the Government. ..."

(emphasis supplied)

141. The reference made hereinabove to Annexure-I, is nothing but the draft of Rule 37A. The relevant portion of this Rule, as reproduced in this Note, reads as under:

*"(2) The transferred employees shall be given the option to revert back to Government or to seek permanent absorption in the PSU/Autonomous Body. They shall exercise the option in such manner and within such period as maybe stipulated by the Government. The permanent absorption in the PSU/Autonomous Body shall take effect from the date their option is accepted by the Government and from that date, **they will cease to be Government servants.** They shall be deemed to have retired from the Government service and their posts in the Government will automatically stand abolished. Such of the Government servants who opt to revert back to Government shall be redeployed through the Surplus Cell.*

*(3) Those employees including quasi permanent and temporary but excluding casual labourers who opt to be permanently absorbed in the PSU, shall, from the date of such absorption, be governed by the service rules etc. of the PSU. **The permanent employees shall, however, be eligible for pensionary benefits on the basis of combined service in the Government and the PSU, in accordance with the formula for calculation of pension/family pension under the Central Government Rules in force at the time. The benefits will be calculated on the last ten months' average pay drawn in IDA scale in the PSU.** In addition to pension/family pension, they shall also be eligible to dearness relief as per IDA pattern. These benefits shall also be available to quasi permanent/temporary*

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High Court of Delhi
Authorized Under Section 75 of
The Bharatiya Sakshya Adhiniyam, 2023





employees after they have been confirmed in the PSU/Autonomous Body."

142. It is evident from the above that approval was sought for retaining the Government scheme of pension even after absorption, but only in the context of calculating pension under combined service.

143. We note that the proposed Rule 37A clarified that the employees choosing to be permanently absorbed, though will be governed by service rules of the PSU, they will also be eligible for pensionary benefits based on their combined service in accordance with the formula for calculation of pension under the Central Government rules in force. However, the proposal also clarified that their status as Government employees would cease after such absorption.

144. Therefore, the aforesaid clearly implies that, the absorbed employees, do not stand on the same footing as Central Government employees. The only aspect where they are extended an equitable treatment is for the calculation of their pension, which will also be calculated on their pay drawn under the IDA scale in the PSU.

(iii) OM and Notification dated 30.09.2000

145. OM No. 2-29/2000-Restg dated 30.09.2000 was issued by DTS pertaining to establishment of BSNL pursuant to the New Telecom Policy, 1999.

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Examiner, Judicial Department
High Court of Delhi

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Signing Date: 02.07.2026 W.P.(C) 4946/2024 and connected matters

17:23:08



146. On the same date, a Notification was issued by DP&PW by which Rule 37A was inserted in CCS (Pension) Rules. The respondents placed reliance on sub-Rule (8) and accompanying Explanation to assert that it guarantees the application of the same pension formula as extended to Central Government employees. They seek revision of pension in light of the similar treatment granted by this Rule.

147. However, in order to ascertain the assurance granted to the respondents, we must look at the Rule as it stood in 2000 at the time during the *en masse* transfer, and not in its subsequent amended form of 2012.

148. We have taken the view in the preceding discussion that Rule 37A (8) (the Explanation was inserted on 28.12.2002) only extend the formula for calculation of pension applicable to Central Government servants to the absorbees on the date of their retirement from the PSU. It does not confer entitlement to subsequent revisions, nor does it preserve any other aspect of Government service beyond pension calculation, nothing more and nothing less.

(iv) Circular dated 09.11.2000



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8

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High Court of Delhi
Authorized Under Section 75 of
The Bharatiya Sakshya Adhiniyam, 2023

149. The DoT Circular No. 36-15/2000-Pen(T) dated 09.11.2000 was issued stating that the employees of DoT who will be absorbed in BSNL, will be entitled to the government pension scheme post absorption. It was further stated that payment of pension will be made



by the government, and that in this regard, Rule 37A was inserted on 30.09.2000. However, as we have noted in the preceding paragraphs, the entitlement flowing from Rule 37A is required to be understood in the context of the scheme of the Rule itself as it stood on 30.09.2000. The Circular cannot confer a benefit beyond that contemplated under the statutory framework. Consequently, the reference to the Government pension scheme must necessarily be read as an extension of pensionary benefits in terms of Rule 37A and not as a continuation of the respondents' status as Central Government employees after absorption. This entitlement, thus, is restricted to calculation of pension of the absorbed employees at the time of their retirement.

150. After the *en masse* transfer, BSNL/MTNL called for options from the transferees. In this regard, only the Notification dated 14.01.2002 calling for options from Group 'B' officers is placed on record. This Notification, in para 8, provided that the optees will be governed by CDA scale till the IDA scale is announced and will be paid arrears after fixation of pay in IDA. The Option Form and accompanying General Terms and Conditions were made part of the record before us. It is reproduced as follows:

**"GENERAL TERMS & CONDITIONS
FOR ABSORPTION OF GROUP 'B' OFFICERS IN BSNL**

4. Change over to IDA Pay Scales

The IDA pay scale and the fitment formula will be announced by BSNL separately. Till that time the optees will continue to remain in CDA pay scale. The IDA pay scales will be effective from 01.10.2000. After fixation of the pay of the absorbed employees in IDA pay scale, they will be paid arrears.

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8



However, after their absorption is finalized by BSNL and till they are fitted in the IDA pay scale such officials will be paid an ad-hoc sum of Rs.2000 per month by BSNL. This will be an advance payment against the arrears receivable by them on their fitment in the IDA pay scales. This advance payment will be adjusted from their IDA emoluments, perks and benefits on fixation of their pay in IDA pay scales. In case of optees accepted for absorption from MTNL any ad-hoc amount paid to them by MTNL would also be adjusted against their IDA emoluments, perks and benefits on fixation of their pay in IDA pay scales.

5. Payment of Pension

The officers who opt for permanent absorption in BSNL would be governed by the provisions of Rule 37 - A of CCS (Pension) Rules, notification for which was issued by the Department of Pension & Pensioners Welfare on 30.09.2000. For the purpose of reckoning emoluments for calculation of pension and pensionary benefits, the emoluments as defined in CCS (Pension) Rules, in PSU in the IDA pay scales shall be taken.

DOT has already clarified that the word "formula" mentioned in clause 8 of Rule 37 - A means payment of pension as per Government Rules in force at that time. BSNL will not dismiss/remove an absorbed officer without prior approval of the Administrative Ministry/Department."

151. These conditions leave little room for ambiguity. A plain reading of these terms clarifies that the respondents, after absorption, would be governed under the IDA scale applicable to PSU employees. Only till the time of their absorption will they remain in the CDA scale. It is also clear that post such absorption, their pension would be governed by Rule 37A but under the IDA pay scale.

152. At this juncture, it is relevant to note the well-recognized distinction between the CDA and IDA scales. The Central Government employees are fitted in the CDA scale, and their service conditions are revised by the CPC. It is true that CPC

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17:23:08



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Examiner, Judicial Department

High Court of Delhi Page 62 of 108

Authorized Under Section 75 of

The Bharatiya Sakshya Adhiniyam, 2023



recommendations only apply to Central Government servants. Conversely, CPSU employees are governed by the IDA scale, and revision of their pay structure are ordinarily considered based on the recommendations of the PRC.

153. Moreover, 01.01.1989 onwards, all PSUs employees fall under the IDA pay scale following the judgment of the Supreme Court in *Jute Corpn. of India Officers' Assn. v. Jute Corpn. of India*⁵⁸, and the subsequent OM No. 2(43)/90-DPE(WC) dated 12.06.1990⁵⁹ issued by DPE. It is also trite that PRCs issue recommendations for the service conditions of CPSU employees. Therefore, without any legislative or administrative direction to the contrary, in ordinary course, CPC recommendations do not apply to PSU employees and PRC recommendations do not apply to Central Government employees.

154. Viewed in this backdrop, coming back to the aforementioned General Terms and Conditions, they clearly stipulate that absorbees will be governed under IDA scale and Rule 37A, which entails that: (i) absorbees cease to be Government servants after absorption; (ii) CDA scale is not applicable to absorbees after absorption; (iii) only for calculation of their pension at the time of their retirement, the absorbees are entitled to the Central Government formula. The terms do not indicate that the absorbees would continue to receive every future benefit extended to serving or retired Central Government

⁵⁸ (1990) 3 SCC 436

⁵⁹ The OM in Para 3(iii) stipulates that appointments of all categories of employees in CPSEs on or after 01.01.1989 will be under IDA pay scale.

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17:23:08



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Examiner Judicial Department
High Court of Delhi

Authorised Under Page 6 of 108
The Bharatiya Sanstha Adhiniyam, 2023



employees irrespective of the statutory and administrative distinctions between the CDA and IDA pattern.

155. Therefore, the Circular dated 09.11.2000 and the absorption conditions, when read harmoniously with Rule 37A, support the conclusion that the respondents were assured continued pensionary protection through the mechanism of combined service pension, but were not assured perpetual assimilation with Central Government employees for all future purposes. Any such interpretation would render otiose the express provisions of Rule 37A which provide that, upon absorption, the employees cease to be a Government servant and becomes subject to the rules governing the PSU.

156. It is noted that the options for Group 'B' officers were again floated on 29.08.2003 in furtherance of the Tribunal's order dated 06.08.2003 in O.A. No. 298/2002, which directed timely completion of the absorption process. Hence, the process of calling for options was revived by OM dated 02.09.2003⁶⁰, whereby the aforesaid General Terms and Conditions remained the same with respect to application of IDA scale for absorbed employees.

157. Thereafter, by OM No. 616/2002-SU dated 28.07.2003, DoT issued the corresponding IDA pay scales and the method for fixation of pay to be implemented w.e.f. 01.10.2000. Paragraph No. 2 therein clarified that the scales of pay prescribed were only an indicative

⁶⁰ OM No. BSNL/11/SR/2003 dated 02.09.2003 issued by BSNL



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The Bharatiya Sakshya Adhiniyam, 2023



ceiling and the actual fixation and payment would depend on the PSU's financial capacity.

158. In the interregnum, the DP&PW by OM No. 4/61/99-P&PW(D) dated 20.12.2002 clarified that for calculation of pension of absorbees in terms of Rule 37A (9), the average emoluments would be based on the pay drawn in the PSU, i.e., under IDA scale.

159. Now that we have delineated the various Office Memoranda surrounding the corporatization of BSNL/MTNL and the *en masse* transfer of erstwhile DoT employees, we proceed to the effect of the CPC and PRC recommendations on the present dispute.

(v) 6th CPC – OM dated 01.09.2008 (Pre-01.01.2006 Pensioners)

160. The recommendations of the 6th CPC were to be given effect from 01.01.2006.

161. By OM F.No. 38/37/08-P&PW(A) dated 01.09.2008, DP&PW sought to implement the recommendations of the 6th CPC with respect to revision of pension for pre-2006 pensioners. It categorically did not apply to employees retiring on or after the cut-off date, 01.01.2006.

162. Paragraph no. 2.1 clarified that the OM applied to all pensioners drawing pension as on 01.01.2006 under the CCS (Pension) Rules, i.e., Central Government servants. Pertinently, it is the contention of

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Examiner Judicial Department
High Court of Delhi
Authorized Under Section 75 of
The Bharatiya Sakshya Adhiniyam, 2023



the respondents that they are also pensioners who are drawing pension under the CCS Rules by virtue of Rule 37A, hence, this OM applies to them.

163. Further, paragraph no. 4.2 provided that under no circumstance will the revised pension be lower than 50% of the minimum of the pay in the pay, plus the grade pay corresponding to the pre-revised pay scale from which the pensioner had retired. Paragraph no. 4.5 stipulates the quantum of pension. Paragraph no. 7 is most relevant, as follows:

“7. The cases of Central Government employees who have been permanently absorbed in public sector undertakings/autonomous bodies will be regulated as follows:-

(a) PENSION

Where the Government servants on permanent absorption in public sector undertakings/autonomous bodies continue to draw pension separately from the Government, the pension of such absorbees will be updated in terms of these orders. In cases where the Government servants have drawn one time lump sum terminal benefits equal to 100% of their pensions and have become entitled to the restoration of one-third commuted portion of pension as per Supreme Court Judgement dated 15.12.1995, their cases will not be covered by these orders.

(b) FAMILY PENSION

In cases where, on permanent absorption in public sector undertakings/ autonomous bodies, the terms of absorption permit grant of family pension under the CCS (Pension) Rules, 1972 or the corresponding rules applicable to Railway employees/members of All India Services, the family pension being drawn by family pensioners will be updated in accordance with these orders.”

(emphasis supplied)

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8



Examiner Judicial Department
High Court of Delhi
Authorized Under Section 75 of
The Bharatiya Sakshya Adhiniyam, 2023

164. It is evident from the above that while the 6th CPC recommendations were to apply to all pre-01.01.2006 pensioners



drawing pension under the CCS Rules; however, a separate class was created under Paragraph No. 7 for the erstwhile Central Government employees who stand permanently absorbed in PSUs, i.e., including the respondents. It is also manifest from Clause (a) of Paragraph No. 7 that the OM only pertains to government servants permanently absorbed in PSUs who continue to draw pension separately from the government, i.e., pro-rata pensioners and not combined service pensioners. The respondents, as combined service pensioners, are therefore not covered under this category.

165. In our considered view, such classification is based on *intelligible differentia*, particularly since the absorbees who opt for combined service pension draw pension at the time of their retirement from the PSU, based on service rendered under both the Government and the PSU, and received pay under the IDA scale, as opposed to absorbees who draw separate pension from the Government, in which case they fall under CDA scale for the service already rendered. The distinction is rational, directly correlates to the nature of the pension elected, and does not violate Article 14 of the Constitution of India.

(vi) 6th CPC – OM dated 02.09.2008 (Post-01.01.2006 Pensioners)



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Examiner Judicial Department
High Court of Delhi

Authorized Under Section 75 of
The Bharatiya Sakshya Adhiniyam, 2023

166. The OM F. No. 38/37/08-P&PW(A) dated 02.09.2008 sought to implement 6th CPC recommendations with respect to, *inter alia*, revision of pension/gratuity/commutation of pension for Government servants governed by CCS Rules retiring on or after 01.01.2006.



Notably, there is no separate provision for permanently absorbed employees in PSUs, as under OM dated 01.09.2008.

167. The petitioners contend that these OMs pertain to pro-rata pensioners and not the respondents, who are admittedly combined service pensioners. Further, it is also their contention that since the OM dated 02.09.2008 applies to post-01.01.2006 pensioners, it will not apply to the respondents who ceased to be government employees post their absorption in BSNL/MTNL. On the other hand, the respondents maintain that their pensions were revised pursuant to the 6th CPC and that the formula prescribed for the same was stipulated in these OMs, formed the basis of such revision.

168. We have already noted that the respondents are admittedly combined service pensioners and do not draw pension separately from the Government in respect of their pre-absorption Government service. Hence, the OM dated 01.09.2008, as per Paragraph No. 7(a), which expressly applies to Government servants permanently absorbed in PSUs who continue to draw pension separately from the Government, has no direct application to the present dispute.

169. Further, we are equally cognizant that no such categorical exclusion exists in OM dated 02.09.2008. Therefore, the contention of the petitioners that this OM does not apply to the respondents because they ceased to be Central Government employees, does not come to their rescue as this OM clearly applies to all "*Central Government Employees governed by the CCS (Pension) Rules, 1972*". The

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Signing Date: 02.07.2026 W.P.(C) 4946/2024 and connected matters

17:23:08



respondents are governed by Rule 37A of CCS (Pension) Rules, therefore, they *prima facie* fall under the broad ambit of this OM.

170. However, it would be anomalous to hold that persons of the same category (absorbed PSU employees), who retired prior to 01.01.2006 stand excluded by OM dated 01.09.2008, while those retiring after the cut-off date are entitled to the benefits solely because the subsequent OM does not expressly reiterate the exclusion. It is trite that a pension scheme cannot create an artificial divide by bifurcating an otherwise homogenous group solely based on cut-off date without any discernible rationale, as also held in *D.S. Nakara (supra)*.

171. The earlier OM dated 01.09.2008 expressly confines its applicability to pro-rata pensioners. No such restriction is stipulated in the OM dated 02.09.2008. However, the mere absence of this stipulation does not imply that the intent was to enlarge the class of beneficiaries, particularly when no such intention is discernible from the scheme of the OMs.

172. It is also to be borne in mind that the subsequent OM is an extension of the earlier OM, both were issued contemporaneously for the implementation of the 6th CPC recommendations and therefore constitute integral parts of a single scheme. Hence, they cannot be read in isolation and must be construed harmoniously as a composite whole rather than as independent and disconnected instruments. In the clear absence of any indication that the latter OM dated 02.09.2008





was intended to enlarge the class of beneficiaries, the lack of reiteration of the excluding provision cannot be construed in a way to confer benefit upon the respondents who are combined service pensioners. Pertinently, the aspect of pension for PSU employees is governed by the PRC, not CPC.

173. Hence, in our considered view, the OM dated 02.09.2008, akin to OM dated 01.09.2008, only applies to pro-rata pensioners in PSUs and not to combined service pensioners such as the respondents.

(vii) Clarification dated 27.04.2009

174. A clarification was issued by DP&PW vide OM No. 4/19/2009-P&PW(D) on 27.04.2009 regarding the applicability of revised pensionary rules in light of 6th CPC. The relevant part is reproduced thus:

"2. The en-mass transferred absorbees opting for pension for combined service in Govt. and PSU/CAB are entitled for pension in terms of Rule 37 A(8) "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 fer the PSU/CAB". The formula applicable to Central Govt. pensioners has been changed vide DoP&PW O.M. dated 2.9.2008 and therefore, the changed formula provided in O.M. dated 2.9.2008 is applicable to such absorbees also. The DoP&PW OM dated 1.9.2008 referred to in Deptt. Of Telecommunication reference has no relevance as this the OM contains instructions for revision of pension of pre 2006 central Government pensioners only"

(emphasis supplied)

175. A plain reading of the aforesaid clarification clearly states that the formula for calculation of pension of Central Government pensioners was revised, therefore, such revised formula is applicable

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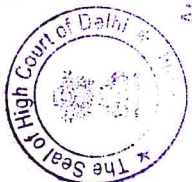
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to the absorbed employees of PSUs. It further states that the OM dated 01.09.2008 has no relevance in this regard because it pertains to revision of pension of pre-2006 Central Government pensioners. The clarification expressly states that it is *only* the changed formula contained in the OM dated 02.09.2008 which would apply to absorbees governed by Rule 37A.

176. The respondents relied heavily on this clarification to contend that it reaffirmed that since the formula applicable to Central Government pensioners was revised after the 6th CPC, it shall also apply to absorbees drawing combined service pension. Whereas the petitioners maintain that this clarification if of no consequence in this dispute as it only clarifies the applicability of the OM dated 02.09.2008 and merely reiterates the position already contemplated under Rule 37A (i.e., the formula for calculating pension of Central Government employees would be extended to absorbees governed by Rule 37A) and does not confer any independent right of pension revision.

177. In this regard, the petitioners advanced a premise that OM dated 01.09.2008 applied to pre-01.01.2006 pensioners and OM of 02.09.2008 pertained to post-01.01.2006 pensioners; hence, the logical corollary is that the former OM is for revision of pension and the latter is for fixation (because it applies to employees who have not yet retired). They further submitted that this clarification only provides that the formula to calculate pension, as revised by OM dated 02.09.2008, shall also be applied to combined service pensioners,





which is squarely in terms of Rule 37A, but OM dated 01.09.2008 had no relevance since it dealt with revision of pension of pre-01.01.2006 Central Government retirees. The petitioners' submission, in essence, was that the formula for fixation of pension as revised by OM of 02.09.2008 was to be extended to the respondents, but not the formula for revision of pension, as per OM dated 01.09.2008.

178. In our considered view, fixation and revision of pension are distinct concepts. Fixation determines the initial pension at the time of retirement, whereas revision enhances the already existing pension, usually due to a revision in underlying pay.

179. As we have noted in the forgoing discussion, Rule 37A (8) only extends the formula at the time of retirement, i.e., with respect to fixation of pension. This Rule cannot automatically mean that the absorbees (combined service pensioners) in PSUs are entitled to revision of their pension pursuant to CPC recommendation for such revision in respect of Central Government employees under the CDA scale. To read such a right into Rule 37A would amount to enlarging its scope beyond the intent and language employed by the competent legislative authority.

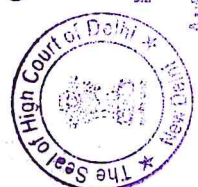
180. Hence, in our considered view of the OM's dated 01.09.2008 and 02.09.2008 along with the clarification of 27.04.2009, we are inclined to agree with the stance advanced by Mr. Singh on behalf of the petitioners. Therefore, all that this clarification provides is that the formula applicable to Central Government employees, as it stood

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17:23:08



revised by OM of 02.09.2008, would be extended in its revised form to the absorbed PSU employees in furtherance of Rule 37A. Equally significant is the categorical observation that the OM dated 01.09.2008, dealing with revision of pension of pre-2006 Central Government pensioners, had “no relevance” to such absorbees. The clarification, therefore, reinforces the distinction between fixation of pension under Rule 37A and subsequent revision of pension under the CPC framework.

(viii) OMs dated 04.05.2009 and 12.08.2009

181. It is noteworthy to mention that the DoT by OM No. 40-31/2008-Pen(T) dated 04.05.2009 extended the revised rules of pension calculation as per 6th CPC with respect to the limit of DCRG, revised commutation tables, revised treatment of emoluments, qualifying service and allied matters, to IDA pensioners of BSNL governed by Rule 37A w.e.f. 01.01.2006. Further, by a subsequent OM F. No. 40-31/2008-Pen(T) dated 12.08.2009, DoT issued clarifications in this regard.

182. In our view, the extension of the revised rules of pension calculation is aligned with the aim and object behind Rule 37A. This OM is only concerned with the method of pension calculation and extends the same to the absorbed employees, as was envisaged by Rule 37A(8). It does not, by itself, revise the underlying pay scale in order to warrant a consequential revision of pension.

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17:23:08



183. Significantly, neither the OM dated 04.05.2009 nor the clarification dated 12.08.2009 directs a revision of the basic pension payable to combined service pensioners. They do not alter the underlying pay structure, revise the pension already fixed, or confer a fresh entitlement analogous to that granted pursuant to the 6th CPC. Rather, they merely regulate ancillary pensionary components and the manner of calculation of pensionary benefits.

184. In ordinary course, the revision of pension flows from specific orders, linked to the recommendations of CPC. In the present case, it was clarified by the afore-noted communication dated 27.04.2009 that the *"OM dated 1.9.2008 referred to in Deptt. Of Telecommunication reference has no relevance as this the OM contains instructions for revision of pension of pre 2006 central Government pensioners only"*. The referenced OM dated 01.09.2008 essentially pertains to revision of pension. In the clear absence of a statutory mandate or executive order, directing the revision of pension, the extension of the revised rules as per 6th CPC cannot be construed in a way to confer a right of pension revision. Therefore, the OM dated 04.05.2009 does not, by itself, give rise to any entitlement of revision of the basic pension.

185. We are therefore unable to accept the respondents' contention that the OMs dated 04.05.2009 and 12.08.2009 constitute recognition of a right to pension revision under the 6th CPC. These OMs merely facilitate implementation of revised pensionary parameters for the purposes of computation and disbursement of benefits under Rule 37A and do not, by themselves, create any entitlement to revision of

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pension analogous to that granted to Central Government pensioners under the CPC.

(ix) 2nd PRC

186. On parallel lines, the 2nd PRC was notified by the DPE on 26.11.2008, whereby the revised pay scales and allowances were approved w.e.f. 01.01.2007 for CPSUs. However, it stipulated that revised pay scales would be adopted subject to the profit before tax not falling below a certain level, as follows:

"3. Affordability for implementation of pay revision:- The revised pay scaled would be adopted, subject to the condition that the additional outgo by such a revision for a period of 12 months should not result in more than 20% dip in profit before tax (PBT) for the year 2007-08 of a CPSE in respect of executives as well as non-unionized supervisory staff taken together in a CPSE. CPSEs that cannot afford to pay full package, can implement with either part PRP or no PRP. These CPSEs may pay the full package subsequently, provided the dip in the profit (PBT) is fully recouped to the original level.

4. The CPSEs, which are not able to adopted revised pay scales (2007), may give an increase on the basic pay plus DA drawn in the pre-revised scale as on 01.01.2007, with a uniform lower fitment of 10% or 20%, depending upon their affordability, with the approval of their Ministry/Department."

187. Thereafter, on 29.12.2010, DoT submitted a Note⁶¹ for Cabinet approval for revision of IDA pension for employees of BSNL, who retired after 01.10.2000 but before 01.01.2007. This Note highlighted that DPE issued orders for revision of pay of BSNL employees w.e.f. 01.01.2007, however, no such orders were issued by the Government

⁶¹ Note bearing F.No. 40-17/2008-Pen(t) dated 29.12.2010





for revision of pension and as a result, the employees who retired after this date received 30% higher pension than employees who retired before the cut-off date.

188. Upon perusal of this Note, it is pertinent to note that the proposal was in line with the 2nd PRC recommendations.

(x) OM dated 15.03.2011

189. Subsequently, DoT issued OM F. No. 40-17/2008-Pen(t)-Vol.III dated 15.03.2011, whereby DoT ordered revision of pension of pre-01.01.2007 pensioners of BSNL. The OM applies to the DoT employees permanently absorbed in BSNL who were entitled to draw pension from 01.01.2007 based on combined services rendered under the Government and BSNL.

190. By Circular No. 09 dated 04.04.2011, BSNL initiated the process for revision of pension of eligible pre-2007 pensioners in light of this OM dated 15.03.2011.

191. The respondents have vehemently submitted that their pensions were revised pursuant to the 6th CPC, as evident by this OM of 15.03.2011. They further contended on the strength of this OM that since their pensions were revised pursuant to 6th CPC, they were equally entitled to revision of pension as per the 7th CPC.

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17:23:08



192. We are afraid that we cannot accept this contention of the respondents after a collective reading of the 2nd PRC recommendations, the Note for Cabinet approval dated 29.12.2010, and this OM dated 15.03.2011.

193. In our view, the OM of 15.03.2011 is nothing but the acceptance of the recommendations of the 2nd PRC, as also evident from the proposal submitted by Note dated 29.12.2010 seeking revision of pension consequent to 2nd PRC.

194. The 2nd PRC recommended a fitment benefit of 30% on basic pay plus DA at 68.8% as on 01.01.2007, which is what has been granted by OM dated 15.03.2011. To buttress, even the cut-off date stipulated in OM dated 15.03.2011 is 01.01.2007, i.e., the cut-off date as per the 2nd PRC. It is evident from OM's dated 04.05.2009 and 12.08.2009 that if the recommendations of the 6th CPC were to be extended, the benefits would have been granted from the cut-off date as per the 6th CPC i.e., 01.01.2006.

195. Subsequently, on 20.07.2016⁶², the liability of BSNL towards the payment of pensionary benefits was modified in the following terms:

"As stipulated in Rule 37-A of CCS (Pension) Rules, 1972, the pensionary benefits in the case of BSNL shall be paid by the Government, and the Government shall specify the arrangement and the manner including the rate of pensionary contribution to be made by BSNL and the manner in which financial liabilities on this

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⁶² OM No. 43-13/2013-Pen(T) dated 20.07.2016 issued by DoT





account shall be met. As per sub-rule 24 of the said Rule, the arrangement thus worked out shall be applicable to the existing pensioners and to the employees who are deemed to have retired from Government.

The instructions with regard to the financial liability on this account were issued vide DoT's letter no. 1-45/2003-B dated 15.06.2006. Subsequently, the matter of modifying the Pension liability of BSNL towards the payment of pensionary benefits including family pension to the retired employees has been considered by the Government, and the following has been decided.

(a) The pension liability in respect of employees of DOT/DS/DTO who retired prior to 01.10.2000 is solely borne by Government of India and the BSNL will have no liability in respect of these employees.

(b) The liability towards pensionary benefits including family pension to the BSNL employees (excepting those recruited after 01.10.2000) as per sub-Rule 22 of Rule 37-A of CCS (Pension) Rules, 1972, lies with the Government of India. The condition that the annual pension liability of the government shall not exceed 60% of the annual receipts to Government from the items specified in the O.M. dated 15.06.2006 is hereby rescinded.

BSNL will continue to discharge pension liability by way of pension contribution in accordance with FR 116."

196. While the aforesaid communication unequivocally affirms that the liability for payment of pension to BSNL absorbees rests upon the Central Government, it does not deal with, much less confer any entitlement to revision of pension in accordance with recommendations of CPC. The communication pertains solely to the incidence of pensionary liability and the financial arrangement between BSNL and the Government. Consequently, the respondents cannot derive any substantive right of pension revision from the said communication.

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(c) 7th CPC

197. The pension of Central Government employees was again revised with the advent of the 7th CPC from 01.01.2016. We note that the recommendations of the 7th CPC were given effect by way of 3 OM's issued on the same date, i.e., 04.08.2016 and a subsequent OM dated 12.05.2017.

198. The Resolution F. No. 38/37/2016-P&PW(A) indicated that the terms of the 7th CPC recommendations were accepted by the Government. With respect to revision of pension, two methods were recommended: (i) Notional Fixation and (ii) Fitment Multiplier of 2.57⁶³. It was stated that the first method may be applied if found feasible after scrutiny by the competent authority, while the second method was implemented with immediate effect.

199. OM F. No. 38/37/2016-P&PW(A)(i) was issued to revise the existing conditions of service as per 7th CPC for the employees governed by CCS (Pension) Rules who retire or die after 01.01.2016. As per an Order of this Court of 19.11.2025, it is on the basis of this OM that the respondents confined their prayer to revision of pension by applying the 2.57 multiplier instead of 3rd CPC.



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The Bharatiya Sakshya Adhiniyam, 2023

⁶³ (i) All the Civilian personnel including CAPF who retired prior to 01.01.2018 (expected date of implementation of the Seventh CPC recommendations) shall first be fixed in the Pay Matrix being recommended by this Commission, on the basis of the Pay Band and Grade Pay at which they retired, at the minimum of the corresponding level in the matrix. This amount shall be raised, to arrive at the notional pay of the retiree, by adding the number of increments he / she had earned in that level while in service, at the rate of three percent. Fifty percent of the total amount so arrived at shall be the revised pension.



200. OM F. No. 38/37/2016-P&PW(A)(ii) was issued for revision of pension of pensioners drawing pension under CCS (Pension) Rules before 01.01.2016, by applying the fitment method. The respondents have placed reliance on this OM to contend that by virtue of paragraph no. 7 therein, they are entitled to revision of pension in terms of the 7th CPC. We deem it fit to reproduce this paragraph hereinbelow:

“7. The cases of Central Government employees who have been permanently absorbed in public sector undertakings/autonomous bodies will be regulated as follows:-

(a) PENSION

Where the Government servants on permanent absorption in public sector undertakings/autonomous bodies continue to draw pension separately from the Government, the pension of such absorbees will be updated in terms of these orders. In cases where the Government servants have drawn one time lump sum terminal benefits equal to 100% of their pensions and have become entitled to the restoration of one-third commuted portion of pension as per the instructions issued by this Department from time to time, their cases will not be covered by these orders. Orders for regulating pension of such pensioners will be issued separately.

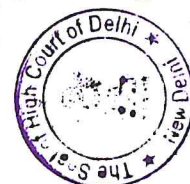
(b) FAMILY PENSION

In cases where, on permanent absorption in public sector undertakings/autonomous bodies, the terms of absorption and/or the rules permit grant of family pension under the CCS (Pension) Rules, 1972 or the corresponding rules applicable to Railway employees/members of All India Services, the family pension being drawn by family pensioners will be updated in accordance with these orders.”

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201. A bare reading of this paragraph indicates that, akin to 6th CPC recommendations, the OM has created a separate class for Central Government employees who have been permanently absorbed in

(ii) The second calculation to be carried out is as follows. The pension, as had been fixed at the time of implementation of the VI CPC recommendations, shall be multiplied by 2.57 to arrive at an alternate value

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17:23:08



PSUs, and para 7(a) therein refers to Government servants who “continue to draw pension separately from the government” even after absorption in a PSU. It is an admitted fact that the respondents do not draw a separate pension from the Government; instead, they are combined service pensioners i.e., they will draw pension at the time of retirement from the PSU based on the service rendered under the Government and the PSU together. Hence, the reliance placed by the respondents on this OM to claim revision of pension in terms of 7th CPC, is of no avail.

202. The last OM by which the 7th CPC was given effect is OM No. 38/37/2016-P&PW(A) dated 12.05.2017. By this OM, the first method to revise pension i.e., notional fixation, was approved for pre-2016 pensioners. It was also decided that the higher of the two formulations (notional and fitment method) would be granted to pre-2016 pensioners. We note that paragraph no. 4 applies to “all Central civil pensioners”. Further, paragraph no. 12 states thus:

“12. The pension of the pensioners who are drawing monthly pension from the government on permanent absorption in public sector undertakings/autonomous bodies will also be revised in accordance with these orders. However, separate orders will be issued for revision of pension of those pensioners who had earlier drawn one time lump sum terminal benefits on absorption in public sector undertakings, etc. and are drawing one-third restored pension as per the instructions issued by this Department from time to time.”

203. We are of the view that this OM dated 12.05.2017, however, does not apply to the respondents for two reasons: (i) As per the Order

for the revised pension.

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17:23:08





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of this Court dated 19.11.2025, the respondents confined their prayer to revision of pension based on multiplier of 2.57 in terms of OM dated 04.08.2016; (ii) the respondents are combined service pensioners and do not draw separate monthly pension from the Government after permanent absorption in BSNL/MTNL in terms of the aforesaid para no. 12.

204. After the advent of 7th CPC but before the issuance of the aforesaid OM, the DoT by OM F. No. 47-63/2015-Pen(T)(pt) dated 16.03.2017, clarified that revised rates for payment of death gratuity pursuant to 7th CPC (as per OM F. No. 38/37/2016-P&PW(A)(i) of 04.08.2016) was indeed applicable to BSNL/MTNL absorbees, who were combined pensioners governed under Rule 37A.

205. It is pertinent to note that this OM dated 16.03.2017 stated in its para no. 3 that, *“there is no change in the formula for pension/family pension w.e.f. 01.01.2016. BSNL/MTNL absorbees will, therefore, continue to get pension based on the same formula”*. Hence, it is evident that there was no change in the formula of pension of the respondents pursuant to the 7th CPC.

206. We note that the aforesaid direction with respect to death gratuity was implemented by BSNL by Order No. 48-11/2016-Pen(B) dated 21.03.2017.



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17:23:08



207. It is also relevant to note that the DPE *vide* OM dated 10.07.2018⁶⁴ clarified that the enhanced gratuity ceiling in terms of 7th CPC was not applicable to CPSEs⁶⁵ employees. This further underscores the distinction between the Central Government employees and PSU absorbees with respect to application of CPC recommendations.

208. In summary, while the 7th CPC revised pension for Central Government employees, the combined service pensioners of BSNL/MTNL governed by Rule 37A continue to receive pension in accordance with the formula applicable at the time of their respective retirement. No provision in any OM or Circular confers on such absorbees a right to revision of their pension under the 7th CPC analogous to Central Government employees.

(xi) 3rd PRC

209. After the 2nd PRC (as effective from 01.01.2007), pay revision for CPSUs again became due on 01.01.2017. In this regard, the 3rd PRC was constituted under the Chairmanship of Justice Satish Chandra (Retd.).

210. The recommendations of the 3rd PRC were approved by the DPE on 03.08.2017 *vide* its OM No. W-02/0028/2017-DPE(WC)-GL-XIII/17. However, paragraph no. 3 subjected the implementation of

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⁶⁴ OM No. W-02/0036/2018-DPE(WC)-GL-XIX/18

⁶⁵ Central Public Sector Enterprises



these recommendations to the financial health of the PSU in the following terms:

“3. Affordability: The revised pay scale would be implemented subject to the condition that the additional financial impact in the year of implementing the revised pay-package for Board level executives, Below Board level executives and Non-Unionized Supervisors should not be more than 20% of the average Profit Before Tax (PBT) of the last three financial years preceding the year of implementation.”

211. It is an undisputed position that the recommendations of 3rd PRC were not given effect due to the financial constraints of BSNL/MTNL.

212. One of the contentions advanced by Mr. Ghose, learned Senior Counsel for the respondents in W.P.(C) 4955/2025, was that it was not within the remit of the PRC to revise pension. However, it is apparent from a plain reading of OM dated 03.08.2017 that the 3rd PRC was not silent on the aspect of revision of pension. It is also evident that DoT issued OM dated 15.03.2011 for the revision of pension pursuant to 2nd PRC as noted in the preceding discussion. However, no statutory provision or executive order has been placed before us to substantiate that the aspect of revision of pension is *ultra vires* the authority of PRCs.

213. We note that the respondents categorically submitted before this Court on 19.11.2025 that they do not seek revision of pension as per 3rd PRC. However, for the sake of clarity we shall express our views on the same hereinbelow.



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214. In the present case, PRC recommendations are issued by the DPE. In light of *Sureshchandra Singh (supra)*, it is clear from para no. 13 of DPE OM dated 03.08.2017 with respect to the 3rd PRC, that Board of Directors of each CPSU is required to consider the proposal of pay revision based on their affordability to pay and submit the same to the concerned Ministry for approval. Thereafter, the concerned Ministry will issue the Presidential Directive for each PSU separately. Thus, it is evident that this OM dated 03.08.2017 falls under the former category, i.e., it is an administrative direction and therefore, this Court cannot issue a writ to enforce such directions which does not carry the force of law.

215. Now that we have delineated the relevant legal framework and taken a comprehensive view of the numerous OM's, Circulars etc. placed before us, we shall now advert to the facts of the case.

216. It is not in dispute that the respondents opted to be permanently absorbed in BSNL/MTNL. It is also not disputed that the respondents are combined service pensioners. It is also a matter of fact that the respondents are fitted in the IDA pay scale.

217. It is not the respondents' case that they are not receiving pension altogether, but only that their pensions have not been revised since 2007. Consequently, they seek revision of pension by applying multiplier of 2.57 in terms of the 7th CPC. They seek this relief primarily on three grounds:

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17:23:08



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(i) They were assured that the terms of their service will remain intact post absorption in BSNL/MTNL.

(ii) They are entitled to revision of pension by virtue of Rule 37A, particularly sub-Rule (8).

(iii) On strength of various OM's which have either granted them benefits of 6th and 7th CPC or are applicable to *all* pensioners governed by CCS (Pension) Rules without any discrimination on grounds of being absorbed in PSUs.

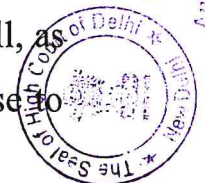
218. Thus, the bone of contention that runs to the core of this dispute is whether the respondents are entitled to be treated at par with Central Government employees for the purposes of pension revision based on CPC recommendations.

219. With respect to the first ground, the respondents have heavily relied on various documentary evidence to demonstrate that they were granted assurance that their terms of Government service will be retained after their absorption. We are of the view that this ground is untenable for the reasons to follow.

220. The OM dated 05.07.1989 ceases to hold any relevance since it has materialized into Rule 37A. Even if taken at face value, it clarifies that the Government servants who opt to be absorbed in PSUs will, as per a date fixed by the concerned Ministry/Department, will cease to

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The Bharatiya Sakshya Adhiniyam, 2023





be Government servants. Further, the Note dated 25.09.2000 also does not hold any binding force since it is merely a Note submitted for Cabinet approval and even this Note clarified that upon absorption, the transferees will cease to be Government servants and that their pensionary benefits would be calculated in the IDA scale. Similarly, the Circular dated 09.11.2000 clarifies that the absorbed persons in BSNL would be entitled to the Government pension scheme post their absorption and, in this regard, Rule 37A was inserted on 30.09.2000. We reiterate that this Rule only extended the formula for the calculation of pension to these absorbed employees which was applicable to Central Government servants at the time of retirement. The OM dated 14.01.2002 by which options were called from Group 'B' officers provided that the optees would fall under CDA scale only till they are absorbed and the IDA scale is announced, after which they would fall under the IDA pay scale.

221. Therefore, it is evident from the aforesaid that the respondents were aware that upon absorption, they would cease to be Government servants and fall under IDA scale. The only promise under Rule 37A was with respect to calculation of pension at the time of retirement from the PSU.

222. With respect to the OM's that gave effect to the 6th CPC as relied upon by respondents, we reiterate that these OM's categorically apply to employees absorbed in PSU drawing pension on pro-rata basis, not combined service pensioners. The clarification issued in this regard on 27.04.2009 also states that only the formula that was revised

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High Court of Delhi
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as per the 6th CPC was applicable to these absorbees and that the OM dated 01.09.2008, which pertains to revision of pension, did not apply to such persons. The respondents further relied on OM dated 04.05.2009 and 12.08.2009 to contend that they were extended the various benefits following from the 6th CPC. In this regard, we are of the view that these OMs only furthered the aim and object behind Rule 37A, i.e., extending the pensionary benefits to the absorbees, without creating entitlement to pension revision based on CPC recommendations. Further, the OM dated 20.07.2016 only stipulates the liability of the Government with respect to pensionary benefits of the BSNL, which has no bearing on entitlement to revision of pension and does not, by any stretch of imagination, create a substantive right to revision of pension.

223. The OM dated 15.03.2011, which allegedly revised the pension of the respondents as per 6th CPC, in our view, actually extended the benefits in terms of 2nd PRC from the effective date of 01.01.2007, consistent with the cut-off date stipulated therein.

224. The OMs that gave effect to the 7th CPC also do not come to the rescue of the respondents since they explicitly apply to the absorbed employees of PSUs who draw separate pension from the Government, i.e., pro-rata pensioners. The OM dated 21.03.2017 only extended the rates for payment of death gratuity pursuant to 7th CPC and does not alter the formula for pension of combined service pensioners. This, in our view, is aligned with Rule 37A, i.e., it extends pensionary benefits to the respondents as applicable to Central Government employees.

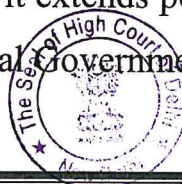
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Examiner Judicial Department
High Court of Delhi

Page 88 of 108
The Bharatya Samanya Adhikar, 2023



225. Based on our comprehensive analysis of the numerous OMs, we have arrived at the conclusion that at the time of absorption, what the absorbees were granted was an option to either be permanently absorbed in the PSU or remain in Government service. There were explicit stipulations that once they chose to be absorbed, they shall cease to be Government servants and that their benefits would be calculated in the IDA scale. We reiterate, that IDA and CDA scales are distinct, as also recognized in *Ajit Kumar Kar (supra)*, whereby it was held that retirees falling under the IDA scale did not have any right to receive dearness relief as per the CDA scale. We also emphasize that employees of PSUs and that of Central Government are subject to distinct systems of rules and regulations and that they stand on different footing, as also reiterated in *A.K. Bindal (supra)*. The only aspect that overlaps for the respondents herein is the formula for calculation of their pension, which is to be employed at the time of their retirement as per Rule 37A.

226. In the light of the foregoing discussion, the reliance placed by the respondents on OMs dated 05.07.1989, 25.09.2000, 30.09.2000, 09.11.2000, 14.01.2002, 01.09.2008, 02.09.2008, 27.04.2009, 15.03.2011, 20.07.2016, 04.08.2016, 21.03.2017, and 12.05.2017 to contend that they were assured at the time of their absorption that their Government service conditions would be retained post absorption, is of no avail.



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227. Consequently, the finding returned by the learned Tribunal in the impugned order that the respondents were extended an unequivocal and perpetual assurance that their terms and conditions of service shall remain intact post absorption in the PSU is erroneous and cannot be sustained. Such finding overlooks the express stipulations contained in Rule 37A and the terms governing absorption, which clearly contemplate cessation of Government service upon acceptance of the option for absorption.

228. Tuning to the second limb of the respondents' case, we note that Rule 37A undoubtedly lies at the heart of this dispute. To reiterate the preceding discussion and upon a holistic reading of the provision, we are of the considered view that Rule 37A embodies a limited statutory protection. This Rule grants: (i) a formula to absorbees for calculation of their pension, (ii) this formula is applicable to Central Government servants under CCS (Pension) Rules, and (iii) this formula is applied at the time of retirement/death of the absorbee.

229. Beyond the aforesaid limited protection, we cannot give any other expansive meaning to this Rule so as to confer subsequent benefits to the respondents which accrue to Central Government employees, particularly in view of the categorical mandate that they have ceased to be Government employees after absorption. Any interpretation to the contrary would not only render otiose the express declaration that the absorbee ceases to be a Government servant upon absorption but would also amount to judicial legislation.

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Examiner Judicial Department Page 90 of 108
High Court of Delhi

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230. Significantly, there is nothing in Rule 37A to suggest that it envisaged the grant of future benefits, especially revision of pension without revision in the underlying pay structure. The only entitlement created by the Rule is with respect to the formula for calculation of pension at the time of retirement. This entitlement, by no stretch of imagination, extends to revision of pension under the IDA scale solely on the ground that pension of Central Government employees under the CDA scale has undergone revision.

231. Thirdly, with respect to entitlement based on the various OMs, in our view, the basis of this claim stands on murky waters.

232. It is true that, by virtue of Rule 37A, the respondents continue to draw pension under the CCS (Pension) Rules notwithstanding their absorption. However, upon absorption, the respondents have ceased to be Government servants for every purpose except calculation of pension at the time of their retirement. Therefore, it may be argued that for this limited purpose CPC recommendations shall apply to them. It cannot be construed as preserving in perpetuity, their status or parity as Central Government employees for all pension related matters.

233. It is trite that IDA and CDA scales are distinct and exclusive of one other⁶⁶. Employee governed by either structure form separate classes for the purposes of service jurisprudence.

⁶⁶ Ajit Kumar Kar (supra)



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234. In this light, we acknowledge that the respondents are entitled to the formula for calculation of their pensions as per CPC recommendations by virtue of Rule 37A, but they are not entitled to any consequential revision thereunder since revision of pension under CPC arises out of revision of the CDA pay scale. Pertinently, being granted the same formula for fixation of pension does not by default entail automatic extension of 7th CPC to the respondents. It does not grant parity for any other purposes including revision of such pension, particularly, since the basic scale is different.

235. The principle that pension bears a direct nexus with the pay last drawn stands firmly recognized in service jurisprudence. As per *U.P. Raghavendra Acharya (supra)* and *D.S. Nakara (supra)*, the Supreme Court underscored the relationship between emoluments and pension. Even the Cabinet Note dated 29.12.2010 seeking revision of pension consequent to 2nd PRC duly acknowledges in para 2.5 that pension is linked to the pay drawn at the time of retirement and hence, revision of pension is linked to pay revision of existing employees. We find no reason to depart from this settled principle and affirm this view that pension revision is dependent on the revision of pay, i.e. pension cannot be revised in vacuum in ordinary course, divorced from revision in the underlying pay structure, unless expressly authorized by statute or executive policy.

236. In the present case, the respondents' pay scales have admittedly not been revised after the 2nd PRC owing to the non-implementation of the 3rd PRC since BSNL/MTNL do not have the requisite financial

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health. This Court must exercise judicial restraint and refrain from directing revision of pay in view of the affordability requirement for implementation of the 3rd PRC. The grant of pay scale lies in the domain of the executive⁶⁷ and it is a well-informed decision of an expert body, which has been accepted by the Government. Judicial review in such matters is necessarily limited. It was also held in *M.V. Mohanan Nair (supra)* that recommendations of expert bodies such as Pay Commissions ordinarily warrant judicial deference. Courts ought not to substitute their views for those expert bodies or governmental policy-makers unless the decision suffers from manifest arbitrariness or perversity. Therefore, no interference is warranted unless there exists unreasonableness or hostile discrimination⁶⁸.

237. The position that emerges is thus clear; when an absorbee retires from the PSU, his pension is fixed as per the formula employed for Central Government servants, even though he is not a Central Government employee, by virtue of Rule 37A. He will continue to draw this pension after retirement. However, the enhancement in his pension must necessarily stem from enhancement in his pay scale. Upon such enhancement of his pay, the same formula as for Central Government servants will be employed by using the enhanced basic pay under IDA. This is also evident from the clarificatory OM dated 27.04.2009.

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⁶⁷ S.C. Chandra v. State of Jharkhand, (2007) 8 SCC 279

⁶⁸ Shyam Babu Verma (supra)



238. The respondents do not stand on the same footing as Central Government employees⁶⁹. Upon absorption, they ceased to be Government servants; they are fitted in the IDA scale and are subject to the rules of the PSU. They are subject to the rules of BSNL/MTNL and commercial viability of the concerned PSU is a considerable factor in enhancement of pay and pension⁷⁰. Their pensionary framework, though protected under Rule 37A, continues to operate within that distinct statutory and administrative setting.

239. It may be argued that commercial viability of BSNL/MTNL is irrelevant since the Government has to bear the liability of their pension. While the proposition regarding liability may be correct, however, it is not the respondents' case that they are not receiving pension. Their case is embellished in the sense that they seek a revision (not fixation) of their pensions, notwithstanding, the clear absence of any corresponding revision to their pay.

240. The recommendations of the 6th and 7th CPC explicitly only apply to: (i) Central Government employees drawing pension under CCS (Pension) Rules, and (ii) those absorbees who draw separate pension from the Government. Evidently, this refers to pro-rata pensioners and not combined service pensioners. The respondents admittedly do not fall under either category since they are combined service pensioners drawing pension under the IDA scale pursuant to Rule 37A.

⁶⁹ A.K. Bindal (supra)

⁷⁰ **Officers & Supervisors of I.D.P.L. v. Chairman & M.D., I.D.P.L., (2003) 6 SCC 490; A.K. Bindal v. UIO, (2003) 5 SCC 163**



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241. This is a careful and cogent distinction carved out by the expert body since the aforesaid class of beneficiaries' fall under CDA scale for the purposes of their pension. Such classification has rational nexus with the object sought, i.e., revising pay, pensions and allowances of Central Government employees. Thus, in our view, such stipulation lies within the bounds of the discipline mandated by Article 14.

242. In addition to the above, since CPC is an expert body, once its recommendations have been accepted and implemented by the Government, courts should interfere sparingly⁷¹ and judicial interference must remain circumspect and exceptional.

243. Even on a demurrer, if the respondents are indeed entitled to CPC recommendations, there is nothing on record to show that they agitated this claim before the 7th CPC. On the contrary, the record suggests that the respondents continued to receive benefits flowing from the IDA and the recommendations as per the 1st and 2nd PRCs.

244. At this juncture, since the respondents had submitted various representations and RTIs applications to the concerned Government authorities, we deem it relevant to advert to the responses issued by these authorities as they not only provide valuable insight into the

⁷¹ Shyam Babu Verma v. Union of India, (1994) 2 SCC 521; UOI v. Mohanan Nair, (2020) 5 SCC 46; State of U.P. v. U.P. Sales Tax Officers Grade II Assn., (2003) 6 SCC 250; State of Haryana v. Haryana Civil Secretariat Personal Staff Assn., (2002) 6 SCC 72 : 2002 SCC (L&S) 822; Virendra Kumar v. UOI, 2024 SCC OnLine Del 1059; State of T.N. v. S. Arumugham, (1998) 2 SCC 198

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Government's position but also lend support to the interpretation adopted by us.

245. The DoT, on 27.12.2016⁷², clarified that OM F. No. 38/37/2016-P&PW(A)(ii) dated 04.08.2016 pursuant to 7th CPC only applied to Government servants permanently absorbed in PSUs and drawing pro-rata pension from the Government, as was evident from para 2.1 and 7(a) therein.

246. The Minister of State (Independent Charge) for Communications similarly issued a clarification⁷³ regarding revision of pension for MTNL absorbees who were drawing combined service pension under Rule 37A in accordance with 7th CPC. It was stated that pension revision is consequent to pay revision. Accordingly, revision of pension of MTNL employees would be taken up when 3rd PRC is implemented in MTNL.

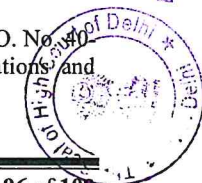
247. On 23.10.2017⁷⁴, the Minister of State (Independent Charge) for Communications again issued a clarification with respect to applicability of 7th CPC to the absorbees of BSNL. It was stated that OM No. 38/37/2016-P&PW(A) dated 12.05.2017 was in continuation of OM dated 04.08.2016 implementing the recommendations of the 7th CPC. As per Paras 7(a) and 12 thereunder, it is clear that OM dated

⁷² In response to RTI application dated 07.09.2016 by one Mr. Amit Kumar Gupta

⁷³ In response to letter dated 12.03.2018 by one Mr. Gopal Shetty; vide D.O.No. 34-19/2018-Pen(T) issued from O/o Minister of State (Independent Charge) for Communications and Minister of State for Railways, GoI (Manoj Sinha) [Date is illegible]

⁷⁴ In response to D.O. letter No. 738/MP/AN/17 dated 28.08.2017 by one Mr. Ajay Nishad; vide D.O. No. 16/2017-Pen(T) dated 23.10.2017 O/o Minister of State (Independent Charge) for Communications and Minister of State for Railways, GoI (Manoj Sinha)

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High Court of Delhi
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The Bharatiya Sakshya Adhiniyam, 2023



12.05.2017 applied to absorbees who are drawing pension on pro-rata basis under CDA scale solely for the Government service rendered by them, whilst the absorbees drawing combined service pension under IDA scale were governed by Rule 37A. Since revision of pension in linked to revision of pay, their case for pension revision would be taken up when 3rd PRC is implemented in BSNL.

248. The DP&PW issued its response *vide* Order No. 4/1/2018-P&PW(D) dated 04.07.2018. It was stated that OM F. No. 38/37/2016-P&PW(A)(ii) dated 04.08.2016, as per para nos. 2.1 and 7(a), the absorbees who are entitled to pension under IDA scale based on combined service are not covered by these orders, and are instead subject to the decision of the concerned PSU/Administrative Ministry for revision of pension. Notably, this RTI was forwarded to DoT⁷⁵ and in response⁷⁶, DoT clarified that the aforesaid OM was only applicable to absorbees drawing pro-rata pension. It was further clarified that the orders for revision of pension in pursuance of 6th CPC were not applicable to absorbees of BSNL/MTNL drawing pension under IDA. Instead, a separate order was issued by DoT for revision of their pensions *vide* OM dated 15.03.2011. Therefore, revision of pension of BSNL/MTNL combined service pensioners after 7th CPC is to be taken up by DoT.

249. On 13.07.2018⁷⁷, DoT issued a response with respect to revision of pension of BSNL/MTNL absorbee pensioners after 7th CPC. It was explicitly clarified that 7th CPC as per OMs dated 04.08.2016 and

⁷⁵ Forwarded by letter no. 4/1/2016-P&PW(D) dated 31.10.2016/23.11/2016

⁷⁶ Response of DoT issued by letter no. 47-35/2014-Pen(T) dated 27.12.2016

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High Court of Delhi

Page 97 of 108
The Bharatiya Sakshya Adhiniyam, 2023



12.05.2017 only applied to CDA pensioners and the pensioners, drawing monthly pension from the Government upon permanent absorption in PSUs on pro-rata basis (based on Government service only) under CDA scale. It was explicitly stated that these orders were not applicable for revision of pension of BSNL/MTNL absorbees who are drawing pension on combined service basis under IDA scale in terms of Rule 37A. It was reiterated that pension revision follows pay revision and that pension of BSNL absorbees was revised as per 2nd PRC in 2007. Accordingly, such revision will be taken up when 3rd PRC is implemented in BSNL/MTNL.

250. Further, the Minister of Communications on 11.03.2020 answered an unstarred question put to him in the Lok Sabha pertaining to revision of pension of absorbed BSNL employees. In response, it was stated that pension revision of such employees of BSNL was linked to the pay revision of the serving employees since pension is calculated on the basic pay which the retired employee was earning at the time of retirement.

251. Consequently, drawing from the aforesaid responses of the Government, we are of the view that the recommendations of the 6th and 7th CPC were only applicable to absorbees of BSNL/MTNL drawing pro-rata pension under CDA scale, especially considering that CPC recommendations pertain to Central Government service and therefore, have no bearing on PSUs or its employees falling under IDA scale in ordinary course. The respondents, however, are

⁷⁷ Communication No. 47-35/2014-Pen(T) issued by DoP on 13.07.2018

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admittedly combined service pensioners governed by Rule 37A and drawing pension under the IDA scale.

252. Notably, the OM dated 04.05.2009 extended revised rules of pension calculation as per 6th CPC in terms of Rule 37A and OM dated 16.03.2017 extended the revised rates for payment of death gratuity pursuant to 7th CPC to the absorbees of BSNL/MTNL. In our view, these OM's extend a limited aspect of pensionary benefits as per the 6th and 7th CPC recommendations to the absorbees and such extension is aligned with the object of Rule 37A(8), i.e., pension of absorbees shall be calculated in the same manner as that of Central Government employees. However, these OM's cannot be read so expansively so as to entitle the respondents to revision of their pension under IDA scale, particularly in the clear absence of revision of their underlying IDA pay scale. It is trite that CDA and IDA scales are distinct and exclusive of one other. It is also trite that pension is intrinsically linked with pay, as also expressed by the Government in their aforementioned responses, and no revision of the respondents' IDA pay scales have admittedly taken place after the 2nd PRC.

253. This Court is mindful that the respondents' pensions have not been revised since the 2nd PRC. In this regard, the law laid down in *D.S. Nakara (supra)* is well-settled that pensioners cannot be subjected to arbitrary discrimination. However, in the same breath we note that it was rendered in its own specific facts and circumstances. The Supreme Court has time and again held that this decision cannot

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be applied in a blanket manner⁷⁸. It is trite that a judgment cannot be read like Euclid's theorem. The most pertinent distinction being that the present case involves a PSU. Since BSNL/MTNL are granted special dispensation, not only the respondents are governed by the PSU's own rules, various OMs, Circulars etc. issued by the DPE, but also under Rule 37A of CCS (Pension) Rules, thereby creating a unique arrangement. Hence, though there is an overlap with respect to the applicability of CCS (Pension) Rules, the Central Government employees and the respondents, i.e., employees of PSUs do not constitute a homogenous class for all purposes relating to pay and pension revision.

254. The only continuing link keeping the respondents under the umbrella of CCS (Pension) Rules is the aspect of pensionary benefits in terms of Rule 37A. The "assurance" granted at the time of their absorption was admittedly materialized in the form of this Rule and this Rule only extends a limited promise, i.e., when absorbees retire from a PSU their pension will be calculated like that of Central Government servants at the time of their retirement by employing the same formula. The Rule does not go further.

255. This promise does not negate the fact that absorbees ceased to be Government servants or that they are governed by the rules of the PSU under IDA scale post such absorption.



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⁷⁸ Krishena Kumar v. Union of India, (1990) 4 SCC 207; Indian Ex-Services League v. Union of India, (1991) 2 SCC 104; Commander Head Quarter, Calcutta v. Capt. Biplabendra Chanda, (1997) 1



256. At the cost of repetition, Central Government servants are governed by CCS (Pension) Rules and the recommendations of the CPC. On the other hand, absorbees of BSNL/MTNL are also governed under these Rules for the limited purpose of calculation of their pension at the time of their retirement, however, they cease to be Government servants upon their permanent absorption and therefore, are not subject to recommendations of the CPC since they are governed by the Rules of the concerned PSU after such absorption. A logical corollary is that they are subject to the various Circulars, OMs etc. issued by DPE including the PRC recommendations.

257. Acceptance of the respondents' contention would require this Court to disregard the clear distinction maintained throughout the statutory and administrative framework between CPC-governed Central Government employees and PRC-governed PSU employees. Such an approach would not only run contrary to Rule 37A but would also amount to rewriting the scheme consciously established by the Government. In the absence of any statutory mandate, executive direction, or constitutional infirmity, no legal basis exists to extend the benefits of pension revision under the 7th CPC to the respondents.

258. To subject the respondents to CPC recommendations or conflate the recommendations of the CPC and PRC is an approach alien to the Court. Where there is no right, there lies no remedy. Thus, the respondents cannot claim any entitlement to the benefits arising from the 7th CPC recommendations.

SCC 208; K.L. Rathee v. Union of India, (1997) 6 SCC 7; T.N. Electricity Board Veerasamy, (1999) 3 SCC 414

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259. In view of the aforesaid, we are unable to concur with the view adopted by the learned Tribunal. The impugned order proceeds on an erroneous understanding of the scope of Rule 37A and the legal consequences of absorption in BSNL/MTNL and, therefore, cannot be sustained.

260. We shall now advert to the remaining contentions of the respondents.

261. It was contended that pay revision under a PSU is dependent upon profitability and financial viability of the PSU and has no connection with revision of pension, which is instead governed under Rule 37A. We are unable to accept this submission. This contention stands belied in view of the very basis for calculating pension. Pension is not an isolated entitlement divorced from the pay structure of the employee. As held in *U.P. Raghavendra Acharya (supra)* and *D.S. Nakara (supra)*, pension bears a direct nexus with the emoluments drawn by an employee. The Note dated 29.12.2010, as well as the consistent stand adopted by the relevant Government authorities, also proceeds on the premise that revision of pension ordinarily follows revision of pay. We, therefore, find no merit in the contention that pension can be undertaken independent of the underlying pay structure applicable to the respondent. We are of the view that pay and pension are intrinsically related.

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262. It was further advanced on behalf of the respondents that the ground taken by the petitioners regarding difference in IDA and CDA scales was a red herring and that revision of pension can be done regardless by applying the formula provided under Rule 37A. The submission overlooks the fundamental premise underlying this Rule. Rule 37A extends the formula for determination of pension to absorbed employees; it does not transplant them into the CDA scale nor confer upon them a right to claim every consequential benefit flowing from subsequent CPC recommendations. In this regard, in the absence of any revision of the respondents' IDA pay scales, this Court cannot grant revision of pension under IDA scale based on CPC recommendations pertaining to CDA pensioners under the 7th CPC scale since their underlying pay has not been revised. If the respondents' pay were revised, they would be entitled to consequential revision in pension in terms of Rule 37A.

263. It was also submitted that classification between absorbees and recruits is overinclusive and violative of Article 14 of our Constitution since only the absorbees were granted protection under Rule 37A and therefore constitute a *suis generis* class. It was submitted that this *suis generis* class has been consistently granted parity with central government pensioners by virtue of Rule 37A, as evident from OM dated 27.04.2009, circular dated 04.05.2009, OM dated 12.08.2009, OM dated 15.03.2011 and OM dated 20.07.2016. In our view, the argument proceeds on a misplaced premise. In this regard, it is not the distinction between absorbees and recruited persons that is relevant for this dispute, but the distinction amongst the absorbees itself. As





noted in the foregoing discussion, the employees absorbed in BSNL/MTNL are of two kinds i.e., pro-rata pensioners and combined service pensioners. It is this distinction that is material for the present dispute. Further, as noted above such distinction is reasonable and stands the test of Article 14. Additionally, the various OMs relied upon, do not come to the rescue of the respondents in light of the view taken by us hereinabove.

264. Reliance was placed on communication dated 20.02.2014⁷⁹ to assert that the respondents were also extended CGHS facilities. This communication states that, *"the retired employees, who are in receipt of central civil pension/pro-rata pension only from Central Civil Estimates are eligible for joining CGHS, other retired employees of BSNL are not eligible for CGHS"*. A plain reading of the said communication shows that the benefit was extended only to retired employees who were in receipt of Central Civil Pension or pro-rata pension paid from Central Civil Estimates. Hence, in our view, it clearly only applies to pro-rata pensioners of BSNL and not combined service pensioners. The respondents, being combined service pensioners governed by Rule 37A, do not fall within the category contemplated therein. The said communication, therefore, does not advance their case.

265. It was next submitted that, at the time of absorption, there was no option to opt for pro-rata pension and therefore, there are no pro-rata pensioners in BSNL, all absorbed employees are on combined

⁷⁹ File No. 4-12(11)/2012-PAT

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Executive Judicial Department

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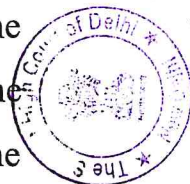
service pension. Even assuming this contention to be correct, it does not alter the legal position.

266. We note that the option of drawing pension on pro-rata basis was inserted in sub-Rule (8) *vide* S.O. 1487(E) dated 14.10.2005. This contention does not change our view since irrespective of this option, the respondents upon absorption would cease to be Government servants and fall under the IDA scale therefrom and hence, cannot claim revision of pension consequent to CPC recommendations without revision of their IDA pay. It does not negate the fact that, upon absorption, such absorbees will become PSU employees and therefore, will be subject to PRC recommendations for all purposes except calculation of pension at the time of their retirement. Even the subsequent insertion of an option for pro-rata pension by the said notification does not dilute the legal consequences of absorption. Further, as duly recognized in *M.V. Mohanan Nair (supra)*, this court ought to exercise restraint in interfering with the decisions of an expert body, particularly in the absence of any manifest arbitrariness or illegality, especially where such interference may also lead to adverse effects on public exchequer.

267. The respondents also resisted the additional affidavit filed by the petitioners by way which the latter sought to bring on record clarifications dated 17.07.2018 and 27.03.2025 which state that the OMs relied upon by the respondents only do not apply to them. We note that these clarifications were not part of the record before the Tribunal, we do not propose to place reliance upon them. The conclusions reached by us are independently supported by the

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High Court of Delhi
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statutory framework, the contemporaneous OMs and the material that formed part of the record before the Tribunal.

268. Although the respondents have submitted that they shall not place reliance on the decision of the High Court of Kerala, Ernakulum; nevertheless, we shall deal with the same for the sake for completeness. Before Ernakulum Bench, the respondents sought relief based on OM dated 12.05.2017 and before this Court, they seek multiplier of 2.57 as per OM dated 04.08.2016. This decision, in our view, overlooks the inherent distinction between IDA and CDA scales and gives Rule 37A (8) a more expansive reading that what it actually provides. We have already rendered our view as to why OM dated 12.05.2017 does not apply to the respondents and shall not repeat the same for the sake of brevity. Needless to state that a decision of a coordinate Bench of a different High Court only has persuasive value.

CONCLUSION

269. Rule 37A of the CCS (Pension) Rules, 1972 prescribes special statutory framework governing erstwhile Government servants who were permanently absorbed in PSUs. Upon such absorption, the respondents ceased to be Government employees, their posts under the Government stood abolished and they were fitted under the IDA scale. Accordingly, consequent to such absorption, they shall be governed by the rules of the concerned PSU and be subjected to recommendations of the Pay Revision Committee. Hence, they cannot claim benefit of recommendations of the Central Pay Commission.

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High Page 106 of 108

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270. As per Rule 37A, while the Government bears the pensionary liability of the absorbed employees, such employees are still subject to sub-Rule 8 for the calculation of their pension. The source of payment does not determine the nature or extent of the right.

271. Properly construed, Sub-Rule 8 is nothing but a promise of extending the same formula to the absorbed employees which is applied for Central Government employees for the calculation of pension. The formula referred to is the one which shall be in force at the time of retirement or death of such absorbed employee. The Rule neither preserves the status of the absorbee as a Government servant nor creates a continuing right to claim every future benefit that may be extended to Central Government pensioners. Accordingly, this Rule does not entitle the respondents to any other benefit that may arise in the future after their retirement.

272. We accordingly hold that neither Rule 37A nor any of the Office Memoranda relied upon by the respondents confer a right upon combined service pensioners governed by the IDA regime to claim revision of pension pursuant to the recommendations of the 7th CPC. This is because the recommendations of the 7th CPC only apply to Central Government employees and absorbees of BSNL/MTNL who draw pension on pro-rata basis from the Government. The respondents do not fall under either category. Moreover, since the underlying pay structure applicable to the respondents has not been revised as per the

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Examined and Found Department
High Court of Delhi Page 107 of 108

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3rd PRC, the question of consequential revision of pension does not arise.

273. For all the aforesaid reasons, the impugned order dated 20.09.2023 passed by the learned Tribunal cannot be sustained and is set aside. Accordingly, this batch of writ petitions stands allowed in the aforesaid terms. Pending applications, if any, stand disposed of. There shall be no order as to costs.

OM PRAKASH SHUKLA, J.

C.HARI SHANKAR, J.

JULY 1, 2026/pa/gunn



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High Court of Delhi
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25/7/26

Administrative Officer (Judl.)
(Appellate)
High Court of Delhi
New Delhi

IN THE SUPREME COURT OF INDIA

(ORDER XXI RULE 3(1) (a))

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION

(Under Article 136 of the Constitution of India)

SPECIAL LEAVE PETITION (CIVIL) NO. _____ OF 2026

[Against common impugned final judgment and order dated
01.07.2026 passed by the Hon'ble High Court of Delhi at New
Delhi in W.P.(C) No. 4946 of 2024]

IN THE MATTER OF:

POSITION OF PARTIES

<i>Before the High</i>	<i>Before this</i>
<i>Court</i>	<i>Hon'ble Court</i>

1. ALL INDIA RETIRED

RESPONDENT

PETITIONER

BHARAT SANCHAR

NO. 1

NO. 1

NIGAM LIMITED

EXECUTIVE WELFARE

ASSOCIATION

Through its General

Secretary Shri Prahlad Rai

Registration Number:

S/00108/NE-/2010 C-8/230,

Having its office at:

C-8/230, Yamuna Vihar,

Delhi-110053

2. SANCHAR NIGAM	RESPONDENT	PETITIONER
PENSIONERS WELFARE	NO. 2	NO. 2
ASSOCIATION		

Through its General

Secretary

Shri Girdhari Lal Jogi

Having its office at:

SNEA Bhawan, B-11/1&2,

Ground Floor, opposite to

Sanatan Dharma Mandir,

Ramesh Nagar, New Delhi-

110015

VERSUS

1. UNION OF INDIA	PETITIONER	RESPONDENT
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Through its Secretary,

NO. 1

NO. 1

Department of

Telecommunications,

Sanchar Bhavan, 20, Ashok

Road,

New Delhi- 110001

2. BHARAT SANCHAR	PETITIONER	RESPONDENT
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NIGAM LTD.

NO. 2

NO. 2

Through its CMD,

Having its registered office

at: Bharat Sanchar Bhawan,

Harish Chandra Mathur Lane,
Janpath, New Delhi-110001

3. DEPARTMENT OF PENSION & PENSIONERS' WELFARE	PETITIONER NO. 3	RESPONDENT NO. 3
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Through its Secretary
3rd Floor, Lok Nayak
Bhawan, Khan Market,
New Delhi- 110003

4. DEPARTMENT OF PUBLIC ENTERPRISES	PETITIONER NO. 4	RESPONDENT NO. 4
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Through its Secretary
Public Enterprises Bhawan
Block No.14, CGO Complex
Lodhi Road, New Delhi-
100003

5. SHRI ASHIM KUMAR DEY	RESPONDENT NO. 3	PROFORMA RESPONDENT
------------------------------------	---------------------	------------------------

Group: B
Designation: Ex. Accounts
Officer, Calcutta Telephones,
BSNL, Aged about 70 years
S/o Late Shri Ramendra Dey
R/o Kingshuk Apartment, 3rd

NO. 5

Floor, Flat-7, 344 Parnashree
Pally, Kolkata, West Bengal -
700060

6. SHRI SUBHAS	RESPONDENT	PROFORMA
CHANDRA MITRA	NO. 4	RESPONDENT
Group: C		NO. 6
Designation: Ex TTA, Calcutta Telephones, BSNL Aged about 71 years S/O Late Shri Prafulla Chandra Mitra R/o 22 Hind Road, Flat 6, 3rd Floor New Santoshpur, Kolkata, West Bengal - 700075		

7. SHRI GOPAL CHANDRA	RESPONDENT	PROFORMA
NASKAR	NO. 5	RESPONDENT
Group: D		NO. 7
Designation: Ex Canteen Bearer, Calcutta Telephones, BSNL, Aged about 68 years S/o Late Shri Bhusan Chandra Naskar R/o 41/A Biren Roy Road (East), Kolkata, West Bengal – 700008		

- | | | |
|-------------------------------|------------|------------|
| 8. SHRI RAJENDRA SINGH | RESPONDENT | PROFORMA |
| Group: B | NO. 6 | RESPONDENT |
| Designation: Ex SDE | | NO. 8 |
| Aged about 65 years | | |
| S/o Late Shri Sohan Singh | | |
| R/o 43, Shahbad Ext (Gail- | | |
| 2), Sector 17, Rohini, | | |
| Delhi - 110081 | | |
| | | |
| 9. SHRI KIRAN KUMAR | RESPONDENT | PROFORMA |
| PRABHAKAR | NO. 7 | RESPONDENT |
| Group: B | | NO. 9 |
| Designation: Ex SDE | | |
| Aged about 67 years | | |
| S/o Late Shri M. L. | | |
| Prabhakar | | |
| R/o Flat no 201, 2nd Floor, | | |
| BSNL Govt. Employee | | |
| Diamond CGHS LTD., Plot | | |
| no GHS-07, Sector 65, | | |
| Bullabgarh, Faridabad, | | |
| Haryana - 121004 | | |
| | | |
| 10.SHRI S. SUNDARA | RESPONDENT | PROFORMA |
| MURTHY | NO. 8 | RESPONDENT |
| Group: C | | NO. 10 |

Designation: Telecom
 Mechanic, Aged about 66
 years, S/o Shri Saminathan
 R/o 28, Tirupatcheeswaran,
 Ayanavaram,
 Chennai, Tamil Nadu -
 400023

Respondent Nos. 1 – 4 are contesting Respondents

**PETITION UNDER ARTICLE 136 OF THE CONSTITUTION
 OF INDIA, 1950 AGAINST THE IMPUGNED JUDGMENT
 DATED 01.07.2026 PASSED BY THE HON'BLE HIGH
 COURT OF DELHI AT NEW DELHI IN WRIT PETITION
 (CIVIL) NO. 4946 OF 2024 TITLED AS “*UNION OF INDIA &
 ORS. VS. ALL INDIA RETIRED BHARAT SANCHAR NIGAM
 LIMITED EXECUTIVE WELFARE ASSOCIATION & ORS.*”**

TO
 THE HON'BLE CHIEF JUSTICE OF
 INDIA AND HIS COMPANION JUDGES
 OF THE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE
 PETITIONERS ABOVE NAMED
MOST RESPECTFULLY SHOWETH:

1. The Petitioners abovenamed humbly seek Special Leave to Appeal under Article 136 of the Constitution of India, 1950

against the common impugned final judgment and order dated 01.07.2026 passed by the Hon'ble High Court of Delhi at New Delhi in W.P.(C) No. 4946 of 2024 titled as '*Union of India & Ors. vs. All India Retired Bharat Sanchar Nigam Limited Executive Welfare Association & Ors.*' and other connected Writ Petitions (hereinafter the "**Impugned Judgment**").

By way of the Impugned Judgment, the Hon'ble High Court has set aside the Final Order dated 20.09.2023 passed by the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 1272/2020 and other connected applications, wherein the right of pension revision as per the recommendations of the 7th Central Pay Commission, of officers of BSNL/MTNL who were absorbed from Department of Telecom, was upheld in view of Rule 37A of the CCS (Pension) Rules, 1972 promulgated under Article 309 of the Constitution of India.

2. QUESTIONS OF LAW

The instant Petition seeking Special Leave for Appeal raises the following important and substantial questions of law and public importance for consideration of this Hon'ble Court:

- A. Whether the Hon'ble Division Bench of the High Court erred in law in interpreting Rule 37A of the CCS (Pension) Rules, 1972, a beneficial provision enacted to protect the pensionary rights of permanently absorbed employees in a narrow,

pedantic and literal manner so as to defeat its underlying object and purpose?

- B. Whether the interpretation of Rule 37A, CCS (Pension) Rules, 1972 to exclude BSNL/MTNL absorbed officers' entitlement of pension revision defeats the very purpose with which the same was enacted under Article 309 of the Constitution of India, pursuant to the amendment of the CCS (Pension) Rules, 1972 on 30.09.2000 to insert Rule 37A setting out the "*Conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Public Sector Undertaking*"?
- C. Whether the interpretation of Rule 37A, CCS (Pension) Rules as done by the Hon'ble High Court of Delhi, which renders an entire class of approximately 3.5 lakh statutorily protected BSNL/MTNL combined service pensioners making them incapable of ever receiving any revision of pension is violative of Articles 14 and 21 of the Constitution of India and with the rule of *construction ut res magis valeat quam pereat*?
- D. Whether Sub-Rule (8) of Rule 37A, which mandates calculation of pensionary benefits "*in the same way as calculated in the case of a Central Government servant retiring... on the same day,*" inherently and necessarily includes the right to periodic revision of pension consequent upon Pay Commission recommendations, and whether the High Court erred in reading down this entitlement?
- E. Whether the interpretation of the Hon'ble High Court tantamount to unreasonable classification of the Petitioners, all of whom upon retirement, form a homogeneous class of

pensioners akin to government pensioners in view of Explanation to Sub-Rule (8) of Rule 37-A, CCS (Pension) Rules?

- F. Whether the Impugned Judgment results in an unreasonable and impermissible classification within a single, homogeneous class of pensioners being those absorbed from Government service into BSNL/MTNL under Rule 37A in violation of Article 14 of the Constitution, contrary to the law declared by this Hon'ble Court in *Union of India v. S.P.S. Vains (Retd.)*, (2008) 9 SCC 125?
- G. Whether the Petitioners are entitled, as a matter of right flowing from Article 14, to notional revision of pension at par with their counterparts who continued in Government service and whose pensions stood revised pursuant to the 7th CPC?
- H. Whether, it was permissible for the Hon'ble High Court to cherry pick paragraphs from a decision of a coordinate Bench in “*Union of India vs. All India BSNL Pensioners Welfare Association*”, 2020 SCC OnLine Del 158 to deny the relief sought by the Petitioners, when, the same endured to their benefit, which paragraph was not mentioned in the Impugned Judgment? For that, the said paragraph reiterated that Rule 37A provided that those Government servants permanently absorbed in PSU would be entitled to pension in the same manner as Central Government employees?
- I. Whether the Hon'ble High Court failed to appreciate the doctrines of promissory estoppel and legitimate expectation since BSNL/MTNL absorbed employees were given an assurance that they would be “*entitled to Government's*

scheme of pension/family pension even after their absorption” after which the CCS (Pension) Rules, 1972 were amended incorporating Rule 37A exclusively for BSNL/MTNL absorbees? For that, it is settled law that when a Rule is capable of two interpretations, the one in favour of the employee should be adopted?

- J. Whether the Hon’ble High Court could have ignored the presidential order of appointment of the absorbees in BSNL/MTNL respectively which categorically stated that the absorbed employee would be entitled to pension/family pension as per Rule 37A?
- K. Whether the dichotomy between “fixation” and “revision” of pension, upon which the Impugned Judgment wholly rests has any foundation in the language of Rule 37A of the CCS (Pension) Rules, 1972, and therefore, is a judicial gloss which supplies an exclusion that the rule-making authority consciously omitted?
- L. Whether the Impugned Judgment, being directly contrary to the Judgment dated 07.02.2025 of the High Court of Kerala at Ernakulam in O.P.(CAT) No. 60/2020 on the very same statutory question in respect of an identically placed BSNL absorbed employee, gives rise to a conflict between High Courts on the construction of a central statutory rule of an all India application, requiring interference and exercise of discretionary power vested with this Hon’ble Court?
- M. Whether the High Court has *ex facie* failed to take into account that nine recommendations of the 7th CPC have been extended to the BSNL/MTNL combined service pensioners

pursuant to OM dated 04.08.2016, which could not have been done if their status upon retirement was not akin to their counterparts in the government? For that, pension, gratuity and commutation are three components of retiral benefits and DoT in the present case has already extended gratuity and commutation at par with Central Government pensioners as per 7th CPC?

- N. Whether in the absence of any finding of perversity, jurisdictional error or manifest illegality, the Hon'ble High Court having settled limits of interference under Articles 226 and 227 could undertake a *de novo* appreciation of the entire documentary record along with additional documents which were never filed by the official Respondents before the Hon'ble Tribunal or in the Writ Petition, and was merely an index of documents in the form of office memorandums introduced at the stage of final arguments?
- O. Whether the withholding of any revision of pension for over nineteen years, leaving Group 'D' pensioners and family pensioners at a meagre Rs. 3,500/- per month as against a minimum pension of Rs. 9,000/- per month for Central Government pensioners, is consistent with the right to live with dignity guaranteed by Article 21 of the Constitution of India?
- P. Whether the Impugned Judgment is sustainable in law, since it declares that as per Rule 37A, the Petitioners can never be entitled to pension revision and the same only permits admissibility of pension that was being given to a government pensioner at the time the Petitioners retired. Whether such an

interpretation is permissible in law given that this Hon'ble Court has time and again reiterated that there can be no classification of pensioners, who are entitled to enhanced pension and any benefits that arise thereof? [***D S Nakara Vs UoI (1983) 1 SCC 305; V Kasturi Vs MD SBI (1998) 8 SCC 30***]

- Q. Whether the Hon'ble High Court erred in disregarding a consistent and unbroken chain of Office Memoranda, cabinet notes and circulars issued by the DoP&PW and DoT between 1989 and 2017, which contemporaneously and consistently recognised the entitlement of permanently absorbed BSNL/MTNL pensioners to revision of pension at par with Central Government pensioners?
- R. Whether the Impugned Judgment is sustainable in view of the Judgment passed by this Hon'ble Court in “***State of Rajasthan v. O.P. Gupta***”, (2022) SCC OnLine SC 1248 wherein it was held that when financial rules framed by the Government such as Pension Rules are capable of more interpretations than one, the Courts should lean towards that interpretation which goes in favour of the employee?
- S. Whether the Impugned Judgment while dismissing the several OMs and circulars substantiating entitlement of pension revision of the Petitioners, failed to consider the decision of a Constitution Bench of this Hon'ble Court in case of ***Sant Ram Sharma v. State of Rajasthan***, 1967 SCC OnLine SC 16 wherein it was held that while the Government cannot amend or supersede statutory Rules by administrative instructions, but if the rules are silent on any particular point Government

can fill up the gaps and supplement the rules and issue instructions not inconsistent with the rules already framed?

- T. Whether denial of pension revision, resulting in the lowest-paid Petitioners subsisting on a fraction of the minimum pension payable to a Central Government pensioner, is violative of the right to live with dignity guaranteed under Article 21 of the Constitution, having regard to the socio-economic purpose of pension as recognised by this Hon'ble Court in *Kerala SRTC v. K.O. Varghese*, (2003) 12 SCC 293?

3. DECLARATION IN TERMS OF RULE 3(2)

The Petitioners state that no other Petition seeking leave to appeal has been filed by Petitioners against the common impugned final judgment and order dated 01.07.2026 passed by the Hon'ble High Court of Delhi at New Delhi in W.P.(C) No. 4946 of 2024 titled as '*Union of India & Ors. vs. All India Retired Bharat Sanchar Nigam Limited Executive Welfare Association & Ors.*'

4. DECLARATION IN TERMS OF RULE 5

The Annexures P-1 to P-32 produced along with the special leave petition are true copies of the pleadings / documents, which formed part of the records of the case before the courts below against whose order the leave to appeal is sought for in this petition.

5. GROUND

The Special Leave to Appeal is sought for on the following amongst other grounds: -

- A. Because the Impugned Judgment passed by the Hon'ble Division Bench of the Hon'ble High Court is *ex-facie* contrary to the statutory framework of Rule 37A, CCS (Pension) Rules, 1972 promulgated under Article 309 of the Constitution of India.
- B. Because the Impugned Judgment failed to appreciate that pension is payable, as pointed out in several judgments of this Hon'ble Court, on the consideration of past service rendered by the government servant and is to provide sustenance in old age. For that, the interpretation of Rule 37A, CCS (Pension) Rules, 1972 that the same does not provide for pension revision defeats the very purpose by which the provision of pension was made applicable to the Petitioners at the time of their absorption in BSNL/MTNL.
- C. Because the Impugned Judgment consists of several surmises and conjectures and has fundamentally proceeded to deal with a relief not claimed by the Petitioners herein and has mixed up pleadings and issues raised by the respective Associations in the three connected Writ Petitions.

**INCORRECT INTERPRETATION OF RULE 37A, CCS
(PENSION) RULES, 1972**

- D. Because the finding of the High Court that there is no provision of pension revision in Rule 37A of the CCS (Pension) Rules, 1972 is *ex facie* contrary to the statutory scheme for which the same was enacted viz., “*Conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Public Sector Undertaking*”.
- E. Because even Rules 44-48 of the CCS (Pension) Rules, 1972 which set out the amount of Pension for government servants do not set out any specific provision for pension revision, and the same has been done pursuant to the Office Memoranda issued by the DoP&PW as per the recommendations of the 6th & 7th CPC. As such, the narrow interpretation of Rule 37A thereby seeks to classify the pensioners which is violative of Article 14 of the Constitution.
- F. For that, the OM dated 04.08.2016 issued by DoP&PW clearly mentions that the same is applicable to all pensioners/family pensioners drawing pension/family pension before 01.01.2016 under the CCS (Pension) Rules, 1972, and therefore, covers the Petitioners who were drawing pension as per the said Rules.
- G. Because while the Hon’ble High Court has extensively dealt with Sub-Rule (4) of Rule 37A to hold that the Petitioners cease to be government employees upon their retirement, the same is being read in isolation and ignorance of Sub-Rule (8),

(9), (22), (23) & (24) of Rule 37A. In this regard, it is submitted that upon absorption, while the BSNL/MTNL employees cease to be government servants, they are deemed as retired from government service and as such, the Petitioners had never sought to claim equity or parity with central government employees except in so far as pension is concerned despite them having ceased to be government employees. This was only in view of Sub-Rules (4) & (8) of Rule 37A and explanation therein, which guaranteed the Petitioners pension at par with their counterparts in the government.

- H. Because while the Petitioners ceased to be government employees upon their absorption, their status of being government pensioners upon retirement continued pursuant to Rule 37A (4) & (8) of the CCS (Pension) Rules, 1972.
- I. Because the Hon'ble High Court failed to appreciate that the word "*formula*" in Rule 37A (8) has been explained by BSNL in the letter dated 14.01.2002 being the general terms and conditions of absorption wherein DOT clarified that "*that the word "formula" mentioned in clause 8 of Rule 37 - A means payment of pension as per Government Rules in force at that time.*" As such, the Hon'ble High Court failed to take into account the assurance and clarification given by DOT at the time of absorption.
- J. Because the Hon'ble High Court failed to appreciate that Sub-Rule (8) of Rule 37A of the CCS (Pension) Rules pertains to cases involving combined service of BSNL/MTNL under the CDA pay scale (*while they were at DOT*) and IDA pay scale

(*upon their absorption*). Further, Sub-Rule (10) specifically recognises the entitlement of Government pensioners, absorbed under the IDA pattern, to receive dearness relief in accordance with IDA. A conjoint reading of sub-rules (4) and (8) of Rule 37A leaves no manner of doubt that the Respondents, upon retirement, are entitled to pension revision in the same manner and to the same extent as is applicable to a Central Government servants.

K. Because the construction adopted by the Hon'ble High Court produces a result which no rule-making authority could conceivably have intended, namely a class of approximately 3.5 lakh pensioners whose pension is admittedly paid by the Union out of the Consolidated Fund of India under a statutory rule framed under the proviso to Article 309, and whose pension can nevertheless never be revised. The Hon'ble High Court held the recommendations of the Central Pay Commission inapplicable (paragraphs 251, 256 and 272), and simultaneously held that revision can only follow implementation of the 3rd Pay Revision Committee, which is contingent upon the profitability of a loss-making Public Sector Undertaking that bears no pensionary liability (paragraph 236). The necessary and inescapable consequence is a perpetual freeze. As such, a construction of a statutory rule which produces such a result ought to be rejected.

L. Because, the fitment factor of 2.57 of the 7th CPC was extended to the employees of Food Corporation of India on their IDA scale, and therefore, the conclusion drawn by the Hon'ble High Court that pension revision and

recommendations of the 7th CPC cannot be extended to employees on IDA scale, is flawed and contrary to the conduct of the government. This in itself demonstrates classification of the Petitioners.

- M. Because a 3 Judge bench of this Hon'ble Court in *Welfare Association of Absorbed Central Government Employees in PSU & Ors. vs. Union of India & Ors.*, (1996) 2 SCC 187, quashed paragraph 4 of the DoP&PW OM dated 05.03.1987 which denied benefits of restoration of commutation of pension as they ceased to be government employees. For that, Sub-Rule (4) of Rule 37A as per which the Petitioners cease to be government employees could not have been interpreted in this pedantic manner.
- N. Because Section 12A (3) of the Food Corporations Act 1964 states that upon transfer, an employee ceases to be a government employee. Notwithstanding the same, this Hon'ble Court in *Union of India Vs P N Natarajan & Ors.*, (2010) 12 SCC 405, upheld their claim of pensionary benefits at par with government employees.
- O. Because the Department of Food & Public Distribution vide order No. F.No.38020/1/2019-FC-3 dated 13.12.2023 has granted the benefits of 7th CPC using the fitment factor of 2.57 from 01.01.2016 thereby extending the benefit of the DoP&PW OM dated 04.08.2016 to its employees drawing IDA Pay scale.

**FAILURE TO CONSIDER THE CORRECT PURPORT
OF SEVERAL OFFICE MEMORANDA ASSURING
THE BSNL/MTNL COMBINED SERVICE
PENSIONERS OF PENSION AS PER GOVERNMENT
SCHEME OF PENSION**

P. Because the Hon'ble High Court failed to appreciate the following assurance of the DOT & DoP&PW as mentioned in several office memoranda which substantiate the entitlement of the Petitioners to have their pension revised akin to the government employees. The Hon'ble Central Administrative Tribunal, Principal Bench had meticulously examined these documents which have been ignored by the Hon'ble High Court. The following rules/office orders/notifications are relevant: *viz.*:

S. No.	Document	Relevant portion
1.	05.07.1989	OM issued by DoP&PW for settlement of issues of government employees transferred to PSUs/Autonomous bodies wherein the President was pleased to issue a direction at Paragraph <i>viz.</i> , (b) the pension of government servants in the case of <i>en masse</i> transfer of employees shall at the time of retirement, be <u>"in accordance with</u>

		<u><i>the Central Government Rules in force at that time</i></u> ".
2.	25.09.2000	Cabinet Note by DOT stating that <u><i>all employees would be entitled to government's scheme of pension/family pension</i></u> even after absorption and pension framework is part of the CCS Rules.
3.	30.09.2000	Rule 37A of the CCS (Pension) Rules, 1972 governs the Respondents' pension.
4.	09.11.2000	Circular issued by DOT stating that employees of DOT absorbed in BSNL will be entitled to <u><i>government's scheme of pension/family pension</i></u> .
5.	14.01.2002	Clause 5 of the terms & conditions of the circular calling for absorption, states that officers who opt for absorption would be governed by Rule 37A of the CCS Rules and the word formula in Sub-Rule (8) <u><i>"means payment of pension as per Government rules in force at that time"</i></u>. The subsequent presidential order issued for absorption of employee to BSNL/MTNL where it was

		mentioned that pension would be governed under Rule 37A.
6.	02.09.2008	OM issued by DoP&PW introducing certain modifications for applicability of 6 th CPC to the central government employees governed by CCS Rules.
7.	27.04.2009	DoP&PW OM stating that the <u>formula applicable to central government pensioners in the OM dated 02.09.2008</u> shall be applicable to the absorbees too.
8.	15.03.2011	OM issued by DOT for revision of pension after the 6 th CPC and the benefit was to reach the pensioners expeditiously in as much as upon pay revision from 01.01.2007, an anomaly in Pension arose between pre-2007 and post-2007 pensioners.
9.	20.07.2016	OM issued by DOT wherein the entire pension liability of the absorbed officers would remain with the Govt. of India
11.	04.08.2016	OM issued by DoP&PW for implementation of 7 th CPC. Para 1 extends this to all pensioners/family pensioners covered under CCS (Pension) Rules, 1972. Para 7 states that the pension of government

		servants on permanent absorption will be updated in terms of this order. Para 4.1 provides the formula for pension revision
12.	21.03.2017	Order issued by BSNL extending benefits of the 7 th CPC in terms of the OM dated 04.08.2016.
13.	12.05.2017	OM issued by DoP&PW for implementation and revision of pension as per 7 th CPC and at Para 12, the pensioners who are drawing pension from the Government upon permanent absorption in PSUs/autonomous bodies was to be revised.

PENSION REVISION IS NOT LINKED WITH PAY REVISION

Q. Because pension revision and pay revision have no relation in as much as only at the time of fixation of pension, pay is considered and not at the time of pension revision. For that, in so far as the combined service BSNL Pensioners are concerned, the pension of the latter is to be borne by the Government by virtue of Rule 37A of the CCS (Pension) Rules, 1972.

R. For that, as per Sub-Rule (22) of Rule 37A of CCS (Pension) Rules, 1972, pensionary benefits are to be borne by the

Government, and therefore, absence of pay revision of BSNL in view of the affordability clause cannot be a ground for denial of pension revision to the Petitioners herein whose pension is to be paid completely by the Government as no affordability clause is applicable for them. For that, pension revision cannot, therefore, be linked to pay revision. Notably, the major part of the service of the Petitioners was in DoT and necessary pension contributions thereof have already been made while in DoT and later in BSNL/MTNL as per FR 116.

S. Because the revision of pension/family pension and pay revision for the serving employees of BSNL have no relation whatsoever in so far as the combined service BSNL Pensioners are concerned, since the pensioners have no role in the financial status of the Company since they do not and cannot contribute to the financial growth/ decline of the Company. In fact, the pension contribution of all the combined service BSNL Pensioners has already been made to DOT as per the provisions of Rule 37A and that too of the maximum of their pay scales.

T. For that, the DOT cannot be permitted to take a contrary stand that (i) pension revision is linked to pay revision and (ii) BSNL absorbees are on IDA scale and the recommendations of the 7th Central Pay Commission are only applicable to employees on CDA Pay scale. This is particularly since it has itself implemented all the recommendations of the 7th CPC in favour of the BSNL/MTNL Pensioners, with regard to gratuity ceiling, commutation table, age-related additional

pension etc. Therefore, the government cannot approbate and reprobate.

- U. Because FR 116 & 117 under Chapter XII of the Fundamental Rules which are applicable to government servants deal with the rates of pension contribution prescribed to secure to the Government servant the pension that he would have earned by service under Government if he had not been transferred to foreign service. Pension Contribution is paid by BSNL in respect of all those categories of employees working in BSNL on deemed deputation as per rates of contribution prescribed in the F.R. under Rule 116 & 117.

For that, it is evident that payment of pension to BSNL Pensioners is analogous to that of the Central Government Pensioners, and therefore, the BSNL Pensioners are entitled to Pension Revision on the basis of the revised pension drawn by a Central Government Pensioner.

INFIRMITIES IN THE IMPUGNED JUDGMENT

- V. Because the Hon'ble High Court failed to appreciate that the Hon'ble Central Administrative Tribunal, Principal Bench *vide* the Final Order, while allowing the Original Applications, has only directed revision of pension which the DOT can carry out under the relevant rules and extend the benefit of the rules notified for the central government on the recommendations of the pay commission in favour of the Respondents, which has to be analogous to the revision of pension of the central government Pensioners. However, the

Hon'ble High Court has now rejected entitlement of pension revision of the Petitioners under Rule 37A of the CCS (Pension) Rules, 1972. On a *demurrer*, if the reasoning of the Hon'ble High Court is taken to its logical conclusion, then, even if 3rd PRC is implemented in BSNL, the Petitioners would not be entitled to any revision in pension which is governed by Rule 37A, which as per the Impugned Judgment does not permit any revision of pension.

W. Because the Hon'ble High Court has read the Explanation of Sub-Rule (8) out of the Rule. The Impugned Judgment proceeds upon a fundamental misreading of Rule 37A (8) of the CCS (Pension) Rules, 1972 in holding (at paragraphs 123, 124, 148, 179, 228 to 230 and 271) that the sub-rule extends only the "*formula for calculation of pension*" at the moment of retirement and exhausts itself thereupon. The sub-rule, read with the Explanation inserted by Notification No. 4/61/99-P&PW(D) dated 28.12.2002, states that "*the amount of pension or family pension in respect of the absorbed employee on retirement from the Public Sector Undertaking or on death shall be calculated in the same way as calculated in the case of a Central Government servant retiring or dying, on the same day*". The Explanation speaks of the amount of pension, which has to be calculated in the case of a central government servant, which if enhanced logically has to be enhanced for a BSNL/MTNL absorbed employee too. Such a pedantic and narrow interpretation to rules governing pension ought not to be permitted.

- X. Because the dichotomy between “fixation” and “revision” of pension propounded at paragraph 178, on which the entire judgment turns, has no textual foundation whatsoever in Rule 37A. The words “*in accordance with the formula for calculation of such pensionary benefits as may be in force at the time of his retirement*” identify which formula is to be applied; they do not purport to extinguish the pensioner’s right of pension revision.
- Y. For that, legislative silence upon revision cannot be converted into a legislative prohibition against revision. Once the Rule places the absorbee within the CCS (Pension) Rules, 1972 for the purpose of his pension, every incident of that status, including periodic revision, follows unless expressly excluded; and it is not excluded. Notably, even though there is no provision for pension revision in CCS (Pension) Rules, 1972, the pension of the central government pensioners is revised after every 10 years by executive instructions. Hence pension revision of the Petitioners alone cannot be denied on the ground that there is no express provision for pension revision in Rule 37A.
- Z. Because the Hon’ble High Court failed to appreciate that a pension frozen at 2007 is not, in any constitutional sense, a pension at all. Pension is not a bounty but a deferred wage and a measure of socio-economic justice, and its periodic revision exists to preserve its real value against the erosion of inflation. That the lowest paid amongst the Petitioners Group ‘D’ pensioners and family pensioners continue to subsist upon Rs. 3,500/- per month, as against the minimum of Rs. 9,000/- per

month payable to a Central Government pensioner, is a state of affairs incompatible with Article 21 of the Constitution of India.

AA. Because the finding that the Office Memoranda dated 02.09.2008, 04.08.2016 and 12.05.2017 are confined to “*pro-rata pensioners*” produces a manifest absurdity in the context of BSNL/MTNL. It was the Petitioners’ specific and unrebutted case that the General Terms and Conditions floated with the Option Forms dated 14.01.2002 offered no option of pro-rata pension whatsoever, and that the pro-rata option was withdrawn on 30.09.2000 and introduced into Rule 37A(8) only by S.O. 1487(E) dated 14.10.2005, five years later. There are, therefore, no pro-rata pensioners amongst the BSNL absorbees. The High Court dealt with this plea in a single sentence at paragraph 265 observing that “*Even assuming this contention to be correct, it does not alter the legal position*”, without giving any explanation as to the effect of pro rata pensioners, when none exist in BSNL and the Petitioners did not come under this category, which the Impugned Judgment observed.

BB. For that, the Hon’ble High Court proceeded with the entire issue under the wrong assumption that there are two types of absorbees receiving pro-rata pension from the government and combined service pensioners receiving pension from the government. On the basis of this assumption the High Court concluded that the various Orders issued for pension revision for those absorbed into BSNL are applicable only to those receiving pro-rata pension from the government by its finding

and restricted the applicability of pension revision to the combined service government pensioners despite noting that there were no pro rata pensioners. This incongruity clearly demonstrates the irregularity and error in the Impugned Judgment.

CC. Because the classification between pro-rata pensioners and combined service pensioners, upheld at paragraphs 165, 241 and 263 of the Impugned Judgment, fails the twin test under Article 14 of the Constitution of India. Both classes comprise erstwhile Central Government servants; both draw pension under the same CCS (Pension) Rules, 1972; both are paid from the Consolidated Fund of India; and both earned that pension by the very same Government service. The only distinction lies in the arithmetic by which the pension is computed which may bear a nexus with computation. However, it bears none whatsoever with the object of periodic revision, which is to preserve the real value of pension. The classification operates perversely, visiting the harsher consequence upon those who rendered the longer Government service and who elected the combined service route which Rule 37A was framed to protect particularly since the major part of the service of the Petitioners was in DoT.

DD. Because the treatment of gratuity is by itself decisive of the controversy and has been misplaced at paragraphs 205, 224 and 252 of the Impugned Judgment. The DOT *vide* OM No. 47-63/2015-Pen(T)(pt) dated 16.03.2017, and BSNL by Order No. 48-11/2016-Pen(B) dated 21.03.2017, extended the 7th CPC gratuity ceiling of Rs. 20,00,000/- to the Petitioners

with effect from 01.01.2016, being the cut-off date of the 7th CPC itself. The DPE *vide* OM No. W-02/0036/2018-DPE(WC)-GL-XIX/18 dated 10.07.2018, expressly declined that very benefit to employees of CPSEs, who received it only from 29.03.2018. The Petitioners were thus placed on the CPC timeline and not on the PRC timeline. The High Court's explanation, that gratuity "forms part of the pensionary formula" under Rule 37A(8), merely reiterates the Petitioners' own case, since revision of pension is equally an integral component of the Government's scheme of pension.

EE. Because the finding that "revision of pension is dependent on the revision of pay" (paragraphs 235, 237, 261 and 272) is contradicted by DOT's own antecedent conduct, which the Hon'ble High Court noted but did not reconcile. The Petitioners' pension was revised with effect from 01.01.2007 by DoT *vide* OM No. 40-17/2008-Pen(T)-Vol.III dated 15.03.2011. It is admitted that the 2nd PRC contained no recommendation upon revision of pension and therefore the characterisation of the OM dated 15.03.2011 as "*nothing but the acceptance of the recommendations of the 2nd PRC*" (paragraph 193) is *ex facie* contrary to the record and demonstrates a complete non-application of mind.

FF. Because the Hon'ble High Court overlooked the true effect of DoT OM No. 40-13/2013-Pen(T) dated 20.07.2016, by which the DOT expressly rescinded the condition limiting its annual pension liability to 60% of its annual receipts from BSNL and assumed the entire liability while BSNL continued to discharge its obligation only by way of pension contribution

under Fundamental Rule 116. As such, having assumed unqualified liability in 2016, the DOT cannot in 2026 plead the incapacity and loss attributable to BSNL. The finding at paragraph 196, that the OM “*pertains solely to the incidence of pensionary liability*”, completely misses the point and it is precisely the incidence of liability which destroys the affordability defence sought to be raised by DoT time and again by linking pension revision with pay revision.

GG. Because the Judgment in *VSNL v. Ajit Kumar Kar, (2008) 11 SCC 591* (paragraphs 109, 225 and 233) has no application to the facts of the present case since the retirees therein drawing pension on the IDA pattern claimed dearness relief at CDA rates. The Petitioners claim nothing of the kind. They expressly disclaim any dearness relief at CDA rates and, as recorded at paragraph 97 of the Impugned Judgment, the Petitioners merely seek revision of pension akin to the government servants and therefore, confined their prayer on 19.11.2025 to the application of the same revision multiplier to their own pension computed on the IDA pattern.

HH. Because sub-rule (10) of Rule 37A entitles the absorbee, “*in addition to pension or family pension*”, to dearness relief on the Industrial Dearness Allowance pattern. Dearness relief is by definition a post-retirement entitlement which is periodically enhanced. The very presence of it in the said Rule demonstrates that the rule-making authority did contemplate benefits accruing to the absorbee after retirement. The finding at paragraph 271 of the Impugned Judgment, that Rule 37A “*does not entitle the Respondents to any other benefit that may*

arise in the future after their retirement”, cannot stand alongside sub-rule (10) of Rule 37A. For that, the Hon’ble High Court ought to have drawn aid from sub-rule (10) of Rule 37A to correctly interpret the entitlement of pension revision of the Petitioners under sub-rule (8) of Rule 37A.

- II. For that, the Hon’ble High Court failed to appreciate that even after when an absorbed employee ceases to be a government servant upon absorption, Sub-Rules (23) to (26) of Rule 37 A safeguard the service/ pensionary interest of the absorbed employee even upon dismissal from PSU or in the event of privatisation of the PSU by disinvestment. From these statutory provisions it is clear that Rule 37A, in the case absorbees is not just a piece of legislation to calculate the method or formula for fixation of pension but is a comprehensive legislation to be read in favour of the retired employees.
- JJ. Because the Hon’ble High Court erred in discarding the Cabinet Note dated 25.09.2000 as a mere “*administrative proposal*” devoid of the force of law (paragraph 138), while simultaneously elevating the subsequent executive clarifications of DOT into decisive aids to construction. The Cabinet Note recorded the approval that “*all employees will be entitled to Government’s scheme of pension/family pension even after their absorption*” and that “*payment of pension would be made by the Government*”. That approval was reiterated to the employees themselves by DoT Circular No. 36-15/2000-Pen(T) dated 09.11.2000, and it was upon that representation that the Petitioners exercised an irreversible

option surrendering the constitutional protection of Article 311. The doctrines of promissory estoppel and legitimate expectation are squarely attracted, and the Union cannot resile from an assurance which was thereafter given statutory form.

KK. Because the reasoning at paragraph 136 that the very fact that an option was offered “*does not leave room for the possibility that the absorbees were promised retention of their Government service conditions*” is a non-sequitur since the Petitioners’ case has never been that they remained Government servants for all purposes; it is only that the pensionary limb of their service conditions was expressly preserved, and that Rule 37A is the very instrument of that preservation.

LL. Because the impugned Judgment creates a direct conflict between High Courts upon the construction of a central statutory rule of all-India application. The Hon’ble High Court of Kerala at Ernakulam, by Judgment dated 07.02.2025 in O.P.(CAT) No. 60/2020, upheld the applicability of the OM dated 12.05.2017 to an identically placed BSNL absorbee. The Hon’ble High Court of Delhi has now taken a diametrically opposite view, dismissing the Kerala decision as merely of “*persuasive value*” (paragraph 268). Consequently, identically placed pensioners drawing pension under the same central Rule stand differently treated according to the State in which they happen to litigate and the conflict has to be resolved by this Hon’ble Court.

MM. Because a coordinate Bench of the Hon’ble High Court of Delhi in W.P (C) No. 10019/2017 titled as “*Union of India vs.*

All India BSNL Pensioners Welfare Associations & Ors.” held that “In other words, Rule 37A provided that those Government servants permanently absorbed in PSU or the CAB would be entitled to pension in the same manner as Central Government employees”. Although the Impugned Judgment referred to this decision of a co-ordinate bench, however, failed to appreciate this conclusion of the High Court and instead, only referred to isolated other paragraphs of the same.

- NN. Because the Hon’ble High Court at Paragraph 264 of the Impugned Judgment erred in so far as it has observed that CGHS facilities were not extended to the Petitioners but only the pro rata pensioners *vide* OM dated 20.02.2014. It is submitted that the Petitioners are entitled to CGHS facilities akin to their counter parts in the government.
- OO. Because the reliance by the Hon’ble High Court in Paragraph 119 of the Impugned Judgment, on a decision rendered by a co-ordinate Bench on 17.04.2012 passed in “*Indian Telecom Service Association Vs Union of India*” 2012 SCC OnLine Del 2168, was considered in isolation disregarding the facts of that particular case dealing with relevant date of absorption.
- PP. Because the Hon’ble High Court exceeded the limits of its jurisdiction under Article 226 and 227 of the Constitution of India. Having itself recorded at paragraph 102 that re-appreciation of evidence is impermissible unless the order of the Ld. Tribunal is rendered *dehors* its jurisdiction, is perverse, or suffers from manifest illegality or procedural irregularity, the Hon’ble High Court proceeded over some one

hundred and seventy paragraphs to undertake a *de novo* appreciation of every Office Memorandum, circular, note and clarification on the record, and to substitute its own view for that of the Division Bench of the Tribunal. No finding of perversity was returned. The view taken by the Ld. Tribunal was, at the lowest, a plausible view upon the material before it, and interference was therefore not warranted.

QQ. Because the Hon'ble High Court did not deal at all with the Petitioners' plea, specifically pressed in their Written Arguments, that a substantial body of documents relied upon by the Union of India in the writ proceedings had never been placed before the Tribunal. As such, a writ court examining the correctness of an order of the Ld. Tribunal cannot permit a party to improve its case upon material which the Ld. Tribunal never had occasion to consider. Although the Hon'ble High Court declined at paragraph 267 to rely upon two such documents, the remaining material of the same character was not similarly excluded.

**LEGITIMATE EXPECTATION OF PENSION
REVISION AS PER THE STAND TAKEN BY THE
GOVERNMENT OF INDIA**

RR. Because at the time of absorption by BSNL, the combined service BSNL Pensioners, after much agitation, were able to ensure that their status as a government pensioner upon retirement is not hindered on account of being absorbed in BSNL, a public sector undertaking, which led to amendment

of Rule 37 of the CCS (Pension) Rules, 1972 by insertion of Rule 37A and therefore, cannot be denied the benefit of pension revision as has been done in respect of other government pensioners.

- SS. Because pursuant to absorption, the DOT *vide* an OM dated 09.11.2000 categorically mentioned that the “*employees of DOT who will be absorbed in Bharat Sanchar Nigam Limited (BSNL) will be entitled to the Government’s scheme of pension/family pension even after their absorption in BSNL...*”. For that, Government’s scheme of pension/family pension means and includes revision of Pension/family Pension, Revision of minimum pension, qualifying service for full pension, limit of DCRG, commutation of Pension, method of calculation of pension, restoration /increase in pension, leave encashment etc. For that, even after absorption, the Petitioners continued to be entitled to General Provident Fund (GPF) at par with Central Government employees.
- TT. Because at the time of absorption, the assurance that the absorbed employee would retain the status of a government pensioner was one of the biggest incentives that led the Petitioners to choose absorption in BSNL, for which purpose Rule 37 of the CCS (Pension) Rules, 1972, was amended to add Rule 37A. At this juncture, while the other government pensioners including DoT employees have the benefit of the recommendations of the 7th Central Pay Commission’s revised pension, the Petitioners herein have been arbitrarily denied pension revision.

- UU. Because the pension contribution of all the combined service BSNL Pensioners has already been made to DOT as per the provisions of Rule 37A and that too of the maximum of their pay scales and at this stage, when the Applicants who are all Senior Citizens with a legitimate expectation to reap the benefits of their service protected under Rule 37A, are being arbitrarily classified by the DOT to withhold and withdraw benefits that would have normally accrued to them had they not chosen absorption in BSNL and continued to remain in government service.
- VV. For that, as per Sub-Rule (21) of Rule 37A, the pension of the absorbed employees is paid by the Government unlike the case of other PSU absorbed employees. The very purpose of legislative intention was to safeguard the pensionary benefits of the employees absorbed at par with Government pensioners by classifying them as a distinct class from other PSU employees.
- WW. Because the absorbed employees of BSNL/MTNL upon their retirement have been issued Pension Cards/PPO akin to government employees thereby demonstrating even by conduct, that the Petitioners are government pensioners and the conclusion by the High Court that they cease to be government employees is seen in isolation without a holistic reading of Rule 37A.
- XX. Because the last pension revision in respect of the Applicants was done almost 19 years ago on 01.01.2007. For that, with the increase in price index, inflation, cost of living and expenses, pension revision is essential. For that, the

recommendations of the 7th Central Pay Commission took note of these aspects and had recommended pay and pension revision.

- YY. Because many of the combined service pensioners who have retired from BSNL have a combined service in Government/DoT of nearly 30 to 35 years of which a substantial part has been spent in DOT with a miniscule portion in BSNL. However, their pension revision has not been implemented for them at par with their counterparts who retired from Government service which is arbitrary.
- ZZ. Because, out of 3.5 lakhs absorbed officers of BSNL/MTNL, there are only about 17,000 in service at the beginning of 2026 and are going to retire by the end of this year. As such, in 2027, no absorbed officer will remain in BSNL/MTNL. For this reason, linking pension revision with pay revision of BSNL/MTNL employees is *ex facie* illogical and without any basis.
- AAA. Because the Impugned Judgment, if allowed to stand, will operate as a binding precedent governing the pensionary entitlements of every Government servant absorbed into a Public Sector Undertaking under Rule 37A across the country, and will hold that such absorbees, though drawing pension under the CCS (Pension) Rules and from the Consolidated Fund of India, are for all time incapable of receiving any revision thereof. The question is therefore one of substantial and general public importance.

**PARA-WISE ERRORS AND MISPLACED FACTS IN
THE IMPUGNED JUDGMENT**

BBB. Because the finding at **Paragraph 28** of the Impugned Judgment that the Petitioners’ “*claim in the underlying OAs before the CAT was that they are entitled to revision as per 7th CPC as they were extended benefits under the 6th CPC as well*” is misplaced in as much as the Petitioners’ stand has always been that they are statutorily protected by Rule 37A, CCS (Pension) Rules, 1972 because of which their pension was revised after the recommendations of the 6th CPC.

CCC. Because yet again, the Hon’ble High Court at **Paragraph 32** comes to an incorrect and entirely misplaced understanding of the Petitioners’ claim before the Ld. Tribunal by observing that “*From a bird’s eye perspective, it is on the strength of the OMs dated 12.08.2009 and 21.03.2017, whereby certain benefits of the 6th CPC and 7th CPC respectively were extended to the respondents, that the respondents claim entitlement to pension revision of pension in terms of 7th CPC*”. It is submitted that the submission made by the Petitioners was that DOT had extended certain benefits of 6th and 7th CPC in view of Rule 37A and that except pension revision, all other benefits had been extended to the Petitioners. For that, the DOT should not be permitted to approbate and reprobate. The Hon’ble High Court however treated this submission in isolation without appreciating the holistic submissions made by the Petitioners.

DDD. Because the Hon’ble High Court at Paragraph 54 and 55 seeks to rely upon a tabular chart which was handed over by the

Union of India at the time of final arguments which gravely prejudices the Petitioners in as much as the tabular chart and comparison of the CDA & IDA scales is not a true and correct representation. For that, the government having itself granted benefit of IDA scale to the Petitioners resiles from its statutory obligation for pension revision. Notably, the pension contribution under FR 116 was done basis the IDA Pay scale i.e. the higher scale. As such, if upon revision the pension drawn by an IDA scale employee is more, that cannot be the reason for denial of the same. In the same vein, financial liability cannot be a ground to deny the statutory benefit of pension revision after having taken pension contribution by the Petitioners.

EEE. Because the Hon'ble High Court at ***Paragraph 94*** has erred in recording the correct submission of the Petitioners' counsel who sought to rely upon Rule 4 (5) of the Central Administrative Tribunal (Procedure) Rules, 1987, which has been incorrectly recorded as Rule 5.

FFF. Because the reliance by the Hon'ble High Court at ***Paragraph 106*** on the Judgment passed by this Hon'ble Court in ***A.K. Bindal v. UOI, (2003) 5 SCC 163*** is yet again misplaced as the Petitioners' although ceased to be government employees upon absorption, however, continue to draw pension as per Rule 37A (8) of the CCS (Pension) Rules, 1972 promulgated under Article 309 of the Constitution.

GGG. Because the reliance by the Hon'ble High Court at ***Paragraph 109*** on the Judgment passed by this Hon'ble Court in ***VSNL v. Ajit Kumar Kar, (2008) 11 SCC 591*** as regards the non-

receipt of dearness allowance by the retirees therein on the CDA scale, is yet again misplaced since the Petitioners are not claiming any benefits of the CDA scale.

HHH. Because the reliance by the Hon'ble High Court at **Paragraph 110** on the Judgment passed by this Hon'ble Court in ***UOI v. M.V. Mohanan Nair, (2020) 5 SCC 421***, has no application to the facts of the present case as no judicial review was being sought by the Petitioners of the recommendations of the 7th CPC. On the contrary, the Petitioners were seeking extension of those recommendations, as was done earlier by DOT.

III. Because the conclusion of the Hon'ble High Court in **Paragraph 114** of the Impugned Judgment that “*there is no “new formula of computation of pension” or amendment in the pension scheme in order to give rise to their right to enhancement of pension*” is entirely misplaced and demonstrates non-application of mind to the arguments put forth by the Petitioners and documents relied upon by them. In fact, this observation demonstrates further that the Hon'ble High Court failed to appreciate the documents on record in particular the OM dated 04.08.2016 issued by DoP&PW which is applicable to all pensioners, and the identical terms mentioned in the earlier OM dated 02.09.2008 issued by DoP&PW for implementation of the 6th CPC *vis-à-vis* the Petitioners *vide* OM dated 27.04.2009 issued by DOT.

JJJ. Because the analysis and interpretation of Rule 37A of the CCS (Pension) Rules, 1972 in **Paragraphs 122 & 123** of the Impugned Judgment, is entirely flawed and violative of Articles 14 and 21 of the Constitution of India. The finding

that Sub-rule (8) of Rule 37A “*does not extend any entitlement to subsequent revisions arising from future Pay Commissions.*” is pedantic and contrary to the statutory intention for introduction of Rule 37A which sets out conditions of payment of pension. If on a *demurrer*, this conclusion is not interfered with, then, there is necessarily no provision for revision of pension for even the central government employees. For that, even Rule 44 of the CCS (Pension) Rules, 1972 which sets out the amount of Pension for government servants does not set out any specific provision for pension revision, and the same has been done pursuant to the Office Memoranda issued by the DoP&PW as per the recommendations of the 6th & 7th CPC. As such, the narrow interpretation of Rule 37A thereby seeks to classify the pensioners which is violative of Article 14 of the Constitution.

KKK. Because the conclusion at **Paragraph 124** of the Impugned Judgment that “*Sub-Rule 8, therefore, only extends the formula for calculating pension, which is applicable at the time of his retirement from the PSU*” completely ignores the terms and conditions of absorption issued by BSNL *vide* letter dated 14.01.2002 and in particular, the meaning of the word “*formula*” in Rule 37A (8) which the DoT clarified that “*the word "formula" mentioned in clause 8 of Rule 37 - A means payment of pension as per Government Rules in force at that time.*”. For that, the Hon’ble High Court failed to appreciate that it was basis this assurance that the Petitioners sought absorption in BSNL, *viz.* to ensure their pensionary benefits

are protected, and it was only to protect these benefits that Rule 37 was amended in 2000. The Hon'ble Court completely overlooked the principles of service law i.e. legitimate expectation of the Petitioners' entitlement to pension revision as per Government Rules in force at that time meaning thereby, extension of pay commission benefit.

LLL. Because the observation at **Paragraph 126** of the Impugned Judgment as to the clarification rendered by DoT, endures to the benefit of the Petitioners only since DoT clarified that sub-Rule 8 refers to payment of pension as per Rules in force "*at the relevant time*" and further that emoluments for this purpose would be calculated under the IDA scale. The Petitioners' relief was never to seek parity as per CDA scale but parity for payment of pension equivalent to government employees as per 7th CPC and extension of the benefit of 7th CPC in favour of the Petitioners, analogous to that of the government employees. In fact, by way of the Final Order dated 20.09.2023, the Ld. Tribunal left it open to DoT to calculate the manner in which such benefit of 7th CPC has to be extended in favour of the Petitioners.

MMM. Because the conclusion at **Paragraph 136** that the OM dated 05.07.1989 "*does not leave room for the possibility that the absorbees were promised retention of their Government service conditions post absorption, especially in the light of the explicit disclaimer that they shall cease to be Government servants.*" is entirely misplaced and unfounded. There is no dispute to the fact that upon absorption the employees would ceased to be government servants, albeit they would be

entitled to pension and family pension in accordance with the central government rules in force at that time. Notably, there are no separate rules for governing pension of the Central government employees who are covered under the OMs issued by DoP&PW implementing the recommendations of the Pay Commission.

- NNN. Because the conclusion at **Paragraph 144** of the Impugned Judgment while evaluating the Note for Cabinet dated 25.09.2000 endures to the benefit of the Petitioners as the Hon'ble Division Bench has held that the only aspect where the Petitioners are extended an equitable treatment is for the calculation of their pension, which will also be calculated on their pay drawn under the IDA scale in the PSU. However, the Impugned Judgment has merely interpreted Rule 37A ignoring the intent with which it was enacted.
- OOO. Because the Hon'ble High Court failed to appreciate that all benefits of the recommendations of the 7th CPC except pension revision, have been extended to the Petitioners. For that, the finding at **Paragraph 148** to hold that Rule 37A (8) *“does not confer entitlement to subsequent revisions, nor does it preserve any other aspect of Government service beyond pension calculation, nothing more and nothing less.”* is entirely misplaced. This conclusion is also violative of Articles 14 and 21 of the Constitution of India as it discriminates against the Petitioners' who are pensioners and creates a classification which the Statute never intended, but in fact, protected.

- PPP. Because the conclusion at **Paragraph 149** of the Impugned Judgment while referring to the circular dated 09.11.2000 could not “*confer a benefit beyond that contemplated under the statutory framework. Consequently, the reference to the Government pension scheme must necessarily be read as an extension of pensionary benefits in terms of Rule 37A and not as a continuation of the respondents’ status as Central Government employees after absorption.*” For that, the Hon’ble High Court failed to appreciate that the reference to the circular dated 09.11.2000 was not to demonstrate that the entitlement of the Petitioners will be as per Government scheme of pension, which in the present case should be as per the recommendations of the 7th CPC being the pensionary scheme applicable to the Government employees. The Hon’ble High Court failed to appreciate that while Government cannot amend or supersede statutory rules by administrative instructions, but if the rules are silent on any particular point Government can fill up the gaps and supplement the rules and issue instructions not inconsistent with the rules already framed. [***Sant Ram Sharma v. State of Rajasthan*, (1967) SCC OnLine SC 16]**
- QQQ. Because the conclusion at **Paragraph 155** of the Impugned Judgment that “*the Circular dated 09.11.2000 and the absorption conditions, when read harmoniously with Rule 37A, support the conclusion that the respondents were assured continued pensionary protection through the mechanism of combined service pension, but were not assured perpetual assimilation with Central Government employees*

for all future purposes.” is in contradiction with the terms and conditions of absorption which clarified the word formula appearing in Rule 37A (8) as also several circulars and OMs issued from time to time. In fact, the conclusion drawn by the Hon’ble High Court that “*upon absorption, the employees cease to be a Government servant and becomes subject to the rules governing the PSU.*” when read in isolation is correct except in so far as their pension is concerned which is to be governed under Rule 37A.

RRR. Because the Hon’ble High Court has erroneously concluded at **Paragraph 164** and **Paragraph 173** of the Impugned Judgment that Clause (a) of Paragraph No. 7 of OM dated 01.09.2008 only pertains to government servants permanently absorbed in PSUs who continue to draw pension separately from the government, i.e., *pro-rata* pensioners and not combined service pensioners and that the respondents, as combined service pensioners, are therefore not covered under this category. For that, the Hon’ble High Court failed to consider the identical paragraph in the subsequent OM dated 02.09.2008 which was made applicable to the Petitioners *vide* OM dated 27.04.2009 by the DoT wherein it was stated that “*This Department is of the view that the change as per DoP&PW’s OM dated 02.09.2008 as mentioned in para 2 above are also applicable to IDA pensioners of BSNL*”. For that there was no classification rather, extension of its application by the DoT itself which the Hon’ble High Court failed to appreciate.

- SSS. Because the Hon'ble High Court at ***Paragraph 178*** of the Impugned Judgment has ventured into distinguishing fixation and revision of pension which are held to be distinct concepts. For that, even the government employees are merely entitled to pension revision on the basis of their last drawn pay by way of the multiplication factor given in the OM dated 04.08.2016. The same multiplication factor for IDA scale works out to be 2.51 as opposed to 2.57 for CDA scale. Notably, during the course of the arguments while the Petitioners had placed this on record in their rejoinder in their pleadings before the Ld. Tribunal, the Hon'ble Court was of the view that how the pension is to be fixed was not the *lis* before it and the only issue to be decided was the eligibility of the Petitioners to pension revision.
- TTT. Because the conclusion drawn at ***Paragraph 179*** of the Impugned Judgment that Rule 37A (8) cannot automatically mean that the combined service pensioners in PSUs are entitled to revision of their pension pursuant to CPC recommendation for Central Government employees under the CDA scale is flawed and misplaced. Notably, there is no provision for pension in the recommendations of the PRC for PSU employees drawing IDA Scale and previously too, the government had extended the benefit of 6th CPC to the combined service pensioners on IDA scale using the OMs applicable to the government employees.
- UUU. Because the conclusion at ***Paragraph 184*** of the Impugned Judgment while referring the OM dated 01.09.2008 that in the absence of a statutory mandate or executive order, directing

the revision of pension, the extension of the revised rules as per 6th CPC cannot be construed in a way to confer a right of pension revision is violative of Article 14 and 21 of the Constitution of India and poses a grave risk to interpretation of pensionary provisions as it casts a doubt on the earlier pension revision done by the DoT. For that, if this interpretation is given its logical conclusion, even if tomorrow 3rd PRC is given effect to in BSNL, the Petitioners would still not be entitled to pension revision in the absence of any statutory mandate. Such an interpretation defeats the entire purpose for which pension is even given in the first place to employees.

VVV. Because the observation of the Hon'ble High Court at ***Paragraph 188*** of the Impugned Judgment that the proposal of pension revision of the Petitioners pursuant to the 6th CPC recommendations was in line with the 2nd PRC recommendations is yet again misplaced and entirely incorrect since PRC has no provision for pension and only pertains to revision of pay.

WWW. Because the Hon'ble High Court at ***Paragraph 196*** failed to appreciate that in terms of the said OM dated 20.07.2016, the Petitioners have made pension contribution in terms of FR 116 and are legitimately entitled to seek the benefits of the revisions carried out in the pension scheme.

XXX. Because the Hon'ble High Court at ***Paragraph 203*** failed to appreciate that the statement made by the Petitioners on 19.11.2025 was not confining their prayer to seek multiplication of 2.57 in terms of OM dated 04.08.2016, but

was a statement being made during the course of final arguments for which the Respondents had to seek instructions. For that, the Hon'ble High Court has erred in understanding the context with which that statement was made before the Ld. Predecessor bench hearing the arguments, after which, arguments were made afresh.

YYY. Because the conclusion at **Paragraph 221** of the Impugned Judgment that “*The only promise under Rule 37A was with respect to calculation of pension at the time of retirement from the PSU.*” is inconsistent with the OMs and circulars issued by the official Respondents from time to time.

ZZZ. Because the conclusion at **Paragraph 232** of the Impugned Judgment that Rule 37A cannot be construed as preserving in perpetuity, the status of Pensioners or their parity as Central Government employees for all pension related matters is misconceived and renders the enactment of Rule 37A otiose and nugatory. It was only basis the assurance that upon their retirement their status as government servants would stand protected, did the Petitioners seek absorption in BSNL/MTNL. The Hon'ble High Court did not even consider the unjust treatment being meted out to senior citizens, but on the contrary, has ensured that no further revision of pension will ever be admissible to the combined service pensioners.

AAAA. Because there is an inherent fallacy in the finding of the Hon'ble High Court in **Paragraph 234** of the Impugned Judgment which states that “*we acknowledge that the respondents are entitled to the formula for calculation of their pensions as per CPC recommendations by virtue of Rule*

37A, but they are not entitled to any consequential revision thereunder since revision of pension under CPC arises out of revision of the CDA pay scale. Pertinently, being granted the same formula for fixation of pension does not by default entail automatic extension of 7th CPC to the respondents. It does not grant parity for any other purposes including revision of such pension, particularly, since the basic scale is different.”. For that, any combined service officer retiring after the Impugned Judgment, would be entitled to pension as per the formula for 7th CPC, while the Petitioners would be drawing pension as per 6th CPC. This in itself creates a classification amongst the class of pensioners, and the true and correct interpretation of Rule 37A ought to be as per what the Ld. Tribunal concluded.

BBBB. Any other grounds with the permission of this Hon’ble Court.

6. GROUNDS FOR INTERIM PRAYER

There are no grounds as no interim prayer is being sought.

7. MAIN PRAYER

In the above facts and circumstances of the case it is therefore most respectfully prayed that this Hon’ble Court may graciously be pleased to:

- a) Grant special leave to appeal against the common impugned final judgment and order dated 01.07.2026 passed by the Hon’ble High Court of Delhi at New Delhi in W.P.(C) No. 4946 of 2024;

- b) Pass such other order or orders which this Hon'ble Court may deem fit and proper in the interest of justice.

8. PRAYER FOR INTERIM RELIEF

No interim prayer is being sought.

AND FOR THIS ACT OF KINDNESS AND JUSTICE THE PETITIONERS SHALL AS IN DUTY BOUND EVER PRAY.

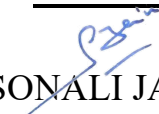
SETTLED BY:

MR. NIDHESH GUPTA
SENIOR ADVOCATE

DRAWN BY:

MS. GAURI PURI
MR. KASHISH BHARDWAJ
ADVOCATES

FILED BY:


SONALI JAIN
ADVOCATE FOR THE PETITIONERS

DRAWN ON: 12.09.2026
FILED ON: 19.09.2026
NEW DELHI

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. _____ OF 2026

IN THE MATTER OF:-

All India Retired Bharat Sanchar Nigam
Limited Executive Welfare Association
& Anr. ... Petitioners

Versus

Union of India & Ors. ... Respondents

CERTIFICATE

Certified that the Special Leave Petition is confined only to the pleadings before the Court/Tribunal whose Order is challenged and the documents relied upon in those proceedings. No additional facts, documents or grounds have been taken or relied upon in the Special Leave Petition except for which Application for bringing on record subsequent event has been filed along with the present petition. It is further certified that the copies of the documents/annexures attached to the Special Leave Petition are necessary to answer the question of law raised in the petition or to make out grounds urged in the Special Leave Petition for consideration of this Hon'ble Court. This Certificate is given based on the instructions given by the Petitioner/Person authorised by the Petitioner whose affidavit is filed in support of the present petition.

Filed on: 19.09.2026
Place: New Delhi

FILED BY:

SONALI JAIN
ADVOCATE-ON-RECORD
FOR THE PETITIONER

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

S.L.P. (C) NO. ____ OF 2026

IN THE MATTER OF:

All India Retired Bharat Sanchar Nigam Limited
Executive Welfare Association & Anr. ...Petitioners

Notary Regd. No 530
Dated 13/9/2026

Versus

Union of India & Ors.

...Respondents

AFFIDAVIT

I, Prahlad Rai, son of Keshar Lal, aged 69 1/2 R/o 122/85, Vijaypath, Aggarwal Farms, Mansarovar, Jaipur-302020, General Secretary of All India Retired Bharat Sanchar Nigam Limited Executive Welfare Association, Registration Number S/00108/NE-12010 C-8/230, having its registered office at 8/230, Yamuna Vihar, Delhi – 110053, do hereby solemnly affirm and state as under: -

1. That I am the Authorised Representative of the Petitioner No. 1 in the present Special Leave Petition and I am conversant with the facts of the case and as such I am competent to swear this affidavit.
2. That the Synopsis and List of Dates at Page No. B to MM, S.L.P. Para 1 to 8 at Page No. 110 to 159 and the accompanying Interlocutory Application have been drawn by my advocate under my instructions. I have read, and I say that the same are true and correct to my knowledge and



ATTESTED

NOTARY
RAJASTHAN JAIPUR

13 SEP 2026

PRAHLAD RAI
GENERAL SECRETARY
AIR BSNL EWA(CHQ)

belief as derived from the official records and I believe the same to be true.

3. That the Annexure P/1 to P/ 32 are the true copies of respective originals.


PRAHLAD RAI
 GENERAL SECRETARY
 AIR BSNL EWA(CHQ)

VERIFICATION

I, the above named deponent, do hereby verify that the contents of Para 1 to Para 3 of the above affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed therefrom.

Solemnly affirmed on this the _____ day of _____, 2026.



SWORN & SIGNED BEFORE ME


 NOTARY PUBLIC
 JAIPUR DISTT


PRAHLAD RAI
 GENERAL SECRETARY
 AIR BSNL EWA(CHQ)

13 SEP 2026

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

S.L.P. (C) NO. ____ OF 2026

IN THE MATTER OF:

All India Retired Bharat Sanchar Nigam Limited

Executive Welfare Association & Anr.

...Petitioners

Versus

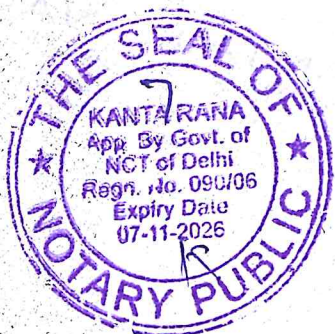
Union of India & Ors.

...Respondents

AFFIDAVIT

I, Girdhari Lal Jogi, son of P. N. Jogi, aged 73 yrs General Secretary of Sanchar Nigam Pensioners Welfare Association, having its office at SNEA Bhawan, B-11/1 & 2, Ground Floor, Opp. to Sanatan Dharma Mandir, Ramesh Nagar, New Delhi-110015, do hereby solemnly affirm and state as under: -

1. That I am the Authorised Representative of the Petitioner No. 2 in the present Special Leave Petition and I am conversant with the facts of the case and as such I am competent to swear this affidavit.
2. That the Synopsis and List of Dates at Page No. B to MM, S.L.P. Para 1 to 8 at Page No. 110 to 159 and the accompanying Interlocutory Application have been drawn by my advocate under my instructions. I have read, and I say that the same are true and correct to my knowledge and belief as derived from the official records and I believe the same to be true.



3. That the Annexure P/1 to P/ 32 are the true copies of respective originals.

DEPONENT

VERIFICATION

I, the above named deponent, do hereby verify that the contents of Para 1 to Para 3 of the above affidavit are true and correct to the best of my knowledge and belief and nothing material has been concealed therefrom.

12 SEP 2026

Solemnly affirmed on this the _____ day of _____, 2026.

DEPONENT

General Secretary
SNPWA
B-11/1, DOUBLE STOREY
RAMESH NAGAR,
NEW DELHI-110015



CERTIFIED THAT THE DEPONENT
Shri/Smt/Km. _____
S/o. _____
R/o. _____
Identified by Sh./Smt. _____
has Solemnly affirmed before me at
New Delhi on. 12.9.2026 St. No. _____
that the contents of the affidavit which
have been read & explained to him are
true and correct to this knowledge.

Notary Public, Delhi
KANTA RANA

KANTA RANA
E. No.D/395/88 Notary/Avocate
Ch. No. 408A, Lawyers Chamber
Dwarka Court, New Delhi-11007

12 SEP 2026

Notary Public

No.4/18/87-P&PW (D)
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Pension & Pensioners' Welfare)

6th Floor, Nirvachan Sadan
New Delhi, dated the 5th July, 1989

OFFICE MEMORANDUM

Subject:- Settlement of pensionary terms etc., in respect of Government employees transferred en masse to Central Public Sector Undertakings/Central Autonomous bodies.

The undersigned is directed to refer to this Department's Office Memorandum No. 4(8)/85-P&PW dated 13th January 1986 and Office Memorandum of even number dated 30th October, 1986 on the above subject. The question of settlement of pensionary terms on conversion of a Government Department or a segment thereof or a Government office into a Central Public Sector Undertaking/autonomous body has been reviewed in the light of the recommendations of the Committee of the National Council (JCM). The President is now please to decide that, in a partial modification of above mentioned Office Memoranda, the following terms and conditions will be applicable in the case of en masse transfer of employees:

- a) The permanent Government servants shall have an option to retain the pensionary benefits available to them under the Government rules or be governed by the rules of the Public Sector Undertaking/Autonomous Body. This option shall also be available to quasi-permanent and temporary employees after they have been conformed in the Public Sector Undertaking/Autonomous Body.
- b) The Government servants who opt to be governed by the pensionary benefits available under the Government, shall at the time of their retirement, be entitled to pension etc. in accordance with the Central Government rules in force at that time.
- c) The permanent Government servants with less than 10 years service, quasi permanent employees and temporary employees who opt for the rules of the PSU/Autonomous Body shall be entitled to an amount equal to Provident Fund contribution for the period of their service under the Government upto the date of permanent absorption in the PSU/Autonomous Body with simple interest at 6% per annum as opening balance in their CPF account with the Public Sector Undertaking/Autonomous Body.

- d) The permanent Central Government servants who have completed 10 years or more of service and who opt for the retirement benefits of a PSU/Autonomous Body will receive pro-rata retirement benefits for the service rendered under the Government. These will be regulated as follows:-
- i) Employees who have an option either to draw pro-rata pension monthly or to draw a lump sum amount in lieu of 100% pro-rata pension.
 - ii) Where the employees opt in favor of monthly payment of pro-rata pension, the same shall be allowed to be drawn with effect from the date of permanent absorption in a PSU/Autonomous Body. No part of pro-rata pension will be allowed to be commuted either at the time of permanent absorption or any time thereafter.
 - iii) In the case of employees who opt in favor of a lumpsum amount in lieu of 100% pro-rata pension, the lumpsum value shall be worked out on the basis of table prescribed under the CCS (Commutation of Pension) Rules, 1981.
 - iv) In the case of employees covered by clause (ii), the retirement gratuity and for those covered by clause (iii) above, both retirement gratuity as well as lumpsum commuted value shall be paid on the expiry of a period of 7 years from the date of permanent absorption. The amounts, however, can be paid earlier in the event of death/retirement/resignation/discharge from service.
 - v) The amounts of retirement gratuity and lump sum value in lieu of pension mentioned in clause (iv) above shall remain with the Government, and earn interest at the rate prescribed for General provident Fund deposits from time to time for the period they remain with the Government.
2. The family pension entitlements will be regulated in accordance with the instructions being issued separately.
 3. As soon as a Central Government Department, Office or segment of a Government Department is converted into a PSU/Autonomous Body, the concerned Government servants will be transferred to such new organisation on foreign service terms in the initial period. The Government servants will be permanently absorbed in the PSU/Autonomous Body with effect from prospective date to be fixed by the concerned administrative Ministry/Department and from that date they will cease to be Government servants. Such of the Government servants who are not willing to be absorbed will have an option to vert back to Govt. service.[1] In that event, if no suitable vacancies are available in the Office/Department/Ministry for such employees, their names will be transferred to Surplus Staff Cell.

4. The Public Sector Undertaking/Autonomous Body will formulate the terms and conditions of service in the new body at the earliest possible date. The employees will however have an option to retain Government pay scales till their promotion or retirement (whichever is earlier) or to come over to the service conditions of the PSU/Autonomous Body. However, until the exercise of this option, they will continue to be governed by the pay scales, leave entitlements and terminal benefits under the Government.
5. Dismissal/removal from the service of a PSU/Autonomous Body after absorption for any subsequent misconduct shall not amount to forfeiture of his retirement benefits for the service rendered in the Central Government. Also in the event of dismissal/removal of a transferred employees from the PSU/autonomous body, the employee concerned will be allowed protection to the extent that the administrative Ministry/Department will review order before taking a final decision.
6. The other terms and conditions stipulated in Department's Office Memoranda dated 13th January 1986 and 30th October, 1986 referred above, which have not been specifically modified, will continue to remain operative.
7. These orders will also be applicable to those Government servants who would be absorbed in the Mahanagar[2] Telephone Nigam Ltd./. Videsh Sanchar Nigam Ltd/. National Airports Authority of India
8. In their application to the employees serving in the Indian Audit & Accounts Department, these orders issue in consultation with the Comptroller & Auditor General of India.
9. Hindi version will follow.

Sd/-

(Ashish Kumar)

Dy. Secretary to the Government of India

To

All Ministries/Departments of the Government of India

http://circulars.nic.in/WriteReadData/CircularPortal/D3/D03ppw/PSU_July89.htm

True Typed Copy

SECRET

Copy No. _____

No.2-2/99-Restg.(Vol.I)
Government of India
Ministry of Communications
Department of Telecom Services

New Delhi, the 25th September 2000**NOTE FOR THE CABINET**

Subject: Approval for HRD and financial issues arising out of the corporatisation of the Department of Telecom Services and of the Department of Telecom Operations.

* * * * *

1. Introduction

- 1.1 Commencement of business with effect from 1st October, 2000, is to take place by the corporate entity Bharat Sanchar Nigam Ltd. - BSNL (being set up by corporatisation of the Department of Telecom Services and Department of Telecom Operations).
- 1.2 This Note is being submitted to seek approval of the Cabinet to the HRD and financial issues related to corporatisation.

2. Present structure of DTS/DTO

- 2.1 The Department of Telecom Operations (DTO) operates telegraph/telecom services throughout the length and breadth of the country, except telecom services in the metropolitan areas of Mumbai and Delhi.
- 2.2 As on 31st August 2000, about 23.8 million lines are operational, with about 20% of them working in rural/remote areas of the country. To support this network, 29.[ILLEGIBLE] million lines switching capacity, 2 million lines of Trunk Automatic Exchange capacity, 1,86,000 route kilometers of optical fibre cable systems, 1,60,000 route kilometers of microwave system, and about 416 satellite stations are operational. In addition, about 3.78 lakh villages out of a total of over 6 lakh villages have been covered with village public telephones.

- 2.3 This vast network is managed and operated through 20 territorial circles, two metro districts, four project circles, four maintenance regions, and supported by specialized telecom units (Telecommunications Engineering Centre, Quality Assurance etc.), over forty training institutions, and other units such as Telecom Factories, Telecom Stores etc. There are about 3.63 lakh employees in the three Departments of DoT/DTS/DTO of which about 2.66 lakh belong to Group 'C', 0.73 lakh to Group 'D', 18,000 to Group 'B' and about 5,440 to Group 'A'.
- 2.4 The corporatisation of DTS/DTO involves transfer of officers and staff engaged in service providing functions initially on deemed deputation basis without deputation allowance, and the transfer of complex operations spread throughout the country, evolved over the years and encompassing a spectrum of technologies, to the new corporate entity Bharat Sanchar Nigam Ltd (BSNL). BSNL would also be the successor organisation to DTS/DTO, and accordingly all contracts, legal issues etc. would need to be transferred from DTS/DTO to BSNL through appropriate measures. The assets and liabilities are proposed to be transferred at a provisional value, and through appropriate Government orders. The staff are proposed to be transferred on as is where is basis on deemed deputation without deputation allowance. This will necessarily involve decisions on a number of HRD, financial and operational issues, as given in the succeeding paras.
3. **Background and Cabinet approval to certain issues related to legal status etc.**
- 3.1 In connection with the launching of BSNL on 1st October 2000, the Cabinet in its meeting on 31st August 2000 had approved the following proposals (as contained in DoT's Cabinet Note dated 17th August):-
- (i) The corporate entity be incorporated as a public limited company under the Companies Act 1956. The name of the corporate entity will be "Bharat Sanchar Nigam Limited" as already announced by the Prime Minister.
 - (ii) The registered and corporate offices of the corporate entity be in New Delhi.
 - (iii) The authorised share capital of the corporate entity be Rs.10,000 crores (Rupees Ten Thousand crores), and its paid up share capital be Rs.5,000 crores (Rupees Five Thousand crores). The value of each share be kept at Rs.10/- (Rupees Ten).
 - (iv) Keeping in view the time limit of 1.10.2000, the Telecom Commission may be authorised to approve the Memorandum of Association and Articles of Association and take the requisite procedural steps to get the corporate entity incorporated well before 1.10.2000.
- 3.2 Further action had accordingly been taken in pursuance of the above Cabinet approval. BSNL has since been incorporated, and has also obtained from the Registrar of Companies the certificate for commencement of business.

- 3.3 It had also been mentioned in para 9.1 of DoT's Cabinet Note dated 17th August that in connection with corporatisation, a number of financial and personnel related issues would also need to be finalised, and that it was proposed to seek Cabinet approval on these issues around mid September, based on examination of Vol.I of the Final Report of the Consultants.
- 3.4 The said report has since been received and examined, particularly with reference to the financial analysis of the corporate entity done by the consultants, and their recommendations thereon. Accordingly, this Cabinet Note is being submitted to seek approval on the HRD and financial issues.

4. **HRD Issues**

- 4.1 With over 3.63 lakh employees working in the three Departments having a large number of unions and associations representing various segments of employees and officers, the HRD dimension assumed significant importance. In connection with corporatisation concern was expressed by the unions/associations representing various segments of employees and officers that their interests will be adversely affected on corporatisation, and also that the corporate entity will not be financially viable.
- 4.2 The decision of the Government in June 2000 to achieve the corporatisation by 1.10.2000 activated all federations, staff unions of Group 'C' & 'D' and associations of Group 'A' & 'B' to put forth demands pertaining to their respective cadres/categories to be settled before corporatisation. A large number of these required interaction with, and approval of, other Ministries such as DoP&T, Department of Expenditure, Ministry of Finance, Ministry of Labour etc. For examining and settling these issues, the Government constituted in pursuance of a Cabinet meeting held on 24.6.2000 a Group of Ministers under the chairmanship of Minister of Communications with Finance Minister, Minister of HRD, Minister of Commerce and Industries, Minister of Labour and Minister of State for Personnel and Training as its Members. The GOM has already met six times.
- 4.3 The concerns expressed by the employees and officers can broadly be categorized into three. The first category relates to those issues which various categories of employees wanted to be settled before corporatisation. The second category broadly covers issues relating to their terms and conditions of service on corporatisation including their retirement benefits, and the third concern related to the viability of the corporate entity.
- 4.4 The main issues raised by the representatives of the Employees Federations representing Group 'C' & 'D' related to pension and retirement benefits, job security and financial viability of the corporate entity. A large number of other grievances/demands had also been raised, many of which were internal to the Department. Most of these have been resolved.

In relation to pension and retirement benefits, a framework has been approved on the basis of decisions taken by the GOM, which is at Annexure-I. The salient features are given below:-

Pension and Retirement benefits

- (i) All employees will be entitled to Government's scheme of pension/family pension even after their absorption.
- (ii) Technical resignation will not be required.
- (iii) Payment of pension would be made by Government.
- (iv) Arrangements would be worked out for obtaining pension contribution from the PSU to be deposited with the Government.
- (v) Facility to carry over Earned Leave and Half Pay Leave would be provided.
- (vi) The pension framework has been made part of the CCS Pension Rules by amending Rule 37 using powers under Article 309 of the Constitution of India.

Job Security

- 4.5 Any order of removal/dismissal from the PSU would be reviewed by the Administrative Ministry.

No.2-29/2000-Restg.
Government of India
Ministry of Communications
Department of telecommunication Services

New Delhi, the 30th September, 2000

OFFICE MEMORANDUM

Subject:- Setting up of Bharat Sanchar Nigam Limited - transfer of staff- orders issued - regarding

In pursuance of new Telecom Policy 1999, the Government of India has decided to corporatize the service provision functions of Department of Telecommunications (DoT). Accordingly, the undersigned is directed to state that the Government of India has decided to transfer the business of providing telecom services in the country currently run and entrusted with the department of Telecom Services (DTS) and the Department of Telecom Operations (DTO) as was provided earlier by the Department of Telecommunications to the newly formed Company viz., Bharat Sanchar Nigam Limited (the Company) with effect from 1st October, 2000. The Company has been incorporated as a company with limited liability by shares under the Companies Act, 1956 with its registered and corporate office in New Delhi.

2. The Department of Telecom. Services and Department of Telecom., Operations concerned with providing telecom services in the country and maintaining the telecom network / telecom factories were separated and carved out of the Department of Telecommunications as a precursor to corporatization. It is proposed to transfer the business of providing telecom Services and running the telecom factories to the newly set up Company, viz., Bharat Sanchar Nigam Limited w.e.f. 1st October 2000. The Government has decided to retain functions of policy formulation, licencing, wireless spectrum management, administrative control of PSUs, standardisation & validation of equipment and R & D etc. These would be responsibility of Department of Telecommunications (DoT) and Telecom Commission. As such, administrative department for Bharat Sanchar Nigam Limited would be the Department of Telecommunications (DoT).
3. The assets and liabilities of the present Department of Telecom. Services and Department of Telecom. Operations which earlier formed part of DoT will be transferred for this purpose by a separate order.

4. Since it will take some time for the new company to finalise the terms and conditions for staff and to give an opportunity to Officers, staff, employees, and industrial workers working in various circles / offices / units for exercising their options to join the newly created Company, it has been decided to make the following interim arrangements for smooth transition of administration and operations to the new company:-
- i) The establishment (officers, staff, employees and industrial workers) sanctioned for exchanges / offices, in various telecom circles, metro districts of Calcutta and Chennai, project circles, civil, electrical and architectural wings, maintenance regions, specialized telecom. Units namely Data Networks, national Center for electronic Switching, Technical and Development circle, Quality Assurance circle (except TEC) training institutions, other units like telecoms factories, stores and electrification projects of DoT/DTS/DTO (belonging to various organized services and cadres given in Annexure A to this letter) and posted in these circles / offices/ units will stand transferred to Bharat Sanchar Nigam Limited along with their posts on existing terms and conditions, on as is where is basis, on deemed deputation, without deputation allowance with effect from 1st October 2000, i.e. the date of taking over of telecom. Operations by the Company from DTS & DTO Bharat Sanchar Nigam Ltd. will exercise control and supervision of staff working against these posts.
 - ii) The organisational structure of restructured Department of Telecommunications (DoT) is given at Annexure 'B (Tables I to IV giving posts / units to be retained in Dot and to be transferred to BSNL). Consequent to residual work of DTS and DTO being transferred to DoT, it will continue to do the work allocated under Allocation of Business Rules. The officers and staff presently working in these posts will continue to work, until further orders, in their existing posts under DoT and all other officers and staff will stand transferred along with their posts on existing terms and conditions, on as is where is basis, on deemed deputation, without deputation allowance, w.e.f. 1.10.2000 to the Company.
 - iii) The Telecom Engineering Centre (TEC) Centre for Development of Telematics (C-DOT), Wireless Planning and Coordination (WPC) and Wireless Monitoring Organisation (WMO) will remain with the government under the control of the Department of Telecommunications. An expert committee will be constituted for distribution of work of TEC between DoT and the Company. Subsequently, as per the report of the expert committee, allocation of staff will be done accordingly.
 - iv) Officers and staff belonging to various Central Secretariat Services (mentioned in Annexure A) providing services to offices / units being transferred to the Company will stand transferred along with their posts on as is where is basis, on deemed deputation, without deputation allowance, w.e.f. 1.10.2000 to the Company on existing terms and conditions of service. Further orders in the matter would be decided by DoT in consultation with DoPT which is the cadre controlling authority of CSS.

- v) Officers and staff shall continue to be subject to all rules and regulations as are applicable to Government servants, including the CCS (CCA) Rules till such time as they are absorbed finally by the Company after they exercise their options. Their pay scales, salaries and allowances will continue to be governed by existing rules, regulations and orders.
 - vi) The management of Bharat Sanchar Nigam Limited shall have full powers and authority to effect transfers of all the staff at all levels working under it.
 - vii) Bharat Sanchar Nigam Limited will be competent to create posts as per norm adopted by it, however, it will seek prior approval of the Government for appointments to higher level posts as per provisions of Article 144(1) of its Articles of Association.
 - viii) Instructions regarding appointing and disciplinary authorities for employees working on deemed deputation and disposal of pending disciplinary and vigilance cases will be issued separately.
 - ix) Regarding pension, gratuity and retiral benefits separate guidelines and order will be issued.
5. These orders will come into effect from 1st October 2000.

Sd/-

(VINOD VAISH)

Secretary to the Government of India

To

1. The Secretary DoT and Chairman Telecom Commission
2. The Secretary, DTS
3. The secretary, DTO and Member (Prodn.) Telecom Commission
4. Member (Finance) Telecom Commission
5. Member (Services) telecom Commission
6. Member (Technology), Telecom Commission
7. Additional secretary (T) and Secretary Telecom Commission
8. Joint secretary (T) DoT
9. Joint Secretary (A), DoT
10. OSD Corporatisation (DoT) with request to bring it to the notice of the Board of Directors of Bharat Sanchar Nigam Limited
11. All Chief General Manager of Telecom Circles, Metro Districts, Project Circles, Maintenance regions, Telecom Stores, Railway Electrification Projects with request to communicate these orders to all units working under their administrative control.
12. All Principal Chief Engineers/ Chief Engineers - Civil and Electrical Wings, with request to communicate these orders to all units working under their administrative control.
13. Chief Architects -Chennai, Calcutta and Mumbai with request to communicate these orders to all units working under their administrative control.

14. All Chief General Managers -Telecom Factories, with request to communicate these orders to all units working under their administrative control
15. Sr. DDG (TEC)
16. Sr. DDsG - (SW)/ ARCH.)/ ELECT.)
17. Sr. DDG (ML - with request to communicate these orders to all PSUs working under their administrative control.
18. Sr. DDG (IC & A)
19. Executive Director, C-DOT
20. Sr. DG (Vigilance) DoT
21. DDG (Pers.)

Copy to:-

1. PS to Minister of Communications
2. PS to minister of State for Communications
3. All Advisors, DOT

Copy also to:-

1. Bharat Sanchar Nigam Limited

Organisational Structure of Department of Telecommunications
(w.e.f. 1st October 2000)

TABLE – I

Table	Posts being retained in DoT					
		Directors				
Designation	Unit	I	II	III	IV	V
Secretary (DOT)	DOT	OSD				
Member (F)	DOT					
Member (P)	DOT					
Member (T)	DOT					
Member (S)	DOT					
Addl. Secretary (T)	DOT					
Joint Secretary (T)	DOT	DS®				
Joint Secretary (A)	DOT	CP&PR	MVT	D(T)	OL	DS(A)
Legal Advisor	DOT	DLA				
Advisor (O)	DOT					
Advisor (P)	DOT					
Advisor (F)	DOT	FC				
Advisor (T)	DOT					
Advisor (HRD)	DOT					
Sr. DDG (LTP)	DOT	CP	SAT/RN	Comp. II		
SDr. DDG(ML)	DOT	SU	SU-I	SU-II		
Sr. DDG (RS)	DOT	RS				
Sr. DDG (TCF)	DOT		F-IV			
Sr. DDG (VIG)	DOT	VM	V Tech	V&T	VF	
DDG (BS)	DOT	BS-I	BS-II	BS-III		
DDG (CMR)	DOT					
DDG (EAF)	DOT		SEA-I			
DDG (ERU)	DOT	ERU				
DDG (Estt.)	DOT	MPP	ST			
DDG (IR)	DOT	LP	TP			
DDG (LF)	DOT	LF				
DDG (LR)	DOT	LR-I	LR-II			
DDG (PIP)	DOT	PIP	OS			
DDG (PG)	DOT	PG				
DDG (SR)	DOT	SR				
DDG (VAS)	DOT	VAS-I	VAS_II	VAS-III		
DDG (WPF)	DOT					

ANNEXURE 'A'

A. List of cadres in the various entities of the Field Units of DTS/DTO

1. Indian Telecommunication Service group 'A'
2. Indian P & T AFS Group 'A'
3. P & T Building Works Service [Civil, Architectural and Electrical Disciplines] - Group 'A'
4. Group 'A' GCS of Telecom Factories Organisation
5. Telegraph Traffic Service Group 'A'
6. GCS Group 'A' Gazetted Ministerial
7. GCS Group 'A' Gazetted Ministerial
8. GCS Group 'B' Gazetted Ministerial
9. GCS Group 'B' Gazetted Non-Ministerial
10. Telecom Engineering Services Group 'B'
11. Telegraph Traffic Service Group 'B'
12. GCS Group 'B' Gazetted of Telecom Factories Organisation [AEs, Metallurgists, Chemists, personnel Officers, Sr. Security Officers etc.]
13. P & T Civil Wing Group 'B' - This also includes Civil, Electrical and Architectural Wings
14. P & T AFS Group 'B' (Telecom Wing) (Sr. AO, AO, AAO & JAO)
15. Official Language Cadre (Gazetted) of field units of DTS/ DTO
16. Stenographers Cadre (Gazetted) of field units of DTS /DTO
17. CGS Group 'C' Non-Gazetted Ministerial
18. GCS Group 'C' Non-Gazetted Non-Ministerial
19. Other Group 'C' operative / technical cadres of DTS/DTO
20. Other Group 'C' non-operative cadres of DTS / DTO
21. Other Group 'D' operative cadres of DTS / DTO
22. Other group 'D' non-operative cadres of DTS/DTO
23. Any other grade/cadre/service which is not covered above

B. In addition to the various cadres /grades of above cited list working at the headquarters of the DTS/DTO, following various cadres /grades controlled by Administration branch, according to the placement in the entities will also stand transferred to the Company, along with their posts, on as is where is basis, on deemed deputation basis, without deputation allowance as per their posts / units given in Annexure 'E'.

1. Central Secretariat Service
2. Central Secretariat Stenographers Service
3. Central Secretariat Clerical Service
4. General central Service Group 'A' Gazetted Ministerial and Non-Ministerial, Group 'B' Gazetted and Non-Gazetted Ministerial and Non-Ministerial and Group 'C' and group 'D' - Ministerial and Non-Ministerial

TABLE – II

Table II	Posts being transferred to BSNL					
		Directors				
Designation	Unit	I	II	III	IV	V
Sr. DDG (Arch.)	CE	Arch.				
Sr. DDG (BW)	CE	SW	OS(cwg)	Civil		
Sr. DDG (CS)	CE	CS-I	CS-II	PHE		
Sr. DDG (Elec.)	CE	EW	EW&OC			
Sr. DDG (MS)	CE	MSS	MST	ML		
Sr. DDG (NW/WS)	CE	NW-II	WSE			
Sr. DDG(P)	CE	PD				
Sr DDG (TRF)	CE	TR-I	TR-II			
Sr. DDG (SW)	CE	Eqp.	ES-I	ES-II	SW	TF
Sr. DDG (TX)	CE	L	OF	TAX	SBP	LTP
Sr. DDG (IA&P)	CE	IC-I	IC-II	Trg. F	SEA-II	
DDG (Accts.)	CE	TA-I	TA-II			
DDG (BLF)	CE	PFC				
DDG (T)	CE	Comp. I				
DDG (EFC)	CE	FA-II	Costing	T&C	FA-I	
DDG(MM-I)	CE	MMC	MMD			
DDG(MM-II)	CE	MMS	MMT			
DDG (NM)	CE	MIS	NM			
DDG (NS)	CE	NS				
DDG (PER)	CE	TE	ST-II	WL & Sports		
DDG (PF)	CE	F-III	F-V			
DDG (REG)	CE	REG-I	rEG-II			
DDG(RN)	CE	GP	RDTF			
DDG (SAT)	CE	SAT	NOCC			
DDG (TRG)	CE	DE&VP	TDTF	TRG		
DDG(TS)	CE	TSO	TSP			

TABLE- III

Table III	LIST OF ADsG AND SECTIONS BEING RETAINED UDNER DOT					
Unit	No ADsG	S-I	S-II	S-III	S-IV	S-V
Admn.	E	A-I		A-III	A-IV	SCT
BS	2	BS-I	BS-II	BS-III		
Computer	5	Computer	IT			
ADG-CMR	1					
(EB)	1	EB&I				
ERU (ENGG)	1					
ERU (FIN)	1	ERU				
(IR)	5	IR				
(LEGAL)	2	LEGAL				
LF	2	LF				
LR	3	LR				
STC	1	NCG				
STN	2	STN-I				
DC		DC				
PEN	1	PEN PFP				
PAT	1	PAT				
RESTG	2	RESTG				
PARL	2	PARL	TCO			
PP		PP	Library			
SAT	5					
SEA	1	SEA-I				
SGT	1		STG II	STG III		
TIM	1					
VAS	3	VAS				
VIG	6	VIG.I	VIG.II	VT	VIG III	
VMI	4	VM				
(OL)	1	HINDI TR	OL			
TA	1		CASH	PAO		
US(T)	2	GA.I	GA.II	CR	Protocol	O&M/REC
(MVT)		MVT				
(TFS)		TFS				
(OC)	6	OC	Factory			
(LTP)	7	CP	LTP			
(F-IV)	1	FA-IV				
Total	76					

TABLE – IV

TABLE	PSOTS OF ACCOUNTS OFFICERS RETAINED IN DOT	
	POST	NUMBER
Illegible/-	AO	2
Illegible/-	AO	1
Illegible/-	AO	4
Illegible/-	AO	1
Illegible/-	PAO	1
Illegible/-	PFP	1
Illegible/-	GPF	1
Illegible/-	AO	1
Illegible/-	AO	1
Illegible/-	AO	2
Illegible/-	AO	1
Illegible/-	AO	1
Illegible/-	AO	1
POST BEING TRANSFERRED TO BSNL		
Illegible/-	AO	3
Illegible/-	AO	2
Illegible/-	AO	2
Illegible/-	AO	2
Illegible/-	AO	3
Illegible/-	AO	3
Illegible/-	AO	1
Illegible/-	AO	4
Illegible/-	AO	2
Illegible/-	AO	2
Illegible/-	AO	2
Illegible/-	AO	3
Illegible/-	AO	2
Illegible/-	AO	3
Illegible/-	AO	3
Illegible/-	AO	2
Illegible/-	AO	1
Illegible/-	AO	1
Illegible/-	AO	2
Illegible/-	AO	1
Illegible/-	AO	2

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Pension and Pensioners' Welfare)

NOTIFICATIONNew Delhi, the 30th September, 2000

S.O.904(E) – In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Pension) Rules, 1972, namely:

1. (1) These rules may be called the Central Civil Services (Pension) Amendment Rules, 2000.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Central Civil Services (Pension) Rules, 1972, after rule 37, the following rule shall be inserted, namely:

"37A. Conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Central autonomous body or a Public Sector Undertaking.

- (1) On conversion of a department of the Central Government into a public sector undertaking or an autonomous body, all Government servants of that Department shall be transferred en-masse to that public sector undertaking or autonomous body, as the case may be, on terms of foreign service without any deputation allowance till such time as they get absorbed in the said undertaking or body, as the case may be and such transferred Government servants shall be absorbed in the public sector undertaking or autonomous body, as the case may be, with effect from such date as may be notified by the Government.
- (2) The Central Government shall allow the transferred Government servants an option to revert back to the Government or to seek permanent absorption in the public sector undertaking or autonomous body, as the case may be.
- (3) The option referred to in sub-rule (2) shall be exercised by every transferred Government servant in such manner and within such period as may be specified by the Government.
- (4) The permanent absorption of the Government servants as employees of the public sector undertaking or autonomous body shall take effect from the date on which their options are accepted by the government and on and from the date of such acceptance, such Government servants shall cease to be Government servants and they shall be deemed to have retired from Government service.

- (5) Upon absorption of Government servants in the public sector undertaking or autonomous body, the posts which they were holding in the Government before such absorption shall stand abolished.
- (6) The employees who opt to revert to Government service shall be re-deployed through the surplus cell of the Government.
- (7) The employees including quasi-permanent and temporary employees but excluding casual labourers, who opt for permanent absorption in the public sector undertaking or autonomous body, shall on and from the date of absorption, be governed by the rule and regulations or bye-laws of the public sector undertaking or autonomous body, as the case may be.
- (8) 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.
- (9) The pension of an employee under sub-rule (8) shall be calculated on the basis of his last ten months' average pay.
- (10) In addition to pension or family pension, as the case may be, the employees shall also be eligible to Dearness relief as per industrial dearness allowance pattern.
- (11) The benefits of pension and family pension shall be available to quasi-permanent and temporary Transferred Government servants after they have been confirmed in the public sector undertaking or autonomous body.
- (12) The Central Government shall create a Pension Fund in the form of a trust and the pensionary benefits of Absorbed employees shall be paid out of such Pension Fund.
- (13) The Secretary of the administrative Ministry of the public sector undertaking or autonomous body shall be the Chairperson of the Board of Trustees which shall include representatives of the Ministries of Finance, Personnel, Public Grievances and Pensions, Labour, concerned the public sector undertaking or autonomous body and their employees and experts in the relevant field to be nominated by the Central Government.
- (14) The procedure and the manner in which pensionary benefits are to be sanctioned and disbursed from the Pension Fund shall be determined by the Government on the recommendation of the Board of Trustees.
- (15) The Government shall discharge its pensionary liability by paying in lump sum as a one time payment to the Pension Fund the pro rata pension or service gratuity and retirement gratuity for the service rendered till the date of absorption of the Government servant in the public sector undertaking or autonomous body.

- (16) The manner of sharing the financial liability on account of payment of pensionary benefits by the public sector undertaking or autonomous body shall be determined by the Government.
- (17) Lump sum amount of the pro rata pension shall be determined with reference to Commutation Table laid down in Central Service (Commutation of Pension) Rules, 1981.
- (18) The public sector undertaking or autonomous body shall make pensionary contribution to the Pension Fund for the period of service to be rendered by the concerned employees under that undertaking or body at the rates as may be determined by the Board of Trustees so that the Pension Fund shall be self-supporting.
- (19) If, for any financial or operational reason, the Trust is unable to discharge its liabilities fully from the Pension Fund and the public sector undertaking or autonomous body is also not in a position to meet the shortfall, the Government shall be liable to meet such expenditure and such expenditure shall be debited to either the Fund or to the public sector undertaking or autonomous body, as the case may be.
- (20) Payments of Pensionary benefits of the Pensioners of a Government Department on the date of conversion of it into a the public sector undertaking or autonomous body shall continue to be the responsibility of the Government and the mechanism for sharing its liabilities on this account shall be determined by the Government.
- (21) Nothing contained in sub-rules (12) to (20) shall apply in the case of conversion of the Department of Telecom Service and Telecom Operations into Bharat Sanchar Nigam Limited, in which case the pensionary benefits including family pension shall be paid by the Government.
- (22) For the purpose of payment of pensionary benefits including family pension referred to in sub-rule (21), the Government shall specify the arrangements and manner including the rate of pensionary contributions to be made by Bharat Sanchar Nigam Limited to the Government and the manner in which financial liabilities on this account shall be met.
- (23) The arrangements under sub-rule (22) shall be applicable to the existing pensioners and to the employees who are deemed to have retired from the Government service for absorption in Bharat Sanchar Nigam Limited and shall not apply to the employees directly recruited by the Bharat Sanchar Nigam Limited for whom it shall devise its own pension scheme and make arrangements for funding and disbursing the pensionary benefits.
- (24) Upon conversion of a Government department into a the public sector undertaking or autonomous body—
 - (a) the balance of provident fund standing at the credit of the absorbed employees on the date of their absorption in the public sector undertaking or autonomous body shall, with the consent of such undertaking or

DOT No. 36-15/2000-Pen(T) dated 09.11.2000

Subject: Entitlement for Pension, other Retirement Benefits, Job Security and Carry Over of Leave in respect of Employees to be Absorbed in BSNL.

It has been decided by the Government that the employees of DOT who will be absorbed in Bharat Sanchar Nigam Limited (BSNL) will be entitled to the Government's scheme of pension/family pension even after their absorption in BSNL. Payment of pension will be made by the Government and for this, arrangements, are being worked out for obtaining pension contribution from BSNL to be deposited with the Government. It has also been decided that dismissal or removal from service of an employee after his absorption in the PSU for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his dismissal, removal or retrenchment the decisions of BSNL shall be subject to review by the Administrative Ministry. The Government has already issued Notification dated 30.9.2000 to this effect wherein the pension framework has been made part of the CCS (Pension) Rules, amending Rule 37 using powers under Article 309 of the Constitution of India. (Copy enclosed).

It has further been decided that the Earned Leave and the Half Pay Leave at the credit of the employees on the date of absorption shall stand transferred to the PSU.

This may be widely circulated in your circle/ unit so that the employees are duly informed of the decision taken by the Government.

Enclosure

True Typed Copy

No. BSNL/11/SR – 2001

January 14, 2002

Sub: Calling of option for absorption of Group 'B' officers in BSNL.

* * *

Please find enclosed, a copy of the option form along with the general terms and conditions for exercising option for absorption in BSNL/retention of Government status for Group 'B' officers (4 pages).

- 1(a) This option for absorption in BSNL will be called from all serving Group 'B' officers who were transferred to BSNL on deemed deputation basis with effect from 01.10.2000 as well as from those who remained in DoT and/or who were on the rolls of DoT/DTS/DTO as on 30.09.2000.
- 1(b) The effective date of absorption will be 01.10.2000.
2. The exercise of giving option and acknowledgement of the option form shall be at the SSA level for Group 'B' officers in the field and at the office of CGM/JS(A), DOT/Sr.DDG (Pers.), BSNL for officers of circle office/CSS Group 'B'/DOT and BSNL Corporate Office respectively. For other units like MTNL Delhi and Mumbai, Metro districts of Kolkata and Chennai, Projects Circles, Civil, Electrical and Architectural, Maintenance Regions, specialized telecom units namely Data Network, NCES, T&D, QA, TEC, Training Institutions, other units like Telecom Factories, Stores, Electrification etc, the concerned CGM will decide the level and nominate the concerned officer.
3. Four copies of the option form numbered 1 to 4 with one set of general terms and conditions will be sent to each Group 'B' officer latest by [ILLEGIBLE] January, 2002 and the process of exercising option should be completed not later than 28th February 2002. All the four copies of the option form will be got filled by each officer and detailed as follows:
 - 1st copy (original copy) to go to the service book of the officer.
 - 2nd copy to be kept by the authority acknowledging the option form.
 - 3rd copy to be sent to the circle office for record and [ILLEGIBLE]
 - 4th copy to be acknowledged by a Group 'A' [ILLEGIBLE] in para 4 below and returned to the optees.
4. The option exercised by the officers shall be final and should be acknowledged by an officer not below the rank of Sr.Time Scale as designated by the SSA head/CGM as the case may be.

5. As per the classification of posts, a grade whose maximum is Rs.9000 and above but less than Rs.13500 is considered Group 'B'. However, those officials who are placed in the grade of Rs.5500-9000 or higher due to OTBP/BCR/Grade IV/ACP/Ad-hoc promotion/time bound advancement schemes etc. are not considered Group 'B'.
6. Options can be exercised by officials covered in para 5 above as on the date of exercise of the option. In case, these officers have earlier exercised their option for absorption in BSNL/retention of Government status, as the case may be, along with Group 'C' & 'D' employees, the earlier option shall be treated as null and void. Further, this option shall also be exercised by all Group 'B' officers borne on the regular establishment of DOT/erstwhile DTS, DTO (including those on deputation/deemed deputation to other organizations), presently officiating in Group 'A' or equivalent posts on ad-hoc/local officiating basis.
7. BSNL would absorb optees subject to the availability of posts from 01.10.2000. In case the number of optees is more than the number of posts the senior most optees in their cadre/grade would be given preference for absorption. Therefore, for circle cadres CGM will decide and finalize the list of optees based upon the seniority criteria. For all India cadres, CGMs will forward the list of optees and the number of available posts in the cadre/grade to the respective cadre controlling authorities.
8. The IDA pay scale and the fitment formula will be announced by BSNL separately. Till that time the optees will continue to remain in CDA pay scale. The IDA pay scales will be effective from 01.10.2000. After fixation of the pay of the absorbed employees in IDA pay scale, they will be paid arrears.

However, after their absorption is finalized by BSNL and till they are fitted in the IDA pay scale such officials will be paid an ad-hoc sum of Rs.2000 per month by BSNL. This will be an advance payment against the arrears receivable by them on their fitment in the IDA pay scales. This advance payment will be adjusted from their IDA emoluments, perks and benefits on fixation of their pay in IDA pay scales. In case of optees accepted for absorption from MTNL any ad-hoc amount paid to them by MTNL would also be adjusted against their IDA emoluments, perks and benefits on fixation of their pay in IDA pay scales.

9. Circle cadre officers presently working in MTNL Mumbai and Delhi, Department of Posts, DOT Units like TEC etc. and opting for BSNL, may be deployed in these cities subject to the availability of posts in these cities. In case, sufficient posts are not available in these cities, these optees will be deployed in other circles depending on the availability of posts in the other circles. A list of such officers shall be sent to Sr.DDG (Pers.), BSNL.
10. Officers not exercising any option as prescribed will be deemed to have opted for Government service.
11. Information giving details of total Group 'B' staff, number of optees to BSNL; number of optees to DOT and number of officers giving no option in case of each cadre must reach the undersigned latest by 15.03.2002.

Encl: As above

Sd/-
(A.K. PATHAK)
DDG (SR), BSNL HQrs.

To
All CGMs, BSNL,
CGM, MTNL Mumbai and Delhi
Sr.DDG (TEC)/Sr.DDG(Finance Pers.)
JS (A), DOT/Sr.DDG (Pers.), BSNL

Copy for information to :
Member (Services)
CMD, BSNL/MTNL
All Directors, BSNL Board
All Sr.DDsG/DDsG in BSNL/DOT

The Secretary to the Government of India
 Ministry of Communications
 Department of Telecom
 New Delhi.

(THROUGH PROPER CHANNEL)

**Sub: Option Form for Absorption in BSNL/Retention of Government Status for
 Group B officers**

(To be filled in quadruplicate)

(For DOT/BSNL/MTNL/CSS Group B Officers)

In accordance with the Government decision to convert the DTS /DTO in BSNL w.e.f. 01.10.2000, as communicated under DTS Memo No. 2-29/2000-Restg. Dated 30.09.2000, I give my declaration as under:

1. I hereby agree to be absorbed in BSNL w.e.f. 01.10.2000

OR

I do not agree for absorption in BSNL and want to continue in Government service.

(Strike out whichever is not applicable)

2. I understand that the option exercised by me is final.
3. I understand that on absorption in BSNL, I shall be governed by the Rules and Regulations of BSNL.
4. In case of my option for Government service, I understand that I may be redeployed as per Government rules.

SIGNATURE

NAME OF THE EMPLOYEE

(In block letters)

Staff No.

Place of Posting

For Office Use

Acknowledged by (Signature)

Name & Designation

(Strike out whichever is not applicable)

GENERAL TERMS & CONDITIONS
FOR ABSORPTION OF GROUP 'B' OFFICERS IN BSNL

1. Service Rules

Till new Service Rules are finalized by the Company, the existing Govt. Rules/ Regulations would be applicable.

2. Option of officers for absorption in (Bharat Sanchar Nigam Limited) BSNL

- (a) This option for absorption in BSNL will be called from all serving officers holding Group 'B' posts on substantive basis, who were transferred to BSNL on deemed deputation basis with effect from 01.10.2000 as well as from those who remained in DoT and who were on the rolls of DOT/DTS/DTO as on 30.09.2000. For this purpose, as per the classification of posts, a grade whose maximum is Rs.9000 and above but less than Rs.13500 is considered Group 'B'. However, those officials who are placed in the grade Rs.5500-9000 or higher due to OTBP/BCR/Grade IV/ACP/Ad-hoc/time bound advancement schemes etc. are not considered Group 'B'. Further, this option shall also be exercised by all Group 'B' officers borne on the regular establishment of the DOT/DTS/DTO who are presently officiating in Group 'A' or equivalent posts on ad-hoc/local officiating basis.
- (b) BSNL would absorb optees subject to the availability of posts in respective cadre/grade. In case, the number of optees is more than the number of posts available, the senior most optees in their cadre/grade would be given preference.
- (c) The effective date of absorption will be 01.10.2000.
- (d) The option once exercised would be final.

3. Option of officers facing Disciplinary Cases

The officers with on-going disciplinary cases can also opt for absorption in BSNL but their absorption will be subject to the outcome of the vigilance case. The appeal/petition cases for these officers will also be decided by DOT authorities.

4. Change over to IDA Pay Scales

The IDA pay scale and the fitment formula will be announced by BSNL separately. Till that time the optees will continue to remain in CDA pay scale. The IDA pay scales will be effective from 01.10.2000. After fixation of the pay of the absorbed employees in IDA pay scale, they will be paid arrears.

However, after their absorption is finalized by BSNL and till they are fitted in the IDA pay scale such officials will be paid an ad-hoc sum of Rs.2000 per month by BSNL. This will be an advance payment against the arrears receivable by them on their fitment in the IDA pay scales. This advance payment will be adjusted from their IDA emoluments, perks and benefits on fixation of their pay in IDA pay scales. In case of optees accepted for absorption from MTNL any ad-hoc amount paid to

them by MTNL would also be adjusted against their IDA emoluments, perks and benefits on fixation of their pay in IDA pay scales.

5. Payment of Pension

The officers who opt for permanent absorption in BSNL would be governed by the provisions of Rule 37 – A of CCS (Pension) Rules, notification for which was issued by the Department of Pension & Pensioners Welfare on 30.09.2000. For the purpose of reckoning emoluments for calculation of pension and pensionary benefits, the emoluments as defined in CCS (Pension) Rules, in PSU in the IDA pay scales shall be taken.

DOT has already clarified that the word "formula" mentioned in clause 8 of Rule 37 – A means payment of pension as per Government Rules in force at that time. BSNL will not dismiss/remove an absorbed officer without prior approval of the Administrative Ministry/Department.

6. Inter-se Seniority

The inter-se seniority of officers in various grades in BSNL will be same as the seniority being maintained in DOT. However, the names of the officers who do not opt for BSNL will be deleted.

7. Promotion

- a. The existing rule of promotion to higher grades of parent departments shall continue till BSNL formulates its own rules and regulations.
- b. The officers officiating in higher grades on ad-hoc/local officiating basis will be absorbed in BSNL in the substantive grade only. However, they shall continue to get the higher officiating pay so long as the BSNL management continues the officiating arrangements.

8. GPF

The amount of subscription together with interest thereon at credit with the employee in the General Provident Fund account will be transferred to his/her new Provident Fund account under the BSNL as provided for under Sub-rule 24 (a) of Rule 37 A of the CCS (Pension) Rules, as amended from time to time.

9. CGEIS

The CGEIS will continue till 31.12.2001. Meanwhile, BSNL is making efforts to formulate a similar insurance scheme for absorbed employees through LIC.

10. Residential Quarters

The DOT officers, who are allottees of BSNL quarters, will continue to occupy the same on "as is where is basis" even after permanent absorption in BSNL. However, the officers, who opt for BSNL and are occupying quarters from the Estate pool, would be allowed to retain the same up to 30.09.2005 on payment of standard License Fee. Similarly, those officers who do not opt of BSNL and are occupying BSNL quarters would also be allowed to retain BSNL quarters up to 30.09.2005 on payment of standard License Fee.

11. Age of Superannuation

Age of superannuation for all the non-Board level officers in BSNL will be regulated in accordance with Government Rules applicable to PSUs.

12. Leave

BSNL has decided to adopt the Government Leave Rules till such time it finalizes its own rules. However, the Earned Leave and Half-pay leave at the credit of the employee shall stand transferred to BSNL on the date of absorption, as provided for under Sub-rule 24 (b) of Rule 37 A of CCS (Pension) Rules.

13. Para 38 Transfers

BSNL has decided that the para 38 transfers would continue to be applicable to the BSNL officers in the DOT after absorption till BSNL finalizes its own rules.

14. Compassionate Appointment

BSNL has decided that the DOT policy regarding compassionate appointment would continue in BSNL till BSNL finalizes its own rules.

15. Pending HRD Issues

The HRD issues referred to BSNL by DOT would be settled by BSNL.

16. Medical Benefits

It has been decided to extend CGHS facilities to those serving employees of BSNL who were availing CGHS facilities prior to their transfer to BSNL as agreed by Ministry of Health vide their letter No. 4 – 81/2000 – C&P/CGHS-CGHS (P) dated 20.04.2001. The existing medical benefits as admissible in DOT would continue in BSNL till alternative arrangements are made in BSNL.

17. Timeframe for absorption

Group 'B' officers shall exercise their option for permanent absorption in BSNL by 28.02.2002.

No.20-9/2003-STG.II
Government of India
Ministry of Communication & IT
Department of Telecommunications

421, Sanchar Bhawan,
20-Ashoka Road,
New Delhi-110 001
Dated: 12.02.2004.

No. 20-9/CTD/KOLKATA/2004/0161

ORDER

Subject: Permanent absorption of Sh/Smt AMIT KUMAR GUPTA, TES Gr.B, Staff No. 13280 (as per list BSNL/CTD/List No. 1/ Sl No.163) in Bharat Sanchar Nigam Limited.

Pursuance to letter no. BSNL /11/ SR / 2003 dated 02.09.2003 on the above subject and in accordance with the provisions of Rule 37-A of CCS (Pension) Rules, as amended from time to time. sanction of the President is hereby conveyed to the permanent absorption of Shri / Smt / Kumari AMIT KUMAR GUPTA, a permanent /temporary employee of the Department of Telecommunications, in BSNL, with effect from the date and under the terms and conditions as indicated below.

2. **Date of effect:-** The permanent absorption shall take effect from 01.10.2000 forenoon.
3. **Pension / Gratuity:-** Shri/Smt/Kumari AMIT KUMAR GUPTA shall be eligible for pensionary benefits including gratuity as per provisions of Rule 37-A of CCS(Pension), Rules as amended from time to time.
4. **Family Pension:-** The family of Shri / Smt/ Kumari AMIT KUMAR GUPTA shall be eligible for family pension as per provisions of Rule 37-A read with Rule 54(13-B) of CCS (Pension) Rules, 1972 as amended from time to time.
5. **Regulation of Pay on absorption:-** To be regulated in terms of Para 4 of DoP & PW O.M. No. 4/18/87-P&PW(D) dated 05.07.1989.
6. **Leave:-** The Earned Leave and Half Pay Leave at the credit of Shri / Smt / Kumari AMIT KUMAR GUPTA stands transferred to BSNL on the date of absorption as provided for under Sub-rule 24(b) of Rule 37-A of the CCS(Pension) Rules.

7. **Provident Fund:-** The amount of subscription together with interest thereon standing to the credit of Shri/ Smt / Kumari AMIT KUMAR GUPTA in the General Provident Fund account will be transferred to his / her new Provident Fund account under the BSNL as provided for under Sub-rule 24(a) of Rule 37-A of the CCS(Pension) Rules as amended from time to time.

Sd/-
(S. K. KAYAL)
DIRECTOR(Estt)
DOT

To

Chairman and Managing Director, Bharat Sanchar Nigam Limited.

Copy to: 1. A.O. of the concerned area for pasting in Service Book alongwith suitable entries.

2. Officer Concerned .3. Cadre Controlling Authority, DoT, New Delhi. 4. Office copy.

True Typed Copy

F.No.38/37/08-P&PW(A)

Government of India

Ministry of Personnel, Public Grievances & Pensions

Department of Pension & Pensioners' Welfare

Lok Nayak Bhawan, New Delhi-110003

Dated the 1st September, 2008

OFFICE MEMORANDUM

Sub: **Implementation of Government's decision on the recommendations of the Sixth Central Pay Commission - Revision of pension of pre-2006 pensioners/family pensioners etc.**

1. The undersigned is directed to say that in pursuance of Government's decision on the recommendations of Sixth Central Pay Commission, sanction of the President is hereby accorded to the regulation, with effect from 1.1.2006, of pension/ family pension of all the pre-2006 pensioners/ family pensioners in the manner indicated in the succeeding paragraphs. Separate orders will be issued in respect of employees who retired/died on or after 1.1.2006.
- 2.1 These orders apply to all pensioners/family pensioners who were drawing pension/family pension on 1.1.2006 under the Central Civil Services (Pension) Rules, 1972, CCS (Extraordinary Pension) Rules and the corresponding rules applicable to Railway pensioners and pensioners of All India Services, including officers of the Indian Civil Service retired from service on or after 1.1.1973.
- 2.2 Separate orders will be issued by the Ministry of Defence in regard to Armed Forces pensioners/family pensioners.
- 2.3 These orders do not also apply to retired High Court and Supreme Court Judges and other Constitutional/Statutory Authorities whose pension etc. is governed by separate rules/orders.
- 3.1 In these orders :
 - a. Existing pensioner or Existing Family pensioner means a pensioner who was drawing/ entitled to pension/family pension on 31.12.2005.
 - b. Existing pension means the basic pension inclusive of commuted portion, if any, due on 31.12.2005. It covers all classes of pension under the CCS (Pension) Rules, 1972 as also Disability Pension under the CCS (Extraordinary Pension) Rules and the corresponding rules applicable to Railway employees and Members of All India Services.

c. Existing family pension means the basic family pension drawn on 31.12.2005 under the CCS (Pension) Rules and the corresponding rules applicable to Railway employees and Members of All India Services.

4.1 The pension/family pension of existing pre-2006 pensioners/family pensioners will be consolidated with effect from 1.1.2006 by adding together:-

i. The existing pension/family pension.

ii. Dearness Pension, where applicable

iii. Dearness Relief upto AICPI (IW) average index 536 (Base year 1982=100) i.e. @ 24% of Basic Pension/Basic family pension plus dearness pension as admissible vide this Department's O.M. No. 42/2/2006-P&PW(G) dated 5.4.2006

iv. Fitment weightage @ 40% of the existing pension/family pension.

Where the existing pension in (i) above includes the effect of merger of 50% of dearness relief w.e.f. 1.4.2004, the existing pension for the purpose of fitment weightage will be re-calculated after excluding the merged dearness relief of 50% from the pension.

The amount so arrived at will be regarded as consolidated pension/family pension with effect from 1.1.2006.

4.2 The fixation of pension will be subject to the provision that the revised pension, in no case, shall be lower than fifty percent of the minimum of the pay in the pay band plus the grade pay corresponding to the pre-revised pay scale from which the pensioner had retired. In the case of HAG+ and above scales, this will be fifty percent of the minimum of the revised pay scale.

4.3 Since the consolidated pension will be inclusive of commuted portion of pension, if any, the commuted portion will be deducted from the said amount while making monthly disbursements.

4.4 The upper ceiling on pension/family pension laid down in the Department of Pension and Pensioner's Welfare Office Memorandum No 45/86/97-P&PW(A)(Part-I) dated 27.10.1997 has been increased from Rs. 15000/- and Rs. 9000/- to 50% and 30% respectively of the highest pay in the Government (The highest pay in the Government is Rs. 90,000 since 1.1.2006).

4.5 The quantum of pension/family pension available to the old pensioners/ family pensioners shall be increased as follows:-

Age of pensioner/family pensioner	Additional quantum of pension
From 80 years to less than 85 years	20% of revised basic pension/ family pension
From 85 years to less than 90 years	30% of revised basic pension / family pension

From 90 years to less than 95 years	40% of revised basic pension / family pension
From 95 years to less than 100 years	50% of revised basic pension / family pension
100 years or more	100% of revised basic pension / family pension

The amount of additional pension will be shown distinctly in the pension payment order. For example, in case where a pensioner is more than 80 years of age and his/her consolidated pension in terms para 4.1 and 4.2 above is Rs.10,000 pm, the pension will be shown as (i).Basic pension=Rs. 10,000 and (ii) Additional pension = Rs.2,000 pm. The pension on his/her attaining the age of 85 years will be shown as (i).Basic Pension = Rs.10,000 and (ii) additional pension = Rs.3,000 pm.

- 4.6 Some of the existing pensioners who retired between 31.3.1985 and 31.12.1985 are in receipt of personal pension. The said personal pension will continue to be granted as a separate element and will not be merged into the pension as consolidated above.
- 4.7 Since the consolidated pension/family pension arrived at as per paragraph 4.1. includes dearness relief upto average index 536(Base year 1982=100), dearness relief will be admissible thereon only beyond index average 536 (Base year 1982=100) in accordance with the revised scheme of dearness relief for which orders are being issued separately. The four instalments of dearness relief sanctioned earlier from 1.7.2006, 1.1.2007, 1.7.2007 and 1.1.2008 in this Department's Office Memorandum No. 42/2/2006-P&PW(G) dated the 15.9.2006, Office Memorandum No. 42/2/2006-P&PW(G) dated the 23.3.2007, Office Memorandum No. 42/2/2006-P&PW(G) dated the 18.9.2007 and Office Memorandum No. 42/2/2006-P&PW(G) dated the 19.3.2008 respectively shall be adjusted against revised Dearness Relief becoming due on the consolidated pension/family pension.
- 5.1 Where the consolidated pension/family pension in terms of paragraph 4 above works out to an amount less than Rs. 3500/- the same shall be stepped upto Rs. 3500/-. This will be regarded as pension/family pension with effect from 1.1.2006. In the case of pensioners who are in receipt of more than one pension, the floor ceiling of Rs. 3500/- will apply to the total of all pensions taken together.
- 5.2 Where the disability pension under the CCS(EOP) Rules, is drawn in addition to invalid pension under the CCS (Pension) Rules, 1972, the minimum limit of Rs. 3500/- will apply to total of two pensions as indicated in paragraph 5.1. Where the disability pension is drawn in isolation, the minimum limit of Rs. 3500/- will apply for 100% disability. For lesser degree of disability the minimum limit will be proportionately less.
6. The employed/re-employed pensioners/family pensioners are not getting dearness relief on pension at present under the extant orders. In their case the notional dearness relief which would have been admissible to them but for their employment/re-employment will be taken into account for consolidation of their pension in terms of paragraph 4.1. above as if they were drawing the dearness relief. Their pay will be re-fixed w.e.f. 1.1.2006 with reference to consolidated pension becoming admissible to them. Dearness relief beyond 1.1.2006 will, however, not be admissible to them during the period of employment/re-employment.

7. The cases of Central Government employees who have been permanently absorbed in public sector undertakings/autonomous bodies will be regulated as follows:-

(a) PENSION

Where the Government servants on permanent absorption in public sector undertakings/autonomous bodies continue to draw pension separately from the Government, the pension of such absorbtees will be updated in terms of these orders. In cases where the Government servants have drawn one time lump sum terminal benefits equal to 100% of their pensions and have become entitled to the restoration of one-third commuted portion of pension as per Supreme Court judgement dated 15.12.1995, their cases will not be covered by these orders.

(b) FAMILY PENSION

In cases where, on permanent absorption in public sector undertakings/autonomous bodies, the terms of absorption permit grant of family pension under the CCS (Pension) Rules, 1972 or the corresponding rules applicable to Railway employees/members of All India Services, the family pension being drawn by family pensioners will be updated in accordance with these orders.

8. All Pension Disbursing Authorities including Public Sector Banks handling disbursement of pension to the Central Government pensioners are hereby authorised to pay pension/family pension to existing pensioners/family pensioners at the consolidated rates in terms of para 4.1 above without any further authorisation from the concerned Accounts Officers/Head of Office etc. A table indicating the existing basic pension/family pension without Dearness Pension, the basic pension/family pension with dearness pension and the revised consolidated pension/family pension is enclosed for ready reference. **(Annexure I)**. This table may be used where the pensioner is in receipt of a single pension only. Where a pensioner is in receipt of more than one pension, consolidation may be done separately in terms of paragraph 4.1 and as indicated in paragraph 5 floor ceiling of Rs. 3500/- may be applied to total pension from all sources taken together. Wherever the age of pensioner/family pensioner is available on the pension payment order, the additional pension/ family pension in terms of para 4.5. above may also be paid by the pension disbursing authorities immediately without any further authorisation from the concerned Account Officer/ Head of Office, etc. A suitable entry regarding the revised consolidated pension shall be recorded by the pension Disbursing Authorities in both halves of the Pension Payment Order. An intimation regarding disbursement of revised pension may be sent by the pension disbursing authorities to the Office of CPAO and Accounts Officer which had issued the PPO in the form given at **Annexure-II** so that the latter can update the Pension payment Order Register maintained by him. An acknowledgement shall be obtained by the Pension Disbursing Authorities from Office of CPAO and the respective Accounts Officers in this behalf.
- 9 The consolidated pension/family pension as worked out in accordance with provisions of Para 4.1. above shall be treated as final 'Basic Pension' with effect from 1.1.2006 and shall qualify for grant of Dearness Relief sanctioned thereafter.

10. 40% of the arrears of pension will be paid in the year 2008-09 and the remaining 60% in the year 2009-10.
11. It shall be the responsibility of the Head of the Department of the Ministry, Department, Office, etc. from which the government servant had retired or where he was working prior to his demise to revise the pension/family pension of all pensioners/ family pensioners with effect from 1st January 2006 in accordance with the provisions mentioned in para 4.1 and 4.2 above and to issue revised Pension Payment Order (PPOs). Action to revise pension/ family pension in terms of these provisions shall be initiated suo moto by the concerned Heads of Departments. In the case of the Defence Civilian Employees, however, the procedure prescribed in this regard by the Ministry of Defence shall be followed. It is emphasised that the Pension Sanctioning Authority, in no case, will ask the pensioner/ family pensioner to surrender his/ her original Pension Payment Order (PPO) for issuing revised authority. In case, however, the age of pensioner/family pensioner is not available on the PPO/office records, the same shall be obtained from the pensioner/family pensioner and indicated in the revised PPO. The authenticity of the age declared by the pensioner/family pensioner shall be verified by the pension sanctioning authority. It may also be ensured that a copy of the revised PPO should be invariably endorsed to the pensioner/ family pensioner.
12. It is considered desirable that the benefit of these orders should reach the pensioners as expeditiously as possible. To achieve this objective it is desired that all Pension Disbursing Authorities should ensure that the revised pension and the first instalment of arrears due to the pensioners in terms of para 4.1. and para 4.5 above is paid to the pensioners or credited to their account by 30th September, 2008 or before positively. Instructions regarding release of second instalment of arrears will be issued later. Concerted efforts should be made by all the authorities concerned to ensure that the revised PPO's are issued, wherever necessary, with the utmost expedition in terms of para 4.1, 4.2. and 4.5 above and arrears are paid in terms of para 10 above within two months from the date of issue of this O.M.
13. In their application to the persons belonging to Indian Audit and Accounts Department these orders issue in consultation with the Comptroller and Auditor General of India.
14. Ministry of Agriculture etc. are requested to bring the contents of these Orders to the notice of Controller of Accounts/Pay and Accounts Officers and Attached and subordinate Offices under them on a top priority basis. All pension disbursing offices are also advised to prominently display these orders on their notice boards for the benefit of pensioners.
15. Hindi version will follow.

Sd/-

(Rajni Razdan)

Secretary to the Government of India

To

All Ministries/ Departments of Government of India

Copy to: as per mailing list

True Typed Copy

F. No 38/37/08-P&PW(A)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Pension & Pensioners' Welfare
Lok Nayak Bhawan, New Delhi-110003

Dated, the 2nd September, 2008

OFFICE MEMORANDUM

Sub: **Implementation of Government's decision on the recommendation of the Sixth Central Pay Commission - Revision of provisions regulating pension/gratuity/commutation of pension/family pension/disability pension/ex-gratia lump-sum compensation.**

1. The undersigned is directed to state that in pursuance of Government's decision on the recommendation of the Sixth Central Pay Commission, the President is pleased to introduce the following modifications in the rules regulating pension, Retirement/Death/Service Gratuity/Family Pension/disability pension and ex-gratia lump-sum compensation under the CCS (Pension) Rules, 1972 (hereafter referred to as Pension Rules) and Commutation of Pension under CCS (Commutation of Pension) Rules, 1981, CCS (Extraordinary Pension) Rules, 1939, etc.
2. These orders apply to Central Government Employees governed by the CCS (Pension) Rules, 1972. Separate orders will be issued by the Ministry of Defence, Ministry of Railways and the AIS Division of the DOPT in respect of Armed Forces personnel, Railway employees and the officers of All India services respectively on the basis of these orders.

DATE OF EFFECT

- 3.1 Save as otherwise mentioned in these orders, the revised provisions as per these orders shall apply to Government servants who retire/die in harness on or after 1.1.2006. Separate orders have been issued in respect of employees who retired/died before 1.1.2006.
- 3.2 Where pension/family pension/Gratuity/Commutation of pension, etc has already been sanctioned in cases occurring on or after 1.1.2006, the same shall be revised in terms of these orders. In cases where pension has been finally sanctioned on the pre-revised orders and if it happens to be more beneficial than the pension becoming due under these orders, the pension already sanctioned shall not be revised to the disadvantage of the pensioner in view of Rule 70 of the CCS (Pension) Rules, 1972.

EMOLUMENTS

- 4.1 The term 'Emoluments' for purposes of calculating various pensionary benefits other than various kinds of Gratuity shall have the same meaning as in Rule 33 of the Central Civil Services (Pension) Rules, 1972.
- 4.2 Basic pay in the revised pay structure means the pay drawn in the prescribed pay band plus the applicable grade pay but does not include any other type of pay like special pay, etc.
- 4.3 In the case of all kinds of Gratuity DA admissible on the date of retirement/death shall continue to be treated as emoluments along with the emoluments as defined in Paragraph 4.1 above.

PENSION

- 5.1 A Government servant retiring in accordance with the provisions of the CCS(Pension) Rules, 1972 before completing qualifying service of ten years shall not be entitled to pension but he shall continue to be entitled to service gratuity in terms of Rule 49(1) of the CCS(Pension) Rules, 1972.
- 5.2 Linkage Of full pension with 33 years of qualifying service shall be dispensed with. Once a Government servant has rendered the minimum qualifying service of twenty years, pension shall be paid at 50% of the emolument or average emoluments received during the last 10 months, whichever is more beneficial to him.
- 5.3 In cases where Government servant becomes entitled to pension on completion of 10 years of qualifying service in accordance with Rule 49(2) of the CCS (Pension) Rules, 1972, pension in those cases shall also be paid at 50% of the emoluments or average emoluments, whichever is more beneficial to the Government servant.
- 5.4 The revised provisions for calculation of pension in para 5.2 and para 5.3 above shall come into force with effect from the date of issue of this O.M. and shall be applicable to Government servants retiring on or after that date. The government servants who have retired on or after 1.1.2006 but before the date of issue of this O.M. will continue to be governed by the Rules/ orders which were in force immediately before coming into effect of these orders.
- 5.5 The amount of pension shall be subject to a minimum of Rs.3500/- and maximum upto 50% of highest pay in the Government (The highest pay in the Govt. is Rs. 90,000 since 1.1.2006).
- 5.6 The provisions of clauses (a) to (c) of sub-rule (2) of Rule 49 of the Pension Rules shall stand modified to the extent mentioned in para 5.1 to para 5.5 above. The other provisions contained in Rule 49 shall continue to apply.
- 5.7 The quantum of pension available to the old pensioners shall be increased as follows:-

Age of Pensioner	Additional quantum of pension
From 80 years to less than 85 years	20% of basic pension

From 85 years to less than 90 years	30% of basic pension
From 90 years to less than 95 years	40% of basic pension
From 95 years to less than 100 years	50% of basic pension
100 years or more	100% of basic pension

The Pension Sanctioning Authorities should ensure that the date of birth and the age of a pensioner is invariably indicated in the pension payment order to facilitate payment of additional pension by the Pension Disbursing Authority as soon as it becomes due. The amount of additional pension will be shown distinctly in the pension payment order. For example, in case where a pensioner is more than 80 years of age and his pension is Rs.10,000 pm, the pension will be shown as (i) Basic pension=Rs.10,000 and (ii) Additional pension = Rs.2,000 pm. The pension on his attaining the age of 85 years will be shown as (i).Basic Pension = Rs.10,000 and (ii) additional pension= Rs.3,000 pm.

GRATUITY

- 6.1 The maximum limit of all kinds of gratuity shall be Rs. 10 lakh. Accordingly, first proviso under Rule 50(1)(b) of Pension Rules shall stand modified to the effect that the amount of retirement gratuity or death gratuity payable under this Rule shall in no case exceed Rs. 10 lakh.

ADDITION TO QUALIFYING SERVICE

- 7.1 In view of revised provisions for computation of pension in para 5 above, the extant benefit of adding years of qualifying service for the purpose of computation of pension shall stand withdrawn with effect from the date of issue of this O.M. Rules 29, 29-A, 30, 48-B and 48-C of the CCS(Pension) Rules, 1972 shall stand modified to this extent.

FAMILY PENSION 1964

- 8.1 Family pension shall be calculated at a uniform rate of 30% of basic pay in all cases and shall be subject to a minimum of Rs.3500/-p.m. and maximum of 30% of the highest pay in the Government. (The highest pay in the Govt. is Rs.90,000 since 1.1.2006). Rule 54(2) relating to Family Pension, 1964 under Pension Rules shall stand modified to this extent.
- 8.2 The enhanced family pension under Rule 54(3)(a)(i) shall be payable to the family of a Government servant who dies in service from the date of death of the Government servant for a period of ten years, without any upper age limit. Rule 54(3)(a)(i) shall stand modified to this extent. There will be no change in the period for payment of enhanced family pension to the family in the case of death of a pensioner.
- 8.3 The quantum of family pension available to the old family pensioners shall be increased as follows:-

Age of family pensioner	
--------------------------------	--

	Additional quantum of family pension
From 80 years to less than 85 years	20% of basic family pension
From 85 years to less than 90 years	30% of basic family pension
From 90 years to less than 95 years	40% of basic family pension
From 95 years to less than 100 years	50% of basic family pension
100 years or more	100% of basic family pension

The Pension Sanctioning Authorities should ensure that the date of birth and the age of a family pensioner is invariably indicated in the Form 3 (regarding details of family) and the pension payment order to facilitate payment of additional family pension by the pension disbursing authority as soon as it becomes due. The amount of additional family pension will be shown distinctly in the pension payment order. For example, in case where a family pensioner is more than 80 years of age and his/her family pension Rs.10,000 pm, the pension will be shown as (i).Basic family pension=Rs.10,000 and (ii) Additional family pension = Rs.2,000 pm. The family pension on his/her attaining the age of 85 years will be shown as (i).Basic family Pension = Rs.10,000 and (ii) additional pension = Rs.3,000 pm.

8.4 For the purpose grant of Family Pension, the 'Family' shall be categorised as under:

Category-I

- (a) Widow or widower, upto the date of death or re-marriage, whichever is earlier;
- (b) Son/daughter(including widowed daughter), upto the date of his/her marriage/re-marriage or till the date he/she starts earning or till the age of 25 years, whichever is the earliest

Category-II

- (c) Unmarried/Widowed/Divorced daughter, not covered by Category I above, upto the date of marriage/re-marriage or till the date she starts earning or upto the date of death, whichever is earliest
- (d) Parents who were wholly dependent on the Government servant when he/she was alive provided the deceased employee had left behind neither a widow nor a child. Family pension to dependent parents unmarried/divorced/widowed daughter will continue till the date of death.

Family pension to Unmarried/ widowed/ divorced daughters in Category II and dependent parents shall be payable only after the other eligible family members in Category I have ceased to be eligible to receive family pension and there is no disabled child to receive the

family pension. Grant of family pension to children in respective categories shall be payable in order of their date of birth and younger of them will not be eligible for family pension unless the next above him/her has become ineligible for grant of family pension in that category.

- 8.5 The dependency criteria for the purpose of family pension shall be the minimum family pension along with dearness relief thereon.
- 8.6 The childless widow of a deceased Government employee shall continue to be paid family pension even after her remarriage subject to the condition that the family pension shall cease once her independent income from all other sources becomes equal to or higher than the minimum prescribed family pension in the Central Government. The family pensioner in such cases would be required to give a declaration regarding her income from other sources to the pension disbursing authority every six months.

COMMUTATION OF PENSION

- 9.1 A Government servant shall continue to be entitled to commute for a lumpsum payment up to 40% of his pension.
- 9.2 The existing Table of Commutation Value for Pension Annexed to the CCS (Commutation of Pension) Rules, 1981 shall be substituted by a new Table at Annex. I of this O.M.
- 9.3 The revised Table of Commutation Value for Pension will be used for all commutations of pension which become absolute after the date of issue of this O.M. In the case of those pensioners, in whose case commutation of pension became absolute on or after 1.1.2006 but before the issue of this OM, the pre-revised Table of Commutation Value for Pension will be used for payment of commutation of pension based on pre-revised pay/pension. Such pensioners shall have an option to commute the amount of pension that has become additionally commutable on account of retrospective revision of pay/pension on implementation of the recommendations of the Sixth Central Pay Commission. On exercising such an option by the pensioner, the revised Table of Commutation Value for Pension will be used for the commutation of the additional amount of pension that has become commutable on account of retrospective revision of pay/pension. In all cases where the date of retirement/commutation of pension is on or after the date of issue of this OM, the revised Table of Commutation Value for Pension will be used for commutation of entire pension.
- 9.4 Provisions of CCS (Commutation of Pension) Rules, 1981 shall stand modified in accordance with para 9.2 and 9.3 above.

CONSTANT ATTENDANT ALLOWANCE

- 10.1 In the case of pensioners who retired on disability pension under the CCS (Extraordinary) Pension Rules, 1939, for 100% disability (where the individual is completely dependent on somebody else for day to day functions), a Constant Attendant Allowance of Rs. 3000/- p.m. shall be allowed in addition to the disability pension, on the lines existing in Defence Forces. The CCS (Extraordinary) Pension Rules, 1939 shall stand modified to this extent.

EX GRATIA LUMP SUM COMPENSATION

11. In terms of Department of Pension & PW O.M.No.45/55/97-P&PW(C) dated 11.9.1998, an ex gratia lump sum compensation is available to the families of Central Government Civilian employees, who die in the performance of their bona fide official duties under various circumstances. The amount of this ex-gratia lump sum compensation shall be revised as under:

(a) Death occurring due to accidents in the course of performance of duties	Rs. 10.00 lakh
(b) Death occurring in the course of performance of duties attributable to acts of violence by terrorists, anti-social elements, etc.	Rs. 10.00 lakh
(c) Death occurring (a) enemy action in international war or border skirmishes and (b) action against militants, terrorists, extremists etc.	Rs. 15.00 lakh
(d) Death occurring while on duty in the specified high altitude, inaccessible border posts, etc on account of natural disasters, extreme weather conditions.	Rs. 15.00 lakh

The Department of Pension & PW O.M.No.45/55/97-P&PW(C) dated 11.9.1998 shall stand modified to this extent.

12. For the purpose of computing average emoluments in the case of Government servants who have opted for fixation of pay in the revised Pay Structure and retire within 10 months from the date of coming over to the revised Pay Structure, basic pay for 10 months period preceding retirement shall be calculated by taking into account pay as follows:
- For the period during which pay is drawn in revised Pay Structure- Pay drawn in the prescribed pay band plus the applicable grade pay
 - For the remaining period during which pay is drawn in pre-revised scale of pay-Basic pay plus dearness pay and actual D.A. appropriate to the basic pay at the rates in force on 1.1.2006 drawn during the relevant period.

SPECIAL PROVISION FOR THOSE WHO RETAIN THE PRE-REVISED SCALE OF PAY.

13. The pension and death-cum-retirement gratuity of those, who have elected to continue to draw pay in the pre-revised scale of pay in terms of Rule 5 of the Central Civil Services (Revised Pay) Rules, 2008 and have retired or will be retiring after 01.01.2006, shall be regulated as follows:

- (i) The term 'Emoluments' will mean 'Pay' as defined in FR 9(21)(a)(i) and will include Dearness pay and DA upto average AICPI 536 (Base year 1982=100).
 - (ii) Pension will be calculated at 50% of emoluments or average emoluments whichever is more beneficial to the employee.
 - (iii) Death-cum-retirement gratuity shall be admissible with reference to emoluments at (i) above plus dearness allowance, under the order in force immediately before coming into effect of these orders. The maximum amount of gratuity shall not exceed Rs. 3,50,000/- in terms of Department of Pension and Pensioners Welfare Office Memorandum No. 45/86/97-P&PW(A) (Part-I) dated 27.10.1997.
 - (iv) Commutation of pension shall be admissible in accordance with the orders in force immediately before coming into effect of these orders.
 - (v) Family pension shall be allowed in accordance with orders applicable prior to the issue of these orders and shall be calculated with reference to basic pay in the pre-revised scale. To the family pension so calculated dearness relief upto average AICPI 536 (Base year 1982=100) at the rate contained in this Department's Office Memorandum No. 42/2/2006-P&PW(G) dated 5.4.2006 shall be added. The amount so arrived at will be regarded as the family pension for regulating payment of dearness relief beyond average AICPI 536.
14. Formal amendments to CCS (Pension) Rules, 1972, CCS (Extraordinary) Pension Rules, 1939 and CCS (Commutation of Pension) Rules, 1981 in terms of the decisions contained in this order will issue in due course. Provisions of the CCS (Pension) Rules 1972, CCS (Extraordinary) Pension Rules, 1939, and CCS(Commutation of Pension) Rules, 1981 which are not specifically modified by these orders, will remain unaffected.
 15. The pension/family pension in terms of these orders will qualify for dearness relief beyond average AICPI 536 under the revised pattern being introduced on the recommendations of the Sixth Central Pay Commission.
 16. These orders issue with approval of the Ministry of finance Department of Expenditure vide their U.O. No.4871/SE/2008 dated 2.9.2008.
 17. In their application to the employees of the Indian Audit and Accounts Department, these orders issue in consultation with Comptroller and Auditor General of India.
 18. Ministry of Agriculture etc. are requested to bring the contents of these orders to the notice of Controller of Accounts/Pay and Accounts Officers and Attached and Subordinate Offices under them on a top priority basis.
 19. Hindi version will follow.

Sd/-

(Rajni Razdan)

Secretary to the Government of India

To

All Ministries/ Departments of Government of India
As per mailing list

True Typed Copy

No.2 (10)/08-DPE (WC)

Government of India

Ministry of Heavy Industries & Public Enterprises

Department of Public Enterprises

Public Enterprises Bhawan

Block No.14, CGO Complex, Lodi Road

New Delhi, the 26th November, 2008.

OFFICE MEMORANDUM

Sub: **Board level and below Board level executives and Non Unionised Supervisors in Central Public Sector Enterprises (CPSEs) - revision of scales of pay w.e.f. 01.01.2007.**

The last revision of the scale of pay of below Board level and Board level executives and non-unionised supervisors, in Central Public Sector Enterprises was made effective from 1.1.1997 for a period of ten years. As the next pay revision fell due from 1.1.2007, the Government had set up a Pay Revision Committee (2nd PRC) under the chairmanship of Justice M. Jagannadha Rao, Retd. Judge of Supreme Court of India, to recommend revision of pay and allowances for above categories of employees following IDA pattern of pay scales. The Government after due consideration of the recommendations of 2nd Pay Revision Committee, have decided as follows:-

1. **Revised Pay Scales:-** The revised Pay scales for Board and below Board level executives would be as indicated in Annex.-I.
- 2 **Fitment Benefit:**
 - (i) A uniform fitment benefit @ 30%, on basic pay plus DA @ 68.8% as on 01.01.2007 would be provided to all executives. The aggregate amount would be rounded off to the next ten rupees and pay fixed in the revised pay scale.
 - (ii) If any extra ordinary increment (s) and /or increase in the pay in respect of executives/ non unionized supervisors have been granted with retrospective effect, which affects the revision of pay as on 1.1.2007, such increment and/ or increase in pay will be ignored for the purpose of fitment/ pay revision.
 - (iii) Where executives drawing pay at two or more consecutive stages in an existing scale get bunched, then, for every two stages so bunched, benefit of [ILLEGIBLE]
- 3 Affordability for implementation of pay revision: - The revised pay scales would be adopted, subject to the condition that the additional outgo by such revision for a period of 12 months should not result in more than 20% dip in profit before tax (PBT) for the year 2007-08 of a CPSE in respect of executives as well as non-unionised supervisory staff taken together in a CPSE. CPSEs that cannot afford to pay full package, can implement with either part PRP or no PRP. These CPSEs must pay the full package subsequently, provided the dip in the profit (PBT) is fully recouped to the original level.
4. The CPSEs, which are not able to adopt revised pay scales (2007), may give an increase on the basic pay plus DA drawn in the pre-revised scale as on 01.01.2007, with a uniform lower fitment of 10% or 20%, depending upon their affordability, with the approval of their Ministry/ Department.

5. **Increment:** Annual increment will be at the rate of 3% of the revised basic pay. Stagnation increment and increment for pay fixation on promotion will be as per Annex.-II (A).
6. **Dearness Allowance:** 100% DA neutralization will be adopted for all the executives and non-unionised supervisors, who are on IDA pattern of scales of pay, w.e.f. 01.01.2007. Thus, DA as on 01.01.2007 will become zero with link point of All India Consumer Price Index (AICPI) 2001=100, which is 126.33 as on 01.01.2007. The periodicity of adjustment will be once in three months, as per the existing practice for these categories. The quarterly DA payable from 01.01.2007 will be as per new DA scheme as given in Annex.-II (B).
7. **House Rent Allowance:** The House Rent Allowance to the employees of CPSEs will be at the following rates.

Cities with population	Rates of HRA
50 lakhs and above	30% of Basic Pay
5 to 50 lakh	20% of Basic Pay
Less than 5 lakh	10% of Basic Pay

8. **Leased Accommodation:** The Board of Directors may decide the level of executives, who will be provided company leased accommodation and the size, type and locality of such accommodation. For purposes of CTC, 30% of basic pay may be considered as expenditure on Housing.
9. **City Compensatory Allowance:** The City Compensatory Allowance stands dispensed with.
10. **Other Allowances/ Perks:** The Board of Directors will decide on the allowances and perks admissible to the different categories of the executives subject to a maximum ceiling of 50% of the Basic Pay. Instead of having a fixed set of allowances, the CPSEs may follow "Cafeteria Approach" allowing the executives to choose from a set of perks and allowances. In places, where CPSEs have [ILLEGIBLE]
- iii) Special Allowance upto 10% of Basic Pay for serving in the difficult and far flung areas as approved by concerned Ministries in consultation with the Department of Public Enterprises from time to time.
- iv) Non Practicing Allowance limited to 25% of Basic Pay for Medical Officers.
11. The admissibility, quantum and procedure for determination of Variable Pay/Performance Related Pay has been given in Annex.-III.
12. Long Term Incentives, introduction of cost to the company (CTC) concept in CPSEs, Pay of Executives on deputation / transfer to CPSEs, Pay of Government officers on deputation to CPSEs and Superannuation Benefits will be as per Annex.-IV.
13. **Gratuity:** The ceiling of gratuity of the executives and non-unionised supervisors of the CPSEs would be raised to Rs. 10 lakhs with effect from 1.1.2007.

14. **Company Car:** The company car would be provided to the Directors and CMDs. The Executive Directors/ General Managers heading the projects of CPSEs may also be provided with the company car. For purposes of CTC, the expenditure on car provided should be excluded.
15. **Pay Revision in respect of non-unionised supervisory staff:** The revision of scales of pay for non-unionised supervisory staff may be decided by the respective Board of Directors of the CPSEs.
16. **Financial Implications:** The CPSE concerned has to bear the additional financial implications on account of pay revision from their own resources and no budgetary support will be provided.
17. **Issue of Presidential Directive, effective date of implementation and payment of allowances etc.:** The revised pay scales would be implemented by issue of Presidential Directive in respect of each CPSE separately by the concerned Administrative Ministry/ Department. The revised pay scales will be effective from 1.1.2007. The payment of HRA, perks and allowances based on the revised scales will, however, be from the date of issue of Presidential Directive. The Board of Directors of each CPSE would be required to consider the proposal of pay revision [ILLEGIBLE]

anomaly should be forwarded with the approval of Board of Directors to the administrative Ministry/ Department, who will examine the same and dispose off the issue. However, if it is not possible for the Administrative Ministry to sort out the issue, the matter may be referred to DPE, with their views, for consideration of the Anomalies Committee.

Sd/-

(K.D. Tripathi)

Joint Secretary to the Government of India

Administrative Ministries/ Departments (Secretary by name) of the Government of India.

1. Copy to:

Chief Executives of CPSEs.

2. Copy also to:

- i) Financial Advisors in the Administrative Ministry/Department.
- ii) C & AG of India, 10, Bahadur Shah Zafar Marg, New Delhi.
- iii) Department of Expenditure, E-2 Branch, North Block, New Delhi.
- iv) Department of Personnel & Training, North Block, New Delhi.
- v) Chairman, PESB/Member(s), PESB/Secretary, PESB, CGO Complex, New Delhi.

3. Copy also to:

Prime Minister Office, (Shri Kamal Dayani, Director)

4. Copy also to:

- i) Cabinet Secretariat (Shri C.S. Kedar, Joint Secretary)
- ii) Cabinet Secretariat (Shri K. L. Sharma, Director)

5. Copy also to:

- i) PS to Minister (HI&PE).
- ii) PS to MoS (HI&PE).

**REVISED SCALES OF PAY OF BOARD AND BELOW BOARD LEVEL EXECUTIVES IN
CPSEs**

1	2	3
Grade	Existing	Revised
E0	6550-200-11350	12,600-32,500
E1	8600-250-14600	16,400-40,500
E2	10750-300-16750	20,600-46,500
E3	13000-350-18250	24,900-50,500
E4	14500-350-18700	29,100-54,500
E5	16000-400-20800	32,900-58,000
E6	17500-400-22300	36,600-62,000
E7	18500-450-23900	43,200-66,000
E8*	20500-500-26500	51,300-73,000
E9*	23750-600-28550	62,000-80,000

Grade	Existing	Revised
Director (D)	18500-450-23900	43200-66,000
CMD (D)	20500-500-25000	51300-73,000
Director (C)	20500-500-25000	51300-73,000
CMD (C)	22500-600-27300	65,000-75,000
Director (B)	22500-600-27300	65,000-75,000
CMD (B)	25750-650-30950	75,000-90,000
Director (A)	25750-650-30950	75,000-1,00,000
CMD (A)	27750-750-31500	80,000-1,25,000

Annex II(A)(Para 5)

- i) **Stagnation Increment:** The rate of stagnation increment will be 3% of the revised basic pay and executives will be allowed to draw maximum three stagnation increments, one after every two years, upon reaching the maximum of the revised pay scale provided the executive gets a performance rating of "Good" or above.
- ii) **Pay Fixation on Promotion:** One notional increment equal to the increment being drawn by the executive in the pay scale, before such promotion would be granted and pay fixed in the promoted pay scale and rounded off to the next multiple of Rs. 10.

Annex II(B)(Para 6)**Rates of Dearness Allowance for the employees of CPSEs following IDA pattern**

Date of Dearness Allowance	Rate of Dearness Allowance (in percentage)
01.01.2007	0
01.04.2007	0.8
01.07.2007	1.3
01.10.2007	4.2
01.01.2008	5.8
01.04.2008	6.3
01.07.2008	9.2
01.10.2008	12.9

i) **Variable Pay/Performance Related Pay:**

The PRP has been directly linked to the profits of the CPSEs/units, and performance of the executives. The percentage ceiling of PRP progressively increasing from junior level to senior level executives, expressed as percentage of pay are indicated below.

Grade	Percentage of Basic Pay
E-0 to E-1	40
E-2 to E-3	40
E-4 to E-5	50
E-6 to E-7	60
E-8 to E-9	70
Director (C&D)	100
Director (A & B)	150
CMD (C&D)	150
CMD (A & B)	200
For Non Unionised Supervisors, PRP as percentage of Basic Pay will be decided by the respective Board of Directors in a CPSE.	

The above PRP will, however, be on the following conditions:

- a) The PRP would be payable at 100% eligibility levels in case the CPSE achieves the Memorandum of Understanding (MoU) rating as "Excellent". If the CPSE's MoU is rated as "Very Good", the eligibility of PRP would be 80% of the Basic Pay. In respect of "Good" and "Fair" ratings, the eligibility levels would be 60% and 40% respectively. However, there will be no PRP irrespective of the profitability of the CPSE, in case it is rated as "Poor".

year 2007-08 as it will be the first year of introduction of PRP scheme. The amount available for PRP for above will be 3% of PBT of 2007-08. For the purpose of calculating the incremental profit, the starting year would be 2007-08. The Variable Pay component coming from incremental profit for the first time will be after knowing the results of CPSE's performance for the year 2008-09. Thus, this portion of PRP will be payable w.e.f. 2009-10.

- ii) **Memorandum of Understanding (MoU):** Each CPSE would be required to sign the MoU with its parent Ministry/ Department/holding company. The MoU rating will form the basis of PRP with all the Key Result Areas identified in the MoU. No PRP will be eligible for the CPSEs that do not enter into MoU.

- iii) **Performance Management System (PMS):** Each CPSE would develop a robust and transparent Performance Management System. CPSEs would adopt "Bell Curve Approach" in grading the officers so that not more than 10% to 15% executives are "Outstanding/Excellent". Similarly, 10% of executives should be graded as "Below Par". Some CPSEs already have a PMS and others will have to frame a robust and transparent PMS to be able to pay PRP. However, CPSEs which do not have a robust and transparent PMS till date may put in place a robust and transparent PMS by 31.03.2009. For the period 01.01.2007 and till a PMS is in place not later than 31.03.2009, the executives will be governed by the existing guidelines of DPE on PRP, which is limited to 5% of distributable profit in an enterprise.
- iv) **Remuneration Committee:** Each CPSE would have Professional Boards with Independent Directors. CPSE to constitute a Remuneration Committee headed by an Independent Director. CPSE will not be eligible for PRP unless the Independent Directors are on its Boards. Remuneration Committee will decide the annual bonus/variable pay pool and policy for its distribution across the executives and Non Unionised Supervisors, within the prescribed limits.

i) **Long Term Incentives:**

All CPSEs would formulate Employees Stock Option Plan (ESOP) and 10% to 25% of the PRP should be paid as ESOPs. In order to see that Enterprises are able to operate ESOPs scheme, the concerned Administrative Ministry/Department should encourage the CPSEs coming under its control to get them listed on the Stock Exchanges.

ii) **The concept of cost to company (CTC) in CPSEs:**

The concept of cost of Company would be introduced in all the CPSEs. The entire cost of an executive is explicitly made known by the CPSEs adopting the system of CTC for the purpose of reporting executive compensation. Pay, allowances, perquisites and retirement benefits should all be monetized and included while reporting the cost of manpower to the CPSE.

iii) **Pay etc. of Executives of CPSEs, on deputation / transfer:** The executives, who are brought into holding companies from subsidiary companies or vice-versa on deputation/transfer, will continue to draw their basic pay as drawn in the original company. They will, however, be entitled to draw the allowances and variable pay /performance related pay as applicable to the borrowing CPSE.

iv) **Pay etc. of Government officers on deputation to CPSEs:** The government officers, who are on deputation to the CPSE, will continue to draw the salary as per their entitlement in the parent Department. Only those, who come on permanent absorption basis, will get the CPSE scales, perks and benefits.

v) **Superannuation Benefits:** CPSEs would be allowed 30% of Basic Pay as Superannuation benefits, which may include Contributory Provident Fund (CPF), Gratuity, Pension and Post-Superannuation Medical Benefits. The CPSEs should make their own schemes to manage these funds or operate through Insurance companies on fixed contribution basis. The amount of Pension, Gratuity and Post-Retirement Benefit will be decided based on the returns from the schemes to be operated. The Pension and Medical benefits can be extended to those executives, who superannuate from the CPSE and have put in a minimum of 15 years of service in the CPSE, prior to superannuation.

No. 4/19/2009 – P&PW(D)

Department of Pension & Pensioners' Welfare

27.4.2009

Subject : Regarding clarification about the applicability of revised rules with effect from 01.01.2006 with reference to 6th CPC on enhanced amount of DCRG, calculation of emoluments for pension / family pension, Commutation of pension and qualifying service ~~verifying~~ to ex-DOT employees absorbed in ~~to~~ BSNL, whose pensionary benefits are regulated under Rule 37-A of CCS (Pension) Rules, 1972.

The Department of Telecom is requested to refer to their ID No. 40-31/2008-Pen (T) dated 18.3.09 for clarification on applicability of DoP&PW O.M. dated 2.9.2008. The Department of Telecom has submitted as under :

Consequent upon the implementation of the Government decision on the recommendation of 6th Central Pay Commission and as per Department of Pension and Employees Welfare O.M. dated 01.09.2008 (read 2.9.2008), rule regarding limit of DCRG, Calculation of emoluments for pension/ family pension. Commutation of pension and qualifying service etc. have changes with effect from 01.01.2006.

In this connection, it is submitted that the Explanation given under Sub-Rule (8) of Rule 37-A of CCS (Pension) Rules, 1972 says that the amount of pension/family pension of the absorbed employees on superannuation from PSU/AB shall be calculated in the same way as would be the case with a Central Government servant retiring on superannuation, on the same date. It is worthwhile to add that BSNL is the only PSU that has been granted a special dispensation under sub-rule (21) of Rule 37-A of CCS (Pension) Rules, 1972 to the effect that the pensionary benefits including family pension to the absorbed employees of BSNL is paid by the Government. This Department is of the view that the change as per DoP&PW's OM dated 02.09.2008 as mentioned in para 2 above are also applicable to IDA pensioners of BSNL.

2. The en-mass transferred absorbees opting for pension for combined service in Govt. and PSU/CAB are entitled for pension in terms of Rule 37A(8) "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 ~~for~~ the PSU/CAB". The formula applicable to Central Govt. pensioners has been changed vide DoP&PW O.M. dated 2.9.2008 and therefore, the changed formula provided in O.M. dated 2.9.2008 is applicable to such absorbees also. The DoP&PW OM dated 1.9.2008 referred to in Deptt. Of Telecommunication reference has no relevance as this ~~the~~ OM contains instructions for revision of pension of pre 2006 central Government pensioners only

Sd/-
(Amitabh Twivedi)
Under Secretary

Dept. of Telecommunication (Kind Attn. Sh.R.S.RAWAT, US (STP))
Sanchar Bhawan, Ashoka Road, New Delhi

True Typed Copy

Government of India
Ministry of Communications & IT
Department of Telecommunications
Sanchar Bhavan, Ashok Road, New Delhi

No. 40-31/2008-Pen(T)

Date : 4th May, 2009

To :

- i) All Principle CCAs/CCAs
- ii) CMD, BSNL

Subject :Applicability of revised rules of pension calculation as per 6th CPC with regard to limit of DCRG, commutation table, emoluments, qualifying service, etc. to IDA pensioners to BSNL

The undersigned is directed to intimate that the revised rules for pension calculation as per 6th CPC with regard to limit of DCRG, commutation table, emoluments, qualifying service, etc .is applicable to IDA pensioners of BSNL covered under rule 37-A, w.e.f. 01.01.2006.

This issues with the concurrence of Member (Finance), DOT.

Sd/-
(B.K.Singh)
Director (Estt.)

Copy :

- (i) DDG (Accounts), DOT
- (ii) DDG (FEB), DOT

True Typed Copy

F. No. 40-17/2008-Pen(T)-Vol.III
Government of India
Ministry of Communications & Information Technology
Department of Telecommunications
Sanchar Bhawan, 20, Ashoka Road, New Delhi-110001

Dated the 15th March, 2011

OFFICE MEMORANDUM

Sub: Revision of pension of pre-2007 pensioners/ family pensioners of BSNL

1. The employees of erstwhile Department of Telecom (DoT) who were absorbed in BSNL with effect from 1.10.2000 in accordance with Rule 37-A of CCS (Pension) Rules 1972 and have since retired are being paid pension by the Government in accordance with sub-rule 21 of the said rule.
2. The matter regarding revision of Pension in respect of BSNL IDA Pensioners, who retired during the period from 1.10.2000 to 31.12.2006, pursuant to wage revision in BSNL with effect from 1.1.2007 had been under consideration of the Government of India.
3. The undersigned is directed to convey the decision of Government of India to regulate the pension/ family pension of all the BSNL absorbed pensioners/ family pensioners, who retired during the period 1.10.2000 to 31.12.2006, with effect from 1.1.2007, in the manner indicated in the succeeding paragraphs.
- 3.1. These orders shall apply to all pensioners/family pensioners who were drawing/ entitled to draw pension/ family pension on 1.1.2007 under the provisions of sub-rule 21 of Rule 37-A of Central Civil Services (Pension) Rules, 1972, based upon the combined services rendered in Government and in BSNL.
- 3.2. In these orders:
 - a. Pre-2007 BSNL pensioner / family pensioner means a pensioner/ family pensioner, who, after retirement from BSNL during the period 1.10.2000 to 31.12.2006, was drawing/ entitled to draw pension based upon his combined service in Government and in BSNL, in accordance with sub-rule 21 of Rule 37-A of CCS(Pension) Rules 1972, as on 31.12.2006.
 - b. Existing pension means the basic pension inclusive of commuted portion, if any, as on 31.12.2006, covered under sub-rule 21 of Rule 37-A of the CCS (Pension) Rules, 1972.
 - c. Existing family pension means the basic family pension as on 31.12.2006 under sub-rule 21 of Rule 37-A of the CCS (Pension) Rules 1972.

4.1. The pension/ family pension of pre-2007 BSNL pensioners/ family pensioners will be consolidated with effect from 1.1.2007 by adding together:

- i. The existing pension/family pension, including commuted portion of pension, if any;
- ii. Dearness Relief upto AICPI (IW) average index 126.33 (Base year 2001=100) i.e. @ 68.8% of Basic Pension/ Basic family pension;
- iii. Fitment weightage @ 30% of the sum of existing pension/ family pension and Dearness Relief thereon.

The amount so arrived at will be regarded as consolidated pension/ family pension with effect from 1.1.2007.

4.2. The fixation of pension will be subject to the provision that the revised pension, in no case, shall be lower than fifty percent of the minimum of the pay in the pay scale corresponding to the pre-revised pay scale from which the BSNL pensioner had retired.

4.3. Since the consolidated pension will be inclusive of commuted portion of pension, if any, the commuted portion will be deducted from the said amount while making monthly disbursements.

4.4. The lower and upper ceiling on pension/ family pension shall be Rs. 3500/- and Rs. 45000/- respectively.

4.5. The quantum of pension/family pension available to the old pensioners/ family pensioners shall be increased as follows:

Age of Pensioner/family pensioner	Additional quantum of pension
From 80 years to less than 85 years	20% of revised basic pension/ family pension
From 85 years to less than 90 years	30% of revised basic pension/ family pension
From 90 years to less than 95 years	40% of revised basic pension/ family pension
From 95 years to less than 100 years	50% of revised basic pension/ family pension
100 years or more	100% of revised basic pension/ family pension

The amount of additional pension will be shown distinctly in the pension payment order. For example, in case where a pensioner is more than 80 years of age and his/ her consolidated pension in terms para 4.1 and 4.2 above is Rs.10,000 pm, the pension will be shown as (i) Basic pension=Rs.10,000 and (ii) Additional pension = Rs.2,000 pm. The pension on his/ her attaining the age of 85 years will be shown as (i) Basic Pension = Rs.10,000 and (ii) additional pension= Rs. 3,000 pm.

- 4.6. The consolidated pension/family pension arrived at as per paragraph 4.1 includes dearness relief of 68.8% of basic pension corresponding to average Index level upto 126.33 (Base year 2001=100) as on 1.1.07, as per orders issued quarterly by Department of Public Enterprises in respect of serving employees, whose pay scales were revised w.e.f. 1.1.1997. Therefore, dearness relief on the consolidated pension/ family pension will be admissible only beyond index average 126.33 (Base year 2001=100) in accordance with the scheme of dearness allowance which is admissible on pay to serving employees of BSNL, i.e. the quarterly IDA rates notified by Department of Public Enterprises. Sixteen such quarterly installments of Dearness Relief on IDA pension due w.e.f. 1.4.07 upto the date of issue of these orders will be paid on the basis of DPE OM issued from time to time in respect of serving employees of CPSEs whose scales were revised w.e.f 1.1.07. A table indicating dearness relief admissible w.e.f 1.4.2007 to 31.3.2011 is as under:

S. No.	IDA effective from	IDA Rates
1.	01-01-2007	0%
2.	01-04-2007	0.8%
3.	01-07-2007	1.3%
4.	01-10-2007	4.2%
5.	01-01-2008	5.8%
6.	01-04-2008	6.3%
7.	01-07-2008	9.2%
8.	01-10-2008	12.9%
9.	01-01-2009	16.6%
10.	01-04-2009	16.9%
11.	01-07-2009	18.5%
12.	01-10-2009	25.3%
13.	01-01-2010	30.9%
14.	01-04-2010	34.8%
15.	01-07-2010	35.1%
16.	01-10-2010	39.8%
17.	01-01-2011	43.0%

- 4.7. Where the consolidated pension/family pension in terms of paragraph 4 above works out to an amount less than Rs. 3500, the same shall be stepped upto Rs. 3500. This will be regarded as pension/ family pension with effect from 1.1.2007. In the case of pensioners who are in receipt of more than one pension, the floor ceiling of Rs. 3500/- will apply to the total of all pensions taken together.

- 4.8. Cases of BSNL pensioners who are in receipt of any other pension may be referred to this office for issue of orders separately.
5. The annual pension liability of Government in respect of employees retired from DoT prior to 1.10.2000 and those who are working in BSNL on deemed deputation basis or on absorption shall continue to remain within 60% of annual receipts to Government from (i) dividend income from MTNL/BSNL, (ii) License fee from MTNL/BSNL; and (iii) Corporate Tax/ Excise duty/ Service Tax paid by BSNL after this revision. In case it exceeds 60%, excess liability will be borne by BSNL.
6. All administrative offices of BSNL handling preparation of pension papers to the BSNL pensioners are hereby directed to initiate the process of consolidation of pension/ family pension to existing BSNL pensioners/ family pensioners at the consolidated rates in terms of para 4 above immediately, and forward the same to concerned CCA for authorization. A Table showing pre-revised and revised pay scales in BSNL is given in Annexure-I.
7. A suitable entry regarding the revised consolidated pension shall be recorded by the pension Disbursing Authorities in both halves of the Pension Payment Order. An intimation regarding disbursement of revised pension may be sent by the pension disbursing authorities to the Office of CCA which had issued the PPO in the form given at Annexure-II so that the later can update the Pension Payment Order Register maintained by him. An acknowledgement shall be obtained by the Pension Disbursing Authorities from Office of the respective CCAs in this behalf.
8. The consolidated pension/ family pension as worked out in accordance with provisions of Para 4 above shall be treated as final Basic Pension with effect from 1.1.2007 and shall qualify for grant of Dearness Relief on IDA pattern sanctioned thereafter.
10. It shall be the responsibility of the CCAs/ Heads of the Office, etc. from which the BSNL employee had retired or where he was working prior to his demise to revise the pension/ family pension of all BSNL pensioners/ family pensioners with effect from 1st January 2007 in accordance with the provisions mentioned in para 4.1 and 4.2 above and to issue revised Pension Payment Order (PPOs). Action to revise pension/ family pension in terms of these provisions shall be initiated suo-moto by the concerned Heads of Offices. It is emphasized that the Pension Sanctioning Authority, in no case, will ask the BSNL pensioner/ family pensioner to surrender his/ her original Pension Payment Order (PPO) for issuing revised authority. In case, however, the age of pensioner/family pensioner is not available on the PPO/ office records, the same shall be obtained from the pensioner/ family pensioner and indicated in the revised PPO. The authenticity of the age declared by the pensioner/ family pensioner shall be verified by the pension sanctioning authority. It may also be ensured that a copy of the revised PPO should be invariably endorsed to the pensioner/ family pensioner.

11. It is considered desirable that the benefit of these orders should reach the pensioners as expeditiously as possible. To achieve this objective it is desired that all Heads of offices should ensure that the calculation for revised pension due to the pensioners in terms of para 4.1 and para 4.5 above is forwarded to the concerned CCA by 30th April 2011 who in turn will issue the revised PPO within one month of receipt of cases completed in all respects positively. Payment of pension at revised rates should start from the month of July 2011 and payment of arrears should be completed by 30th September 2011. Concerted efforts should be made by all the authorities concerned to ensure that the revised PPO's are issued, wherever necessary, with the utmost expedition in terms of para 4.1, 4.2 and 4.5 above.

Sd/-

Dy. Director General (Establishment)

Ph:23710035

To,
Chairman and Managing Director
Bharat Sanchar Nigam Limited
New Delhi

Copy to:

1. The Cabinet Secretary [Attn:Shri K.L.Sharma, Director (Cabinet)]
2. Secretary, Department of Expenditure
3. Secretary, Department of Pension and Pensioners' Welfare
4. Secretary, Department of Legal Affairs
5. Secretary, Department of Public Enterprises
6. PS to Secretary (T)
7. PS to Members(S)/ (T)/ (F), Telecom Commission
8. DDG(TPF& NC), DoT, for issuing detailed circular to CCA offices for revision of pension/ family pension as per this order; and to match the liability of government for payment of pension limiting to 60% of receipts as envisaged in para 5 of this order.
9. DDG(FEB)/ Director(Finance)/, DoT

Pay Scales in BSNL

Pay Scale	Pre-revised	Revised	Min revised Pension
Non-Executive			
NE1	4000-120-5800	7760-13320	3880
NE2	4060-125-5935	7840-14700	3920
NE3	4100-125-5975	7900-14880	3950
NE4	4250-130-6200	8150-15340	4075
NE5	4550-140-6650	8700-16840	4350
NE6	4720-150-6970	9020-17430	4510
NE7	5700-160-8100	10900-20400	5450
NE8	6550-185-9325	12520-23440	6260
NE9	7100-200-10100	13600-25420	6800
NE10	7800-225-11175	14900-27850	7450
NE11	8570-245-12245	16370-30630	8185
Executive			
E1A	9850-250-14600	16400-40500	8200
E2A	11875-300-17275	20600-46500	10300
E3	13000-350-18250	24900-50500	12450
E4	14500-350-18700	29100-54500	14550
E5	16000-400-20800	32900-58000	16450
E6	17500-400-22300	36600-62000	18300
E7	18500-450-23900	43200-66000	21600
E9	23750-600-28550	62000-80000	31000
E9A	25000-650-30200	62000-80000	31000

ANNEXURE-II

Form of intimation by the Pension Disbursing Authority to the CCA and Concerned Communication Accounts Officer regarding consolidation of pension in terms of Department of Telecom. Office Memorandum No. 40-17/2008-Pen.(T)-Vol.III dated 15-03-2011.

1. Name of the IDA Pensioner/Family Pensioner:
2. PPO No.:
3. Date of Birth/age :
4. Date of retirement/Death (in case of family pension) :
5. Savings Bank Account No. :
6. Name of the Bank/Paying Branch :
7. Bank Code No. :
8. Computation of consolidated IDA pension/family pension:

Pension/*Family Pension/*Family Pension (at enhanced rate)

Pension		Family Pension/Enhanced Family Pension	
(A)	Existing basic pension (Inclusive of commuted portion)	(A)	Existing basic Family Pension/Enhanced family pension
(B)	Dearness Relief up to 68.8% of Basic Pension	(B)	Dearness Relief upto 68.8% of Basic Family Pension
(C)	30% of (A) + (B) above	(C)	30% of (A) + (B) above
(D)	Consolidated Pension (A+B+C)	(D)	Consolidated Family Pension (A+B+C)

Note:

- (a) The final revision of IDA pension in respect of pensioners of BSNL will be done by the CCA & Accounts Officer concerned.
- (b) The final revision of IDA Family Pension will also be done by the CCA & Accounts Officer concerned.

(* If not applicable draw a line across)

9. Whether consolidated IDA pension/family pension is final or allowed as immediate relief.
10. Remarks, if any.

SIGNATURE OF PENSION DISBURSING AUTHORITY

- i. CCA concerned
Ministry of Communications & I.T.

Department of Telecommunications

- ii. Concerned Communications
Accounts Officer

True Typed Copy

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Pension and Pensioner's Welfare)

NOTIFICATION

New Delhi, the 21st December, 2012

G.S.R. 928(E).—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and, after consultation with the Comptroller and Auditor General of India in relation to conditions of service of persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Pension) Rules, 1972, namely:-

- (1) These rules may be called the Central Civil Services (Pension) Amendment Rules, 2012.
- (2) Save as otherwise provided, these rules shall come into force on the date of their publication in the Official Gazette.
2. In the Central Civil Services (Pension) Rules, 1972, (hereinafter referred to as the said rules) in rule 5, in sub-rule (2), the proviso shall be omitted and shall be deemed to have been omitted with effect from the 1st Day of January, 1996.
3. In the said rules, rule 29 shall be omitted.
4. In the said rules, for rule 29A, the following rule shall be substituted, namely:-

"29A. **Ex-gratia under Special Voluntary Retirement Scheme.**- A permanent Government servant, who, on being declared surplus to the establishment in which he was serving, opts for Special voluntary Retirement Scheme, shall be entitled for determination of ex-gratia in addition to the pension".

5. In the said rules, rule 30 shall be omitted.
6. In the said rules, for rule 31, the following rule shall be substituted, namely:-

"31. **Deputation to United Nations and other organisations.**-A Government servant who is deputed on foreign service to the United Nations' Secretariat or other United Nations' Bodies or the International Monetary Fund or the International Bank of Reconstruction and Development or the Asian Development Bank or the Commonwealth Secretariat or any other International organization and who becomes entitled for pensionary benefits from that Organization, may at his option,-

- (a) pay the pension contributions in respect of his foreign service and count such service as qualifying for pension under these rules; or

- (b) avail the retirement benefits admissible under the rules of the aforesaid organization and not count such service as qualifying for pension under these rules:

Provided that where a Government servant opts for clause (b), retirement benefits shall be payable to him in India in rupees from such date and in such manner as the Government may, by order, specify:

Provided further that pension contributions, if any, paid by the Government servant, shall be refunded to him".

7. In the said rules, in the rule 32,-

- (a) for the marginal heading, the following heading shall be substituted, namely:-
"Verification of qualifying service after eighteen years' service or five years before retirement-";
- (b) in sub-rule (1), for the words "twenty-five years", the words "eighteen years" shall be substituted.

8. In the said rules, in rule 36, in clause (b), for the words "Rule 29 of these rules" the words "Special Voluntary Retirement Scheme relating to voluntary retirement of surplus employees." shall be substituted.

9. In the said rules, in rule 37, in sub-rule (3), the words "pro rata" shall be omitted.

10. In the said rules, for rule 37A, the following rule shall be substituted, namely;-

"37A. Conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Public Sector Undertaking.-

- (1) On conversion of a department of the Central Government into a Public Sector Undertaking, all Government servants of that Department shall be transferred en-masse to that Public Sector Undertaking, on terms of foreign service without any deputation allowance till such time as they get absorbed in the said undertaking, and such transferred Government servants shall be absorbed in the Public Sector Undertaking with effect from such date as may be notified by the Government.
- (2) The Central Government shall allow the transferred Government servants an option to revert back to the Government or to seek permanent absorption in the Public Sector Undertaking.
- (3) The option referred to in sub-rule (2) shall be exercised by every transferred Government servant in such manner and within such period as may be specified by the Government.
- (4) The permanent absorption of the Government servants as employees of the Public Sector Undertaking shall take effect from the date on which their options are accepted by the Government and on and from the date of such acceptance, such employees shall cease to be Government servants and they shall be deemed to have retired from Government service.

- (5) Upon absorption of Government servants in the Public Sector Undertaking, the posts which they were holding in the Government before such absorption shall stand abolished.
- (6) The employees who opt to revert to Government service shall be re-deployed through the surplus cell of the Government.
- (7) The employees including quasi-permanent and temporary employees but excluding casual labourers, who opt for permanent absorption in the Public Sector Undertaking shall, on and from the date of absorption, be governed by the rules and regulations or bye-laws of the Public Sector Undertaking.
- (8) A permanent Government servant who has been absorbed as an employee of a Public Sector Undertaking and his family shall be eligible for pensionary benefits (including commutation of pension, gratuity, family pension or extra-ordinary pension), on the basis of combined service rendered by the employee in the government and in the Public Sector Undertaking in accordance with the formula for calculation of such pensionary benefits as may be in force at the time of his retirement from the Public Sector Undertaking or his death or at his option, to receive benefits for the service rendered under the Central Government in accordance with the orders issued by the Central Government.

"Explanation:- The amount of pension or family pension in respect of the absorbed employee on retirement from the Public Sector Undertaking or on death shall be calculated in the same way as calculated in the case of a Central Government servant retiring or dying, on the same day".

- (9) The pension of an employee under sub-rule (8) shall be calculated on fifty percent of emoluments or average emoluments, whichever is more beneficial to him.
- (10) In addition to pension or family pension, as the case may be, the employee who opts for pension on the basis of combined service shall also be eligible to dearness relief as per Industrial Dearness Allowance pattern.
- (11) The benefits of pension and family pension shall be available to quasi-permanent and temporary transferred Government servants after they have been confirmed in the Public Sector Undertaking.
- (12) A Permanent Government servant absorbed in a Public Sector Undertaking or a temporary or quasi-permanent Government servant who has been confirmed in the a Public Sector Undertaking subsequent to his absorption therein, shall be eligible to seek voluntary retirement after completing ten years of qualifying service with the Government and the Public Sector Undertaking taken together, and such person shall be eligible for pensionary benefits on the basis of qualifying service.
- (13) The Central Government shall create a Pension Fund in the form of a trust and the pensionary benefits of absorbed employees shall be paid out of such Pension Fund.

- (14) The Secretary of the administrative Ministry of the Public Sector Undertaking shall be the Chairperson of the Board of Trustees which shall include representatives of the Ministries of Finance, Personnel, Public Grievances and Pensions, Labour, concerned Public Sector Undertaking and their employees and experts in the relevant field to be nominated by the Central Government.
- (15) The procedure and the manner in which pensionary benefits are to be sanctioned and disbursed from the Pension Fund shall be determined by the Government on the recommendation of the Board of Trustees.
- (16) The Government shall discharge its pensionary liability by paying in lump sum as a one time payment to the Pension Fund the pension or service gratuity and retirement gratuity for the service rendered till the date of absorption of the Government servant in the Public Sector Undertaking.
- (17) The manner of sharing the financial liability on account of payment of pensionary benefits by the Public Sector Undertaking shall be determined by the Government.
- (18) Lump sum amount of the pension shall be determined with reference to Commutation Table laid down in Central Civil Services (Commutation of Pension) Rules, 1981.
- (19) The Public Sector Undertaking shall make pensionary contribution to the Pension Fund for the period of service to be rendered by the concerned employees under that undertaking at the rates as may be determined by the Board of Trustees so that the Pension Fund shall be self-supporting.
- (20) If, for any financial or operational reason, the Trust is unable to discharge its liabilities fully from the Pension Fund and the Public Sector Undertaking is also not in a position to meet the shortfall, the Government shall be liable to meet such expenditure and such expenditure shall be debited to either the Fund or to the Public Sector Undertaking.
- (21) Payments of pensionary benefits of the pensioners of a Government Department on the date of conversion of it into a Public Sector Undertaking shall continue to be the responsibility of the Government and the mechanism for sharing its liabilities on this account shall be determined by the Government.
- (22) Nothing contained in sub-rules (13) to (21) shall apply in the case of conversion of the Departments of Telecom Services and Telecom Operations into Bharat Sanchar Nigam Limited, in which case the pensionary benefits including family pension shall be paid by the Government.
- (23) For the purposes of payment of pensionary benefits including family pension referred to in sub-rule (22), the Government shall specify the arrangements and the manner including the rate of pensionary contributions to be made by Bharat Sanchar Nigam Limited to the Government and the manner in which financial liabilities on this account shall be met.

- (24) The arrangements under sub-rule (23) shall be applicable to the existing pensioners and to the employees who are deemed to have retired from the Government
- (25) Upon conversion of a Government Department into a Public Sector Undertaking,-
- (a) the balance of provident fund standing at the credit of the absorbed employees on the date of their absorption in the Public Sector Undertaking shall, with the consent of such undertaking, be transferred to the new Provident Fund Account of the employees in such undertaking;
 - (b) earned leave and half pay leave at the credit of the employees on the date of absorption shall stand transferred to such undertaking;
 - (c) the dismissal or removal from service of the Public Sector Undertaking of any employee after his absorption in such undertaking for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his dismissal or removal or retrenchment the decisions of the undertaking shall be subject to review by the Ministry administratively concerned with the undertaking
- (26) In case the Government disinvests its equity in any public sector undertaking to the extent of fifty-one per cent or more, it shall specify adequate safeguards for protecting the interest of the absorbed employees of such Public Sector Undertaking.
- (27) The safeguards specified under sub-rule (26) shall include option for voluntary retirement or continued service in the undertaking or voluntary retirement benefits on terms applicable to Government employees or employees of the Public Sector Undertaking as per option of the employees and assured payment of earned pensionary benefits with relaxation in period of qualifying service, as may be decided by the Government."
- (11) In the said rules, after rule 37A, the following rule shall be inserted, namely;-

"37B. Conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Central Autonomous Body.-

- (1) On conversion of a department of the Central Government into an Autonomous Body, all Government servants of that Department shall be transferred en-masse to that Autonomous Body on terms of foreign service without any deputation allowance till such time as they get absorbed in the said body and such transferred Government servants shall be absorbed in the Autonomous Body with effect from such date as may be notified by the Government.
- (2) The Central Government shall allow the transferred Government servants an option to revert back to the Government or to seek permanent absorption in the Autonomous Body.
- (3) The option referred to in sub-rule (2) shall be exercised by every transferred Government servant in such manner and within such period as may be specified by the Government

- (4) The permanent absorption of the Government servants of the Autonomous Body shall take effect from the date on which their options are accepted by the Government and on and from the date of such acceptance, such employees shall cease to be Government servants and they shall be deemed to have retired from Government service.
- (5) Upon absorption of Government servants in the Autonomous Body, the posts which they were holding in the Government before such absorption shall stand abolished.
- (6) The employees who opt to revert to Government service shall be re-deployed through the surplus cell of the Government
- (7) The employees including quasi-permanent and temporary employees but excluding casual labourers, who opt for permanent absorption in the Autonomous Body, shall on and from the date of absorption, be governed by the rules and regulations or bye-laws of the Autonomous Body.
- (8) A permanent Government servant who has been absorbed as an employee of an Autonomous Body and his family shall be eligible for pensionary benefits (including commutation of pension, gratuity, family pension or extra-ordinary pension), on the basis of combined service rendered by him in the government and Autonomous Body in accordance with the formula for calculation of such pensionary benefits as may be in force at the time of his retirement from the Autonomous Body/death or at his option, to receive benefits for the service rendered under the Central Government in accordance with the orders issued by the Central Government.

Explanation:- The amount of pension or family pension in respect of the absorbed employee on retirement from Autonomous Body or death shall be calculated in the same way as would be the case with a Central Government servant retiring or dying, on the same day.

- (9) The pension of an employee under sub-rule (8) shall be calculated at fifty percent of emoluments or average emoluments, whichever is more beneficial to him.
- (10) In addition to pension or family pension, as the case may be, the absorbed employees who opt for pension on the basis of combined service shall also be eligible to dearness relief as per central dearness allowance pattern.
- (11) The benefits of pension and family pension shall be available to quasi-permanent and temporary transferred Government servants after they have been confirmed in the Autonomous Body.
- (12) The Central Government shall create a Pension Fund in the form of a trust and the pensionary benefits of absorbed employees shall be paid out of such Pension Fund.

- (13) The Secretary of the administrative Ministry of the autonomous body shall be the Chairperson of the Board of Trustees which shall include representatives of the Ministries of Finance, Personnel, Public Grievances and Pensions, Labour, concerned Autonomous Body and their employees and experts in the relevant field to be nominated by the Central Government
- (14) The procedure and the manner in which pensionary benefits are to be sanctioned and disbursed from the Pension Fund shall be determined by the Government on the recommendation of the Board of Trustees.
- (15) The Government shall discharge its pensionary liability by paying in lump sum as a one time payment to the Pension Fund the pension or service gratuity and retirement gratuity for the service rendered till the date of absorption of the Government servant in the Autonomous Body.
- (16) The manner of sharing the financial liability on account of payment of pensionary benefits by the Autonomous Body shall be determined by the Government.
- (17) Lump sum amount of the pension shall be determined with reference to Commutation Table laid down in Central Civil Services (Commutation of Pension) Rules, 1981.
- (18) The Autonomous Body shall make pensionary contribution to the Pension Fund for the period of service to be rendered by the concerned employees under that body at the rates as may be determined by the Board of Trustees to that the Pension Fund shall be self-supporting.
- (19) If, for any financial or operational reason, the Trust is unable to discharge its liabilities fully from the Pension Fund and the Autonomous Body is also not in a position to meet the shortfall, the Government shall be liable to meet such expenditure and such expenditure shall be debited to either the Fund or to the Autonomous Body, as the case may be.
- (20) "Payments of pensionary benefits of the pensioners of a Government Department on the date of conversion of it into an Autonomous Body shall continue to be the responsibility of the Government and the mechanism for sharing its liabilities on this account shall be determined by the Government.
- (21) Upon conversion of a Government Department into an Autonomous Body,-
 - (a) the balance of provident fund standing at the credit of the absorbed employees on the date of their absorption in the Autonomous Body shall, with the consent of such body, be transferred to the new Provident Fund Account of the employees in such body.
 - (b) earned leave and half pay leave at the credit of the employees on the date of absorption shall stand transferred to such body.

- (c) the dismissal or removal from service of the Autonomous Body of any employee after his absorption in such body for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his dismissal or removal or retrenchment the decisions of the body shall be subject to review by the Ministry administratively concerned with the body.
- (22) In case the Government disinvests its equity in any Autonomous Body to the extent of fifty-one per cent or more, it shall specify adequate safeguards for protecting the interest of the absorbed employees of such Autonomous Body.
- (23) The safeguards specified under sub-rule (22) shall include option for voluntary retirement or continued service in the body, as the case may be, or voluntary retirement benefits on terms applicable to Government employees or employees of the Autonomous Body as per option of the employees, and assured payment of earned pensionary benefits with relaxation in period of qualifying service, as may be decided by the Government.
- (24) Nothing contained in this rule shall be applicable to the officers or employees including members of Indian Information Service, Central Secretariat service or any other service or to the persons borne on cadres outside Akashvani and Doordarshan, serving in the Akashvani and Doordarshan and engaged in the performance of functions transferred to Prasar Bharati established under Prasar Bharati (Broadcasting Corporation of India) Act, 1990.
- (12) In the said rules, in rule 48A,-
- (i) sub-rule (5) shall be omitted.
- (ii) in sub-rule (6), for clause (a), the following clause shall be substituted, namely;-
"(a) retires under the Special Voluntary Retirement Scheme relating to voluntary retirement of surplus employees, or"
- (13) In the said rules, rule 48B shall be omitted;
- (14) In the said rules, rule 48C shall be omitted;

[F. No. 38/80/08-P&PW]
TRIPTI P. GHOSH, Director

Note: The principal rules were published vide notification number S.O.934, dated the 1st April, 1972 and were subsequently amended vide notification number-

1. S.O.254, dated the 4th February, 1989
2. S.O.970, dated the 6th May, 1989
3. S.O.2467, dated the 7th October, 1989
4. S.O.899, dated the 14th April, 1990
5. S.O.1454, dated the 26th May, 1990
6. S.O.2329, dated the 8th September, 1990

7. S.O.3269, dated the 8th December, 1990
8. S.O.3270, dated the 8th December, 1990
9. S.O.3273, dated the 8th December, 1990
10. S.O.409, dated the 9th February, 1991
11. S.O.484, dated the 16th February, 1991
12. S.O.2267, dated the 7th September, 1991
13. S.O.2740, dated the 2nd November, 1991
14. GSR 677, dated the 7th December, 1991
15. GSR 399, dated the 1st February, 1992
16. GSR 55, dated the 15th February, 1992
17. GSR 570, dated the 19th December, 1992
18. S.O.256, dated the 13th February, 1993
19. S.O.1673, dated the 7th August, 1993
20. GSR 448, dated the 11th September, 1993
21. S.O.1984, dated the 25th September, 1993
22. GSR 389(E), dated the 18th April, 1994
23. S.O.1775, dated the 19th July, 1997
24. S.O.259, dated the 30th January, 1999
25. S.O.904(E), dated the 30th September, 2000
26. S.O.717(E), dated the 27th July, 2001
27. GSR 75(E), dated the 1st February, 2002
28. S.O.4000, dated the 21st December, 2002
29. S.O. 860(E), dated the 28th July, 2003
30. S.O. 1483 (E), dated the 30th December, 2003
31. S.O. 1487 (E), dated the 14th October, 2005
32. GSR 723(E), dated the 23rd November, 2006
33. S.O. 1821 (E), dated the 26th October, 2007
34. GSR 258 (E), dated the 31st March, 2008
35. S.O. 1028 (E), dated the 25th April, 2008
36. S.O. 829(E), dated the 12th April, 2010
37. GSR No. 176 dated 8th June 2011

File No : 4-12(11)/2012-PAT
Government of India
Department of Telecommunications
Sanchar Bhawan, 20, Ashoka Road,
New Delhi-110001

Dated: 20 /2/2014

To,
The Chairman and Managing Director,
Bharat Sanchar Nigam Limited,
Bharat Sanchar Bhawan
H.C. Mathur Lane
Janpath,
New Delhi-11001

Subject:-Extension of CGHS facilities to retired BSNL employees.

Sir,

Reference is invited to BSNL's letter Nos.BSNL/Admn-I/14-15/9(pt.) dated 09.04.2012 and dated 11.1.2013 regarding extension of CGHS facilities to retired BSNL employees. The matter has been examined in consultation with the Ministry of Health & Family Welfare and it has been decided that:

- i) The retired employees, who are in receipt of Central Civil Pension/Pro-rata pension only from Central Civil Estimates are eligible for joining CGHS, other retired employees of BSNL are **not** eligible for CGHS.
- ii) Since CGHS is in operation only at 25 select locations in the country, the retired employees of BSNL who are in receipt of Central Civil Pension and therefore eligible for CGHS facilities, may also be considered for providing with an option to choose either CGHS or BSNL-MRS post retirement as per their convenience, in recognition of their services rendered to DoT/BSNL.
- 2 However, it may be noted that the retired BSNL employees who opt for CGHS would have to pay the requisite fee to CGHS as applicable to Government retirees.
- 3 This issues with the approval of Secretary(T).

Yours faithfully
Sd/-

(Sanjay Agrawal)
ADG(PAT)

Copy for information to:

- 1.Sr.PPS to Chairman, Telecom Commission.
- 2.All Members/Advisors/Addl.Secretary/JS(T)/DDGs of DoT.
- 3.All Principal CCA's/CCA's/Jt.CCA's of DOT
4. Dir (IT), DoT for posting his circular on the web-site of DoT.

True Typed Copy

No.40-13/2013-Pen(T)
Government of India
Ministry of Communications
Department of Telecommunications

Dated 20.07.2016

OFFICE MEMORANDUM

Sub: Modifying the liability of BSNL towards the payment of pensionary benefits to the retired employees

As stipulated in Rule 37-A of CCS (Pension) Rules, 1972, the pensionary benefits in the case of BSNL shall be paid by the Government, and the Government shall specify the arrangement and the manner including the rate of pensionary contribution to be made by BSNL and the manner in which financial liabilities on this account shall be met. As per sub-rule 24 of the said Rule, the arrangement thus worked out shall be applicable to the existing pensioners and to the employees who are deemed to have retired from Government.

The instructions with regard to the financial liability on this account were issued vide DoT's letter no. 1-45/2003-B dated 15.06.2006. Subsequently, the matter of modifying the Pension liability of BSNL towards the payment of pensionary benefits to employees has been considered by the Government, and the following has been decided.

- (a) The pension liability in respect of employees of DOT/DTS/DTO who retired prior to 01.10.2000 is solely borne by Government of India and the BSNL will have no liability in respect of these employees.
- (b) The liability towards pensionary benefits including family pension to the BSNL employees (excepting those recruited after 01.10.2000) as per sub-Rule 22 of Rule 37-A of CCS (Pension) Rules, 1972, lies with the Government of India. The condition that the annual pension liability of the government shall not exceed 60% of the annual receipts to Government from the items specified in the O.M. dated 15.06.2006 is hereby rescinded.

BSNL will continue to discharge pension liability by way of pension contribution in accordance with FR 116.

Sd/-
(S.K. Jain)
DDG (Establishment)

Tel 2303 6500

Fax 23372302

To

Chairman and Managing Director, BSNL, New Delhi

Copy to:

1. DDG (B&PEP)/DDG (Accounts), DoT, New Delhi
2. Director (IT), DoT, New Delhi for uploading this O.M. on DoT website

Copy for information to;

1. PS to Hon'ble MOS(IC), Ministry of Communications
2. PPS to Secretary (T), DoT
3. PPS to Member (Services)/Member (Finance)/ Member (T), DoT
4. PPS to AS (T)/JS(A)/JS(T), DoT
5. Director (Estt.), DoT, New Delhi

Copy also for information to:

1. Cabinet Secretary [Attn: Shri S GP Verghese, Director]
2. Secretary, Department of Expenditure
3. Secretary, DoP &PW
4. Secretary, Department of Legal Affairs
5. Secretary, Department of Public Enterprise

True Typed Copy

F.No.38/37/2016-P&PW(A)(ii)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Pension & Pensioners' Welfare
Lok Nayak Bhawan, New Delhi-110003

Dated the 4th August, 2016.

OFFICE MEMORANDUM

Sub: **Implementation of Government's decisions on the recommendations of the Seventh Central Pay Commission - Revision of pension of pre-2016 pensioners/family pensioners etc.**

The undersigned is directed to say that in pursuance of Government's decision on the recommendations of Seventh Central Pay Commission, sanction of the President is hereby accorded to the regulation, with effect from 01.01.2016, of pension/ family pension of all the pre-2016 pensioners/ family pensioners in the manner indicated in the succeeding paragraphs. Separate orders are being issued in respect of employees who retired/died on or after 01.01.2016.

- 2.1 These orders shall apply to all pensioners/family pensioners who were drawing pension/ family pension before 1.1.2016 under the Central Civil Services (Pension) Rules, 1972, Central Civil Services (Extraordinary Pension) Rules and the corresponding rules applicable to Railway pensioners and pensioners of All India Services, including officers of the Indian Civil Service retired from service on or after 1.1.1973. A pensioner/family pensioner who became entitled to pension/family pension with effect from 01.01.2016 consequent on retirement/death of Government servant on 31.12.2015, would also be covered by these orders.
- 2.2 Separate orders will be issued by the Ministry of Defence in regard to Armed Forces pensioners/family pensioners.
- 2.3 These orders also do not apply to retired High Court and Supreme Court Judges and other Constitutional/Statutory Authorities whose pension etc. is governed by separate rules/orders.
3. In these orders :
 - a. 'Existing pensioner' or 'Existing Family pensioner' means a pensioner/family pensioner to whom these orders are applicable in terms of para 2.1 above.

b. 'Existing pension' or 'Existing Family Pension means the basic pension (inclusive of commuted portion, if any) or basic family pension, as had been fixed at the time of implementation of 6th CPC recommendations, which an existing pensioner or family pensioner was entitled to.

4.1 For existing pensioners, who have retired before 01.01.2016, the revised pension/family pension with effect from 01.01.2016 shall be determined by multiplying the pension/family pension, as had been fixed at the time of implementation of 6th Central Pay Commission (CPC) recommendations, by 2.57. The amount of revised pension/family pension so arrived at shall be rounded off to next higher rupee.

Illustration:

Case I

Pensioner 'A' retired at last pay drawn of Rs. 79,000 on 31st May, 2015 under the 6th CPC regime in the scale of Rs. 67000-79000:

		Amount in Rs.
1.	Basic Pension fixed in 6 th CPC	39500
2.	Revised Pension fixed under 7 th CPC (using a multiple of 2.57)	101515

Case II

Pensioner 'B' retired at last pay drawn of Rs. 4,000 on 31st January, 1989 under the 4th CPC regime in the pay scale of Rs. 3000-100-3500-125-4500:

		Amount in Rs.
1.	Basic Pension fixed in 4 th CPC	1940
2.	Basic Pension as revised in 6 th CPC	12600
3.	Revised Pension fixed under 7 th CPC (using a multiple of 2.57)	32,382

4.2 For this purpose, the existing pension/family pension will be the basic pension/family pension only without the element of additional pension available to the old pensioners/family pensioners of the age of 80 years and above. The additional pension/family pension payable to the old pensioners/family pensioners will be worked out in accordance with para 4.5 of this O.M.

- 4.3 Since the consolidated pension will be inclusive of commuted portion of pension, if any, the commuted portion will be deducted from the said amount while making monthly disbursements.
- 4.4 The minimum pension with effect from 01.01.2016 will be Rs. 9000/- per month (excluding the element of additional pension to old pensioners). The upper ceiling on pension/family pension will be 50% and 30% respectively of the highest pay in the Government (The highest pay in the Government is Rs 2,50,000 with effect from 01.01.2016).
- 4.5 The quantum of pension/family pension available to the old pensioners/ family pensioners shall continue to be as follows:-

Age of pensioner/family pensioner	Additional quantum of pension
From 80 years to less than 85 years	20% of revised basic pension/ family pension
From 85 years to less than 90 years	30% of revised basic pension/ family pension
From 90 years to less than 95 years	40% of revised basic pension / family pension
From 95 years to less than 100 years	50% of revised basic pension / family pension
100 years or more	100% of revised basic pension / family pension

The amount of additional pension will be shown distinctly in the pension payment order. For example, in case where a pensioner is more than 80 years of age and his/her revised pension in terms para 4.1 above is Rs.10,000 pm, the pension will be shown as (i).Basic pension=Rs.10,000 and (ii) Additional pension = Rs.2,000 pm. The pension on his/her attaining the age of 85 years will be shown as (i).Basic Pension = Rs.10,000 and (ii) additional pension = Rs.3,000 pm. Dearness relief will be admissible on the additional pension available to the old pensioners also.

- 4.6 The revised pension/family pension arrived at as per paragraph 4.1 includes dearness relief sanctioned from 1.1.2016.
5. Where the revised pension/family pension in terms of paragraph 4.1 above works out to an amount less than Rs. 9000/-, the same shall be stepped up to Rs. 9000/-. This will be regarded as pension/family pension with effect from 1.1.2016.
6. The existing instructions regarding regulation of dearness relief to employed/re-employed pensioners/family pensioners, as contained in Department of Pension & Pensioners Welfare O.M. No. 45/73/97-P&PW(G) dated 02.07.1999, as amended from time to time, shall continue to apply.
7. The cases of Central Government employees who have been permanently absorbed in public sector undertakings/autonomous bodies will be regulated as follows:-

(a) PENSION

Where the Government servants on permanent absorption in public sector undertakings/autonomous bodies continue to draw pension separately from the Government, the pension of such absorbees

will be updated in terms of these orders. In cases where the Government servants have drawn one time lump sum terminal benefits equal to 100% of their pensions and have become entitled to the restoration of one-third commuted portion of pension as per the instructions issued by this Department from time to time, their cases will not be covered by these orders. Orders for regulating pension of such pensioners will be issued separately.

(b) FAMILY PENSION

In cases where, on permanent absorption in public sector undertakings/autonomous bodies, the terms of absorption and/or the rules permit grant of family pension under the CCS (Pension) Rules, 1972 or the corresponding rules applicable to Railway employees/members of All India Services, the family pension being drawn by family pensioners will be updated in accordance with these orders.

8. The matter regarding Constant Attendant Allowance admissible to the existing pensioners shall be examined by a Committee comprising Finance Secretary and Secretary (Expenditure) as Chairman and Secretaries of Home Affairs, Defence, Posts, Health & Family Welfare, Personnel & Training and Chairman, Railway Board as Members. Till a final decision is taken based on the recommendations of the Committee, Constant Attendant Allowance shall be paid at existing rates.
9. All Pension Disbursing Authorities including Public Sector Banks handling disbursement of pension to the Central Government pensioners are hereby authorised to pay pension/family pension to existing pensioners/family pensioners at the revised rates in terms of para 4.1 and 5 above without any further authorisation from the concerned Accounts Officers/Head of Office etc. Wherever the age of pensioner/ family pensioner is available on the pension payment order, the additional pension/ family pension in terms of para 4.4 above, may also be paid by the pension disbursing authorities immediately without any further authorisation from the concerned Account Officer/ Head of Office, etc. A suitable entry regarding the revised pension shall be recorded by the pension Disbursing Authorities in both halves of the Pension Payment Order.
10. The pension/family pension as worked out in accordance with provisions of Para 4.1 and 5 above shall be treated as 'Basic Pension' with effect from 01.01.2016. The revised pension/ family pension includes dearness relief sanctioned from 1.1.2016 and shall qualify for grant of Dearness Relief sanctioned thereafter.
11. Further orders in regard to revision of pension based on the recommendations of the Committee to be constituted in terms of the Government's decision on Item No. 11 of this Department's Resolution No. 38/37/2016-P&PW (A) dated 4th August, 2016, will be issued in due course.

12. After a decision as in para 11 above is taken by the Government and orders are issued in this regard, the Head of the Department of the Ministry, Department, Office, etc. from which the government servant had retired or where he was working prior to his demise will revise the pension/family pension of all pensioners/ family pensioners with effect from 1st January 2016 in accordance with those orders and issue revised Pension Payment Order (PPOs), if required.
- 13 It is considered desirable that the benefit of these orders should reach the pensioners as expeditiously as possible. To achieve this objective it is desired that all Pension Disbursing Authorities should ensure that the revised pension and the arrears due to the pensioners in terms of para 4.1 and para 5 above is paid to the pensioners or credited to their account by 31st August, 2016 or before positively.
- 14 In their application to the persons belonging to Indian Audit and Accounts Department, these orders issue in consultation with the Comptroller and Auditor General of India.
- 15 Ministry of Agriculture etc. are requested to bring the contents of these Orders to the notice of Controller of Accounts/Pay and Accounts Officers and Attached and subordinate Offices under them on a top priority basis. All pension disbursing offices are also advised to prominently display these orders on their notice boards for the benefit of pensioners
- 16 Hindi version will follow

Sd/-

(Vandana Sharma)

Joint Secretary to the Government of India

To

All Ministries/ Departments of Government of India

Copy to : As per mailing list

- Central Pension Accounting Office, New Delhi
- CMDs of All Pension Disbursing Banks

True Typed Copy

F.No. 47-63/2015-Pen(T)(pt)
Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20, Ashoka Road, New Delhi – 110001.

Dated : 16th March 2017

Office Memorandum

Subject: **Implementation of 7th CPC recommendations : Applicability to the BSNL/ MTNL absorbees opting for pension for combined service governed under Rule 37-A of CCS (Pension) Rules, 1972.**

The undersigned is directed to refer to this Department's OM No. 36-02/2016-Pen(T)(i) dated 22.08.2016 and to give the following clarification on the applicability of the revised rules of CCS (Pension) Rules, 1972 to the BSNL/ MTNL absorbees (opting for pension for combined service and whose pension is governed under Rule 37-A of CCS (Pension) Rules) consequent to 7th CPC with regard to DoP&PW's OM No. 38/37/16-P&PW(A)(i) dated 04.08.2016:

2. The rates for payment of death gratuity shall be revised as per para 6.1 of DoP&PW's O.M. No. 38/37/2016-P&PW(A)(i) dated 4th August, 2016. The maximum limit of Death/ Retirement gratuity shall be Rs. 20 lakh w.e.f. 01.01.2016.
3. There is no change in the formula for pension/ family pension w.e.f. 01.01.2016. BSNL/ MTNL absorbee employees will, therefore, continue to get pension based on the same formula.
4. There will be no change in the provisions relating to commutation of pension.

This issues with the approval of competent authority.

Yours faithfully,
Sd/-
(K. S. Dahiya)
Under Secretary (STP)
Tel. 23036260

To

1. All the CCAs/ TERM Cells.
2. Sr. DDG (TEC), Khurshid Lal Bhawan, Janpath, New Delhi.

3. Sr. DWA, 6th Floor, Sanchar Bhwan, 20, Ashoka Road, New Delhi – 110001
4. DDG (Estt.)/ DDG (Accounts), DoT Hqrs., Sanchar Bhwan, 20, Ashoka Road, New Delhi – 110001.
5. DDG (T&A), NTIPRIT, Admin Building, ALT Centre, Govt. of India Enclave, Near Raj Nagar, Ghaziabad-201002.
6. Director General, National Institute of Communication Finance, Mehrauli-Gurgaon Road, Ghitorni, New Delhi – 110047.
7. Director (Estt.)/ Director (Accts. I)/ Director (Accts. II), DoT Hqrs. New Delhi.
8. Executive Director, CENTRE FOR DEVELOPMENT OF TELEMATICS, C-DOT Campus, Mandi Road, Mehrauli, New Delhi – 110030.
9. Director, Telecom Centres of Excellence, C-DoT Campus, Mandi Road, Mehrauli, New Delhi – 110030.
10. CMD, BSNL Corporate Office, Janpath, New Delhi.
11. CMD, MTNL, Khursheed Lal Bhawan, New Delhi.
12. CMD, Bharat Broadband Network Limited (BBNL), C-DoT Campus, Mandigaon Road, Mehrauli, New Delhi – 110030.
13. CMD, Telecommunications Consultants India Limited, TCIL Bhawan, Greater Kailash-I, New Delhi – 110048.
14. CMD, ITI Limited, Regional Office, 201/202, Rohit House, 3, Tolstoy Marg, New Delhi – 110001.
15. Director (IT), DoT(HQ), Sanchar Bhawan, New Delhi for uploading the same on DoT website.

Bharat Sanchar Nigam Limited
(A Government of India Enterprise)
Corporate Office
(Pension Section)

5th Floor, Bharat Sanchar Bhawan, New Delhi-110001

No. 48-11/2016-Pen(B)

Dated: 21/03/2017

To

All Heads of Circles/Telecom Districts/Regions/Projects/ Telecom Stores/Telecom Factories & other Administrative Offices Bharat Sanchar Nigam Limited

SUB: Implementation of 7th CPC recommendations : Applicability to the BSNL aborbees opting for pension for combined service governed under Rule 37-A of CCS (Pension) Rules, 1972 - regarding.

Sir,

I am directed to forward herewith a copy of DOT O.M. No. 47-63/2015-Pen(T)(pt) dated 16/03/2017, on the above mentioned subject and to say that the rates for payment of death gratuity shall be revised as per para 6.1 of DOP&PW's O.M. No. 38/37/2016-P&PW (A)(i) dated 04/08/2016. Further, the maximum limit of Death/Retirement Gratuity shall be Rs. 20 lakh w.e.f. 01/01/2016.

2. Accordingly, the Circles are requested to take necessary action with regard to settlement of pensionary matters including Death/Retirement Gratuity in accordance with the instructions issued by DOT vide above mentioned O.M.

Yours faithfully,

Sd/-

(S.P. Bhatia)

Asstt. General Manager (Estt.I)

Tele. No. 23037477

Encl: As above

Copy to:-

1. PS to CMD, BSNL
2. PS to Dir.(HR)/Dir.(Ent.)/Dir.(CFA)/Dir.(CM)/Dir.(F), BSNL Board
3. PS to all Executive Directors/CS & Sr. GM (Legal)/CVO, BSNL
4. DDG(Estt.)/DDG (SR), DOT for information

5. All PGMs/Sr.GMs/GMs in BSNLCO
6. General Secretary, BSNLEU/NFTE
7. DM(OL), BSNLCO
8. Guard File

Sd/-
(Sudhanshu Shekhar Ray)
Deputy Manager (Pension)

True Typed Copy

F.No.38/37/2016-P&PW(A)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Pension & Pensioners' Welfare
3rd Floor, Lok Nayak Bhawan,
New Delhi-110003

Dated the 12th May, 2017

Office Memorandum

Sub:- **Implementation of Government's decision on the recommendations of the Seventh Central Pay Commission - Revision of pension of pre-2016 pensioners/family pensioners, etc.**

The undersigned is directed to say that the 7th Central Pay Commission (7th CPC), in its Report, recommended two formulations for revision of pension of pre-2016 pensioners. A Resolution No. 38/37/2016-P&PW (A) dated 04.08.2016 was issued by this Department indicating the decisions taken by the Government on the various recommendations of the 7th CPC on pensionary matters.

2. Based on the decisions taken by the Government on the recommendations of the 7th CPC, orders for revision of pension of pre-2016 pensioners/family pensioners in accordance with second Formulation were issued vide this Department's OM No. 38/37/2016-P&PW (A) (ii) dated 04.08.2016. It was provided in this O.M. that the revised pension/family pension w.e.f. 1.1.2016 of pre-2016 pensioners/family pensioners shall be determined by multiplying the pension/family pension as had been fixed at the time of implementation of the 6th CPC recommendations, by 2.57.
3. In accordance with the decision mentioned in this Department's Resolution No. 38/37/2016-P&PW (A) dated 04.08.2016 and OM No. 38/37/2016-P&PW(A) (ii) dated 04.08.2016, the feasibility of the first option recommended by 7th CPC has been examined by a Committee headed by Secretary, Department of Pension & Pensioners' Welfare.

4. The aforesaid Committee has submitted its Report and the recommendations made by the Committee have been considered by the Government. Accordingly, it has been decided that the revised pension/family pension w.e.f. 01.01.2016 in respect of all Central civil pensioners/family pensioners, including CAPF's, who retired/died prior to 01.01.2016, may be revised by notionally fixing their pay in the pay matrix recommended by the 7th CPC in the level corresponding to the pay in the pay scale/pay band and grade pay at which they retired/died. This will be done by notional pay fixation under each intervening Pay Commission based on the Formula for revision of pay. While fixing pay on notional basis, the pay fixation formulae approved by the Government and other relevant instructions on the subject in force at the relevant time shall be strictly followed. 50% of the notional pay as on 01.01.2016 shall be the revised pension and 30% of this notional pay shall be the revised family pension w.e.f. 1.1.2016 as per the first Formulation. In the case of family pensioners who were entitled to family pension at enhanced rate, the revised family pension shall be 50% of the notional pay as on 01.01.2016 and shall be payable till the period up to which family pension at enhanced rate is admissible as per rules. The amount of revised pension/family pension so arrived at shall be rounded off to next higher rupee.
5. It has also been decided that higher of the two Formulations i.e. the pension/family pension already revised in accordance with this Department's OM No. 38/37/2016-P&PW(A) (ii) dated 04.08.2016 or the revised pension/family pension as worked out in accordance with para 4 above, shall be granted to pre-2016 central civil pensioners as revised pension/family pension w.e.f. 01.01.2016. In cases where pension/family pension being paid w.e.f. 1.1.2016 in accordance with this Department's OM No. 38/37/2016-P&PW(A) (ii) dated 04.08.2016 happens to be more than pension/family pension as worked out in accordance with para 4 above, the pension/family pension already being paid shall be treated as revised pension/family pension w.e.f. 1.1.2016.
6. Instructions were issued vide this Department's OM No. 45/86/97-P&PW(A) (iii) dated 10.02.1998 for revision of pension/ family pension in respect of Government servants who retired or died before 01.01.1986, by notional fixation of their pay in the scale of pay introduced with effect from 01.01.1986. The notional pay so worked out as on 01.01.1986 was treated as average emoluments/last pay for the purpose of calculation of notional pension/family pension as on 01.01.1986. The notional pension/family pension so arrived at was further revised with effect from 01.01.1996 and was paid in accordance with the instructions issued for revision of pension/family pension of pre-1996 pensioners/family pensioners in implementation of the recommendations of the 5th Central Pay Commission.

7. Accordingly, for the purpose of calculation of notional pay w.e.f. 1.1.2016 of those Government servants who retired or died before 01.01.1986, the pay scale and the notional pay as on 1.1.1986, as arrived at in terms of the instructions issued vide this Department's OM 45/86/97-P&PW(A) dated 10.02.1998, will be treated as the pay scale and the pay of the concerned Government servant as on 1.1.1986. In the case of those Government servants who retired or died on or after 01.01.1986 but before 1.1.2016, the actual pay and the pay scale from which they retired or died would be taken into consideration for the purpose of calculation of the notional pay as on 1.1.2016 in accordance with para 4 above.
8. The minimum pension with effect from 01.01.2016 will be Rs. 9000/- per month (excluding the element of additional pension to old pensioners). The upper ceiling on pension/family pension will be 50% and 30% respectively of the highest pay in the Government (The highest pay in the Government is Rs. 2,50,000 with effect from 01.01.2016).
9. The pension/family pension as worked out in accordance with provisions of Para 4 and 5 above shall be treated as 'Basic Pension' with effect from 01.01.2016. The revised pension/family pension includes dearness relief sanctioned from 1.1.2016 and shall qualify for grant of Dearness Relief sanctioned thereafter.
10. The existing instructions regarding regulation of dearness relief to employed/re-employed pensioners/family pensioners, as contained in Department of Pension & Pensioners Welfare O.M. No. 45/73/97-P&PW(G) dated 02.07.1999, as amended from time to time, shall continue to apply.
11. These orders would not be applicable for the purpose of revision of pension of those pensioners who were drawing compulsory retirement pension under Rule 40 of the CCS (Pension) Rules or compassionate allowance under Rule 41 of the CCS (Pension) Rules. The pensioners in these categories would continue to be entitled to revised pension in accordance with the instructions contained in this Department's O.M. No. 38/37/2016-P&PW(A)(ii) dated 4.8.2016.
12. The pension of the pensioners who are drawing monthly pension from the Government on permanent absorption in public sector undertakings/autonomous bodies will also be revised in accordance with these orders. However, separate orders will be issued for revision of pension of those pensioners who had earlier drawn one time lump sum terminal benefits on absorption in public sector undertakings, etc. and are drawing one-third restored pension as per the instructions issued by this Department from time to time.
13. In cases where, on permanent absorption in public sector undertakings/autonomous bodies, the terms of absorption and/or the rules permit grant of family pension under the CCS (Pension) Rules, 1972 or the corresponding rules applicable to Railway employees/members of All India Services, the family pension being drawn by family pensioners will be updated in accordance with these orders.

14. Since the consolidated pension will be inclusive of commuted portion of pension, if any, the commuted portion will be deducted from the said amount while making monthly disbursements.
15. The quantum of age-related pension/family pension available to the old pensioners/ family pensioners shall continue to be as follows:-

Age of pensioner/family pensioner	Additional quantum of pension
From 80 years to less than 85 years	20% of revised basic pension/ family pension
From 85 years to less than 90 years	30% of revised basic pension/ family pension
From 90 years to less than 95 years	40% of revised basic pension / family pension
From 95 years to less than 100 years	50% of revised basic pension / family pension
100 years or more	100% of revised basic pension / family pension

The amount of additional pension will be shown distinctly in the pension payment order. For example, in case where a pensioner is more than 80 years of age and his/her revised pension is Rs. 10,000 pm, the pension will be shown as (i).Basic pension=Rs.10,000 and (ii) Additional pension = Rs.2,000 pm. The pension on his/her attaining the age of 85 years will be shown as (i).Basic Pension = Rs.10,000 and (ii) additional pension= Rs.3,000 pm. Dearness relief will be admissible on the additional pension available to the old pensioners also.

16. A few examples of calculation of pension/family pension in the manner prescribed above are given in Annexure-I to this O.M.
17. No arrears on account of revision of Pension/Family pension on notional fixation of pay will be admissible for the period prior to 1.1.2016. The arrears on account of revision of pension/ family pension in terms of these orders would be admissible with effect from 01.01.2016. For calculation of arrears becoming due on the revision of pension/ family pension on the basis of this O.M., the arrears of pension and the revised pension/family pension already paid on revision of pension/family pension in accordance with the instructions contained in this Department's OM No. 38/37/2016-P&PW(A) (ii) dated 04.08.2016 shall be adjusted.
18. It shall be the responsibility of the Head of Department and Pay and Accounts Office attached to that office from which the Government servant had retired or was working last before his death to revise the pension/ family pension of pre-2016 pensioners/ family pensioners with effect from 01.01.2016 in accordance with these orders and to issue a revised pension payment authority. The Pension Sanctioning Authority would impress upon the concerned Head of Office for fixation of pay on notional basis at the earliest and issue revised authority at the earliest. The revised authority will be issued under the existing PPO number and would travel to the Pension Disbursing Authority through the same channel through which the original PPO had travelled.

19. These orders shall apply to all pensioners/family pensioners who were drawing pension/family pension before 1.1.2016 under the Central Civil Services (Pension) Rules, 1972, and the corresponding rules applicable to Railway pensioners and pensioners of All India Services, including officers of the Indian Civil Service retired from service on or after 1.1.1973. A pensioner/family pensioner who became entitled to pension/family pension with effect from 01.01.2016 consequent on retirement/death of Government servant on 31.12.2015, would also be covered by these orders. Separate orders will be issued by the Ministry of Defence in regard to Armed Forces pensioners/family pensioners.
20. These orders do not apply to retired High Court and Supreme Court Judges and other Constitutional/Statutory Authorities whose pension etc. is governed by separate rules/orders.
21. These orders issue with the concurrence of Ministry of Finance (Department of Expenditure) vide their I.O. No. 30-1/33(c)/2016-IC dated 11.05.2017 and I.O. No. 30-1/33(c)/2016-IC dated 12.05.2017.
22. In their application to the persons belonging to the Indian Audit and Accounts Department, these orders issue in consultation with the Comptroller and Auditor General of India.
23. Ministry of Agriculture etc. are requested to bring the contents of these orders to the notice of Heads of Department/Controller of Accounts, Pay and Accounts Officers, and Attached and Subordinate Offices under them on top priority basis. All Ministries/Departments are requested to accord top priority to the work of revision of pension of pre-2016 pensioners/family pensioners and issue the revised Pension Payment Authority in respect of all pre-2016 pensioners.
24. Hindi version will follow.

Sd/-
(Harjit Singh)
Director

To

1. All Ministries/Departments of Government of India (as per standard mailing list)
2. Central Pension Accounting Office, New Delhi
3. Comptroller & Auditor General of India, New Delhi

True Typed Copy

No. W-02/0028/2017-DPE (WC)-GL-XIII/17
Government of India
Ministry of Heavy Industries and Public Enterprises
Department of Public Enterprises

Public Enterprises Bhawan
Block No. 14, C. G. O. Complex,
Lodhi Road, New Delhi-110003
Dated: 3rd August, 2017

OFFICE MEMORANDUM

Subject:- Pay Revision of Board level and below Board level Executives and Non-Unionised Supervisors of Central Public Sector Enterprises (CPSEs) w.e.f. 01.01.2017.

The last revision of the scale of pay of Board level and below Board level Executives and Non-Unionized Supervisors of Central Public Sector Enterprises (CPSEs) was made effective from 01.01.2007 for a period of 10 years. As the next Pay Revision became due from 01.01.2017, the Government had set up the 3rd Pay Revision Committee (PRC) under the chairmanship of Justice Satish Chandra (Retd.) to recommend revision of pay and allowances for above categories of employees following IDA pattern of pay scales with effect from 01.01.2017. The Government, after due consideration of the recommendations of the 3rd PRC have decided as follows:

2. **Revised Pay Scales:** - The revised Pay scales for Board and below Board level executives would be as indicated in Annexure-I. There will be no change in the number and structure of pay scales and every executive has to be fitted into the corresponding new pay scale. In case of CPSEs which are yet to be categorized, the revised pay scales as applicable to the Schedule 'D' CPSEs would be applicable.

Affordability: The revised pay scales would be implemented subject to the condition that the additional financial impact in the year of implementing the revised pay-package for Board level executives, Below Board level executives and Non-Unionized Supervisors should not be more than 20% of the average Profit Before Tax (PBT) of the last three financial years preceding the year of implementation.

Fitment Benefit:

- (i) In case additional financial impact in the year of implementing the revised pay-package of a CPSE is within 20% of average PBT of last 3 years, a uniform full fitment benefit of 15% would be provided.

- (ii) If the additional financial impact in the year of implementing the revised pay-package is more than 20% of the average PBT of last 3 Financial Years (FYs), then the revised pay-package with recommended fitment benefit of 15% of BP+DA should not be implemented in full but only partly, as per the part-stages recommended below:-

Part stages	Additional financial impact of the full revised pay package as a % of average PBT of last 3 FYs	Fitment benefit (% of BP+DA)
I	More than 20% but upto 30% of average PBT of last 3 FYs	10%
II	More than 30% but upto 40% of average PBT of last 3 FYs	5%

No fitment or any other benefit of pay revision will be implemented in the CPSEs where the additional financial impact of the revised pay package is more than 40% of the average PBT of last 3 financial years.

- (iii) At the time of implementation of pay revision, if the additional financial impact after allowing full / part fitment exceeds 20% of the average PBT of last 3 years, then PRP payout / allowances should be reduced so as to restrict impact of pay revision within 20%.
- (iv) Subsequent to implementation of pay revision, the profitability of a CPSE would be reviewed after every 3 years and
- if there is improvement in the average PBT of the last 3 years, then full pay package/ higher stage of pay package would be implemented while ensuring that total additional impact (sum total of previously implemented part pay package and proposed additional package) stays within 20% of the average of PBT of last 3 years
 - if the profitability of a CPSE falls in such a way that the earlier pay revision now entails impact of more than 20% of average PBT of last 3 year, then PRP / allowances will have to be reduced to bring down impact

3. **Methodology for pay fixation:** To arrive at the revised Basic Pay as on 1.1.2017 fitment methodology shall be as under:

A	B	C	D [Revised BP as on 1.1.2017]*
Basic Pay + Stagnation increment(s) as on 31.12.2016 (Personal Pay/ Special Pay not to be included)	+ Industrial Dearness Allowance (IDA) @119.5% as applicable on 1.1.2017 [under the IDA pattern computation methodology linked to All India Cumulative Price Index (AICPI) 2001=100 series]	+ 15% / 10%/5% of (A+B)	= Aggregate amount rounded off to the next Rs.10/-.

** In case revised BP as on 1.1.2017 arrived so is less than the minimum of the revised pay scale, pay will be fixed at the minimum of the revised pay scale.*

4. **Pay revision in respect of Non-unionized Supervisors of CPSEs:** The revision of scales of pay for Non-unionized Supervisory staff would be decided by the respective Board of Directors.
5. The applicability of affordability clause in respect of certain types of CPSEs is given at Annexure II
6. **Increment:-** A uniform rate of 3% of BP will be applicable for both annual increment as well as promotion increment. The details regarding Stagnation Increment and Bunching of pay are given at Annexure-III (A)
7. **Dearness Allowance:** 100% DA neutralization would be continued for all the executives and non-unionised supervisors, who are on IDA pattern of scales of pay w.e.f. 01.01.2017. Thus, DA as on 01.01.2017 will become zero with link point of All India Consumer Price Index (AICPI) 2001=100, which is 277.33 (Average of AICPI September, October & November, 2016) as on 01.01.2017. The adjustment will be once in three months as per the existing practice. The quarterly DA payable from 01.01.2017 will be as per new DA given at Annexure-III(B).
8. **House Rent Allowance (HRA)/ Lease Accommodation and House Rent Recovery (HRR):** Separate guidelines would be issued later on these allowances. Till then, the existing allowance at the existing rate may be continued to be paid at pre-revised pay scales.
9. **Perks & Allowances:** The Board of Directors of CPSEs are empowered to decide on the perks and allowance admissible to the different categories of the executives, under the concept of 'Cafeteria Approach', subject to a ceiling of 35% of BP. Under the concept of 'Cafeteria Approach' the executives are allowed to choose from a set of perks and allowances. The recurring cost incurred on running and maintaining of infrastructure facilities like hospitals, colleges, schools etc. would be outside the ceiling of 35% of BP. As regards company owned accommodation provided to executives, CPSEs would be allowed to bear the Income Tax liability on the 'non-monetary perquisite' of which 50% shall be loaded within the ceiling of 35% of BP on perks and allowances.
10. **Certain other perks & Allowances:** Separate guidelines would be issued on location based Compensatory Allowance, Work based Hardship Duty Allowances and Non-Practicing Allowance. Till then, the existing allowances at the existing rate would continue to be paid at the pre-revised pay scales.

11. **Performance Related Pay (PRP):** The admissibility, quantum and procedure for determination of PRP has been given in Annexure-IV. The PRP model will be effective from FY 2017-18 and onwards. For the FY 2017-18, the incremental profit will be based on previous FY 2016-17. The PRP model will be applicable only to those CPSEs which sign Memorandum of Understanding (MOU), and have a Remuneration Committee (headed by an Independent Director) in place to decide on the payment of PRP within the prescribed limits and guidelines.
12. **Superannuation Benefits:** The existing provisions regarding superannuation benefits have been retained as per which CPSEs can contribute upto 30% of BP plus DA towards Provident Fund (PF), Gratuity, Post-Superannuation Medical Benefits (PRMB) and Pension of their employees.
 - 12.1 The ceiling of gratuity of the executives and non-unionised supervisors of the CPSEs would be raised from Rs 10 lakhs to Rs 20 lakhs with effect from 01.01.2017 and the funding for the entire amount of Gratuity would be met from within the ceiling of 30% of BP plus DA. Besides, the ceiling of gratuity shall increase by 25% whenever IDA rises by 50%.
 - 12.2 The existing requirement of superannuation and of minimum of 15 years of service in the CPSE has been dispensed with for the pension.
 - 12.3 The existing Post-Retirement Medical Benefits will continue to be linked to requirement of superannuation and minimum of 15 years of continuous service for other than Board level Executives. The Post-Retirement medical benefits shall be allowed to Board level executives (without any linkage to provision of 15 years of service) upon completion of their tenure or upon attaining the age of retirement, whichever is earlier
13. **Corpus for medical benefits for retirees of CPSEs:** The corpus for post-retirement medical benefits and other emergency needs for the employees of CPSEs who have retired prior to 01.01.2007 would be created by contributing the existing ceiling of 1.5% of PBT. The formulation of suitable scheme in this regard by CPSEs has to be ensured by the administrative Ministries/Departments.
14. **Club Membership:** The CPSEs will be allowed to provide Board level executives with the Corporate Club membership (upto maximum of two clubs), co-terminus with their tenure.
15. **Leave regulations/management:** CPSEs would be allowed to frame their own leave management policies and the same can be decided based on CPSEs operational and administrative requirements subject to the principles that:
 - a. Maximum accumulation of Earned Leave available are not permitted beyond 300 days for an employee of CPSE. The same shall not be permitted for encashment beyond 300 days at the time of retirement.
 - b. CPSEs should adopt 30 day's month for the purpose of calculating leave encashment.
 - c. Casual and Restricted Leave will continue to be lapsed at the end of the calendar year.

16. **Periodicity:** The next pay revision would take place in line with the periodicity as decided for Central Government employees but not later than 10 years.
17. **Financial Implications:** Expenditure on account of pay revision is to be entirely borne by the CPSEs out of their earnings and no budgetary support will be provided by the Government.
18. **Issue of Presidential directive, effective Date of implementation and payment of allowances.** The revised pay scales will be effective from 01.01.2017 (except the allowances mentioned in the paras 8 and 10 above). The Board of Directors of each CPSE would be required to consider the proposal of pay revision based on their affordability to pay, and submit the same to the administrative Ministry for approval. The administrative Ministry concerned will issue the Presidential Directive with the concurrence of its Financial Adviser in respect of each CPSE separately. Similarly presidential directives would be issued by the administrative Ministry concerned based on the result of review which is to be done after every 3 years subsequent to implementation. A copy of the Presidential Directives, issued by the administrative Ministry/Department concerned may be endorsed to the Department of Public Enterprises.
19. **Issue of instructions/clarification and provision of Anomalies Committee:** The Department of Public Enterprises (DPE) will issue necessary instructions/clarifications wherever required, for implementation of the above decisions. An Anomalies Committee consisting of Secretaries of Department of Public Enterprises (DPE), Department of Expenditure and Department of Personnel & Training is being constituted for a period of two years to look into further specific issues/problems that may arise in implementation of the Government's Decision on 3rd pay revision. Any anomaly should be forwarded with the approval of Board of Directors to the administrative Ministry/Department who will examine the same and dispose of the same. However, if it is not possible for the administrative Ministry/Department to sort out the issue, they may refer the matter to DPE, with their views for consideration of the Anomalies Committee.

Sd/-

(Rajesh Kumar Chaudhry)

Joint Secretary to the Government of India

Administrative Ministry / Department (Secretary by Name) of the Government of India

Copy to Chief Executives of CPSEs.

Copy also to:

- i) Financial Advisors in the Administrative Ministry/Department
- ii) Comptroller & Auditor General of India, 9 Deen Dayal Upadhyay Marg, New Delhi.
- iii) Department of Expenditure, EV Branch, North Block, New Delhi

- iv) Department of Personnel & Training (CPC Pay I), North Block, New Delhi.
- v) Chairman, PESB/Secretary, PESB, CGO Complex New Delhi

Copy also to

- i) Prime Minister's Office (Shri Tarun Bajaj, Addl. Secretary)
- ii) Cabinet Secretariat (Shri S.A.M. Rizvi, Joint Secretary)

Copy for information to

- i) PS to Minister (HI&PE)
- ii) PS to MoS (HI&PE)
- iii) PS to Secretary, PE
- iv) AS & FA (PE)
- v) All [ILLEGIBLE], PE
- vi) NIC with the request to upload the OM on the DPE website.

Sd/-

(Samsul Haque)

Under Secretary to the Government of India

Annexure-I
(Para 2)

Grade	Existing(Rs)	Revised(Rs)
E0	12600-32500	30000-120000
E1	16400-40500	40000-140000
E2	20600-46500	50000-160000
E3	24900-50500	60000-180000
E4	29100-54500	70000-200000
E5	32900-58000	80000-220000
E6	36600-62000	90000-240000
E7	43200-66000	100000-260000
E8	51300-73000	120000-280000
E9	62000-80000	150000-300000

Grade	Existing(Rs)	Revised(Rs)
Director(Sch-D)	43200-66000	100000-260000
CMD(D)	51300-73000	120000-280000
Director(Sch-C)	51300-73000	120000-280000
CMD(C)	65000-75000	160000-290000
Director(Sch-B)	65000-75000	160000-290000
CMD(B)	75000-90000	180000-320000
Director(Sch-A)	75000-100000	180000-340000
CMD(A)	80000-125000	200000-370000

*E7 only in CPSEs of Schedule A, B & C

*E8 only in CPSEs of Schedule A & B

*E9 only in CPSEs of Schedule A

Affordability to certain types of CPSEs:

- a) In respect of Sick CPSEs referred to erstwhile Board for Industrial and Financial Reconstruction (BIFR) / Appellate Authority for Industrial and Financial Reconstruction (AAIFR), the revision of pay scales should be in accordance with rehabilitation packages approved by the Government after providing for the additional expenditure on account of pay revision in these packages.
- b) The affordability condition shall also be applicable to the CPSEs registered under Section 25 of the Companies Act, 1956, or under Section 8 of the Companies Act, 2013 (which by the very nature of their business are not-for profit companies) for implementation of the revised compensation structure (including Performance Related Pay) as being recommended for other CPSEs.
- c) There are also certain CPSEs which have been formed as independent Government companies under a statute to perform a specific agenda/ regulatory functions. The revenue stream of such CPSEs are not linked to profits from the open market in a competitive scenario but are governed through the fees & charges, as prescribed and amended from time to time by the Government. There is no budgetary support provided by the Government to such CPSEs. In consideration that the impact of the revised compensation structure (including Performance Related Pay) would supposedly form the part of revenue stream for such CPSEs, the affordability condition shall not be applicable to these CPSEs; however the implementation of same shall be subject to the approval of Administrative Ministry upon agreeing and ensuring to incorporate the impact of the revised compensation structure into the revenue stream.
- d) As regards the CPSEs under construction which are yet to start their commercial operations, the implementation of pay revision would be decided by the Government based on the proposal of concerned Administrative Ministry and consideration of their financial viability.
- e) In case of Coal India Limited (CIL), the holding company and its subsidiaries would be considered as a single unit for the affordability clause as per past precedent.

Stagnation Increment: In case of reaching the end point of pay scale, an executive would be allowed to draw stagnation increment, one after every two years upto a maximum of three such increments provided the executives gets a performance rating of 'Good' or above.

Bunching of Pay: - In CPSEs where a lower fitment benefit (i.e. 10% or 5%) is granted due to affordability, there is a possibility of bunching at different grades due to revised Basic Pay falling short of reaching starting point of revised pay-scale. The revised BP due to bunching of pay in these cases would be the higher of the followings -

- Adding the difference between the 'pre-revised Basic Pay' and 'the minimum of the pre-revised pay scale' to the starting point of revised pay scale.
- The revised BP as arrived after applying the fitment benefit (ie 10% or 5% of BP plus DA).

[Example for Basic Pay revision in cases of bunching in a Grade/level]

Sl. No.	Parameters		Minimum / Starting of pay scale (A)	Minimum + 1 increment @3% (B)	Minimum + 2 increments @3% (C)	Minimum + 3 increments @3% (D)
1.	E-6 level: Pre-revised BP (31.12.16)		36600	37700	38840	40010
2.	DA (1.1.2017)	Say 120%	43920	45240	46608	48012
3.	Total	(1)+(2)	80520	82940	85448	88022
4.	Fitment benefit	% of BP+DA	5%	5%	5%	5%
5.	Fitment benefit amount	(4) x (3)	4026.0	4147.0	4272.4	4401.1
6.	Net amount to arrive at revised BP	(3)+(5)	84546.0	87087.0	89720.4	92423.1
7.	Rounded off	Next Rs.10/-	84550	87090	89730	92430
8.	Minimum of E-6's revised pay-scale	Starting point	90000	90000	90000	90000
9.	Difference between the 'pre-revised Basic Pay' and the 'minimum of the pre-revised pay scale'	Linked to figure at Column (A) mentioned at Sl. No.1	(A) - (A) i.e. 36600 - 36600	(B) - (A) i.e. 37700 - 36600	(C) - (A) i.e. 38840 - 36600	(D) - (A) i.e. 40010 - 36600
10.	Difference amount	=	0	1100	2240	3410
11.	Net of difference added to starting point of revised pay-scale	(8) + (10)	90000	91100	92240	93410
12.	Revised Pay-scale	Higher of (7) or (11)	90000	91100	92240	93410

Annexure-III (B)(Para 7)**Rates of Dearness Allowances for the employees of CPSEs following IDA pattern**

Effective Date	Rate of Dearness Allowance (in percentage)
01.01.2017	0
01.04.2017	-1.1
01.07.2017	-0.2

Performance Related Pay**(I) Allocable profits:**

- a. The overall profits for distribution of PRP shall be limited to 5% of the year's profit accruing only from core business activities (without consideration of interest on idle cash / bank balances), which will be exclusively for executives and for non-unionized supervisors of the CPSE. The ratio of break-up of profit accruing from core business activities for payment of PRP between relevant year's profit to Incremental profit shall be 65:35 to arrive at the Allocable profits and the Kitty factor.

(I) PRP differentiator components:

- (A) PRP payout is to be distributed based on the addition of following parts / components:-

Part-1: CPSE's performance component:-

- (a) Weightage = 50% of PRP payout
(b) Based on CPSE's MOU rating:

MOU rating	%age eligibility of PRP
Excellent	100%
Very Good	75%
Good	50%
Fair	25%
Poor	Nil

Part-2: Team's performance component:-

- (a) Weightage = 30% of PRP payout
(b) Based on Team rating (i.e. linked to Plant / Unit's productivity measures and operational / physical performance):

Team rating	%age eligibility of PRP
Excellent	100%
Very Good	80%
Good / Average	60%
Fair	40%
Poor	Nil

* In case of a CPSE not having Plants/Units and if there is a no Team Performance areas/rating, then the PRP for such CPSE will be determined based specifically on MoU rating after merging the weightage of Team performance component to the Company's performance component.

- (c) The Team rating shall be linked to individual Plant/ Unit's productivity measures and operational / physical performance, as primarily derived from CPSEs' MOU parameters and as identified by CPSE depending on the nature of industry / business under the following suggested performance areas:-
- 'Achievement Areas', in which performance has to be maximized (e.g. market shares, sales volume growth, product output / generation, innovations in design or operation, awards and other competitive recognition, etc.); and
 - 'Control Areas' in which control has to be maximized (e.g. stock / fuel loss, operating cost control, litigation cost, safety etc.)
- (d) For office locations of CPSEs, the Team rating should be linked to the Plant / Unit as attached to the said office; and if there is more than one Plant / Unit attached to an office or in case of Head Office / Corporate Office of the CPSE, the Team rating shall be the weighted average of all such Plants/Units. The weighted average shall be based on the employee manpower size of the respective Plants / Units.

[Plants/Units shall primarily mean the work place where industry's manufacturing process is carried out and in case of a CPSE not having any manufacturing process, it shall mean the work place where the main business is carried out. The individual department/section within a work place shall not be recognized as a Plant/Unit].

Part-3: Individual's performance component:-

- (a) Weightage = 20% of PRP payout
- (b) Based on Individual performance rating (i.e. as per the CPSE's Performance Management System):

Individual performance rating	%age eligibility of PRP
Excellent	100%
Very Good	80%
Good / Average	60%
Fair	40%
Poor	Nil

- (c) The forced rating of 10% as below par / Poor performer shall not be made mandatory. Consequently, there shall be discontinuation of Bell-curve. The CPSEs are empowered to decide on the ratings to be given to the executives; however, capping of giving Excellent rating to not more than 15% of the total executive's in the grade (at below Board level) should be adhered to.

(II) **Percentage ceiling of PRP (%age of BP):**

- (a) The grade-wise percentage ceiling for drawal of PRP within the allocable profits has been rationalized as under:-

Grade	Ceiling (% of BP)
E0	40%
E1	40%
E2	40%
E3	40%
E4	50%
E5	50%
E6	60%
E7	[ILLEGIBLE]
E8	[ILLEGIBLE]
E9	90%
Director (C&D)	100%
Director (A&B)	125%
CMD / MD (C&D)	125%
CMD / MD (A&B)	150%

Note:

- For Non-Unionized supervisors, the PRP as percentage of BP will be decided by the respective Board of Directors of the CPSE.

- (III) **Kitty factor:** After considering the relevant year's profit, incremental profit and the full PRP payout requirement (computed for all executives based on Grade-wise ceilings, CPSE's MOU rating, Team rating & Individual performance rating), there will be two cut-off factors worked out based on the PRP distribution of 65:35. The first cut-off shall be in respect of PRP amount required out of year's profit, and the second cut-off shall be in respect of PRP amount required out of incremental profit, which shall be computable based on the break-up of allocable profit (i.e. year's 5% of profit bifurcated into the ratio of 65:35 towards year's profit and incremental profit).

The sum of first cut-off factor applied on 65% of Grade PRP ceiling and the second cut-off factor applied on 35% of Grade PRP ceiling will result in Kitty factor. The Kitty factor shall not exceed 100%.

(IV) Based on the PRP components specified above, the PRP pay-out to the executives should be computed upon addition of the following three elements:-

(a) **Factor-X (% of BP):**

Weightage of 50% Multiplied with Part-1 (CPSE's MOU rating) Multiplied with Kitty factor

(b) **Factor-Y (% of BP):**

Weightage of 30% Multiplied with Part-2 (Team's performance) Multiplied with Kitty factor.

(c) **Factor-Z (% of BP):**

Weightage of 20% Multiplied with Part-3 (Individual's performance) Multiplied with Kitty factor.

(d) **Net PRP = Factor X + Factor Y + Factor Z = Net %age of Annual BP**

Performance Related Pay (PRP): Examples for calculating Kitty factor / Allocable profit

- PRP Kitty Distribution: within 5% of profit accruing from core business activities (hereinafter, for brevity, referred to as Profit).
- Ratio of relevant year's profit : incremental profit = 65 : 35

Example -1:

Sl.	Parameters	Amount (Rs.)/ %age
1	FY 2016-17	Profit = 5000 crore
2	FY 2017-18 [for which PRP is to be distributed]	Profit = 6000 crore
3	Incremental profit	1000 crore
4	5% of the year's profit	300 crore
5	Allocable profit out of current year's 5% of profit based on distribution in the ratio of 65:35 towards the year's profit and incremental profit:	
a.	PRP payout from year's profit	195 crore [i.e. 65% out of 300 crore]
b.	PRP payout from incremental profit	105 crore [i.e. 35% out of 300 crore]: [105 crore can be fully utilized as incremental profit is 1000 crore.]
6	Full PRP Payout requirement (computed for all executives based on Grade-wise ceilings, CPSE's MOU rating, Team rating & Individual performance rating) - but without applying kitty factor related to year's profit or Incremental profit	500 crore
7	PRP payout break-up based on 65:35 distribution out of year's profit and incremental profit:	
a	PRP amount required out of year's profit (i.e. 65% of Sl. No. 6)	65% of 500 crore = 325 crore
a1	Cut-off factor(1) (in %age) for year's PRP payout with reference to Sl. No. 5(a) & 7(a)	195 crore / 325 crore = 60.00%
b	PRP amount required out of incremental profit (i.e. 35% of Sl. No. 6)	35% of 500 crore = 175 crore
b1	Cut-off factor(2) (in %age) for incremental PRP payout with reference to Sl. No. 5(b) & 7(b)	105 crore / 175 crore = 60.00%
8	Thus, total Profit amount allocated for PRP distribution	195 crore + 105 crore = 300 crore [i.e. 5% of Core business / operating profit]
9	Kitty factor for respective Grade (in %age)	[65% x Grade PRP ceiling(%) x Cut-off factor(1)] Plus (+) [35% x Grade PRP ceiling x Cut-off factor(2)] = Kitty factor

PRP Payout to Individual Executives**Example -1: For Grade E-1**

Sl	Parameter	Amount (Rs.)/ %age payout
A	CPSE's MOU rating [Weightage = 50%]	75% (Very Good)
B	Team's rating [Weightage = 30%]	100% (Excellent)
C	Individual's performance rating [Weightage = 20%]	60% (Good/Average)

D	Grade ceiling (E1) (Max. of 40% of BP)	40% of BP
E	Cut-off factor (1)	60.0%
F	Cut-off factor (2)	60.0%
G	Kitty Factor for Grade E1 i.e. $[65\% \times D \text{ (Grade PRP ceiling)} \times E \text{ (Cut-off factor(1))}] \text{ Plus (+) } [35\% \times D \text{ (Grade PRP ceiling)} \times F \text{ (Cut-off factor(2))}]$	$[65\% \times 40\% \times 60.00\%] + [35\% \times 40\% \times 60.00\%] = 15.60\% + 8.40\% = 24.00\%$
E	Net PRP	
i	Factor-X [Company's performance component]	Wtg.(50%) x A x G i.e. $50\% \times 75\% \times 24.0\% = 9.00\%$
ii	Factor-Y [Team's performance component]	Wtg.(30%) x B x G i.e. $30\% \times 100\% \times 24.00\% = 7.20\%$
iii	Factor-Z [Individual's performance component]	Wtg.(20%) x C x G i.e. $20\% \times 60\% \times 24.00\% = 2.88\%$
H	PRP payout distribution	Factor X + Factor Y + Factor Z = 19.08% of Basic Pay

Performance Related Pay (PRP): Examples for calculating Kitty factor / Allocable profit

- PRP Kitty Distribution : within 5% of profit accruing from core business activities (hereinafter, for brevity, referred to as Profit).
- Ratio of relevant year's profit : incremental profit = 65 : 35

Example-2:

Sl.	Parameters	Amount (Rs.)/ %age
1	FY 2016-17	PBT - 7000 crore
2	FY 2017-18 [for which PRP is to be distributed]	PBT - 6000 crore
3	Incremental profit	Nil
4	5% of the year's profit	300 crore
5	Allocable profit out of current year's 5% of profit based on distribution in the ratio of 65:35 towards the year's profit and incremental profit:	
a.	PRP payout from year's profit	195 crore [i.e. 65% out of 300 crore]
b.	PRP payout from incremental profit	105 crore [i.e. 35% out of 300 crore]: [Nil amount to be allocated as profit is Nil.]
6	Full PRP Payout requirement (computed for all executives based on Grade-wise ceilings, CPSE's MOU rating, Team rating & Individual performance rating) - but without applying kitty factor related to year's profit or Incremental profit	500 crore
7	PRP payout break-up based on 65:35 distribution out of year's profit and incremental profit:	
a	PRP amount required out of year's profit (i.e. 65% of Sl. No. 6)	65% of 500 crore = 325 crore
a1	Cut-off factor(1) (in %age) for year's PRP payout with reference to Sl. No. 5(a) & 7(a)	$195 \text{ crore} / 325 \text{ crore} = 60.00\%$
b	PRP amount required out of incremental profit (i.e. 35% of Sl. No. 6)	35% of 500 crore = 175 crore
b1		$\text{Nil} / 175 \text{ crore} = 0.00\%$

	Cut-off factor(2) (in %age) for incremental PRP payout with reference to Sl. No. 5(b) & 7(b)	
8	Thus, total Profit amount allocated for PRP distribution	195 crore + 0 crore = 195 crore [i.e. 3.25% of Core business/operating profit]
9	Kitty factor for respective Grade (in %age)	[65% x Grade PRP ceiling (%) x Cut-off factor(1)] Plus (+) [35% x Grade PRP ceiling x Cut-off factor(2)] = Kitty factor

PRP Payout to Individual Executives

Example - 2 : For Grade E-1

Sl	Parameter	Amount (Rs.)/ %age payout
A	CPSE's MOU rating [Weightage = 50%]	75% (Very Good)
B	Team's rating [Weightage = 30%]	100% (Excellent)
C	Individual's performance rating [Weightage = 20%]	60% (Good/Average)
D	Grade ceiling (E1) (Max. of 40% of BP)	40% of BP
E	Cut-off factor (1)	60.0%
F	Cut-off factor (2)	00.0%
G	Kitty Factor for Grade E1 i.e. [65% x D (Grade PRP ceiling) x E (Cut-off factor(1))] Plus (+) [35% x D (Grade PRP ceiling) X F (Cut-off factor(2))]	[65% X 40% X 60.00%] + [35% X 40% X 0.00%] = 15.60% + 0.00% = 15.60%
E	Net PRP	
i	Factor-X [Company's performance component]	Wtg.(50%) x A x G i.e. 50% X 75% X 15.60% = 5.85%
ii	Factor-Y [Team's performance component]	Wtg.(50%) x B x G i.e. 50% X 100% X 15.60% = 4.68%
iii	Factor-Z [Individual's performance component]	Wtg.(20%) x C x G i.e. 20% X 60% X 15.60% = 1.87%
H	PRP payout distribution	Factor X + Factor Y + Factor Z = 12.40% of Basic Pay

No.W-02/0036/2018-DPE (WC)-GL-XIX/18
 Government of India
 Ministry of Heavy Industries & Public Enterprises
 Department of Public Enterprises

Public Enterprises Bhawan,
 Block No.14, CGO Complex,
 Lodhi Road, New Delhi-110003.
 Dated, the 10th July, 2018

OFFICE MEMORANDUM

Subject:- Payment of Gratuity to the employees of CPSEs-Clarification-regarding.

The undersigned is directed to refer to DPE's OM No W-02/0028/2017-DPE(WC)-GL-XIII/17 dated 03.08.2017 which, inter-alia, stipulates the increase of ceiling of gratuity from Rs. 10 lakhs to Rs 20 lakhs w.e.f. 01.01.2017 for Executives and Non-Unionised Supervisors of CPSEs on IDA pattern of Pay and DPE's OM No W-02/0020/2018-DPE(WC)-GL-XII/18 dated 11.04.2018, informing about the amendment in the Payment of Gratuity Act, 1972, regarding enhancement of ceiling of gratuity from Rs. 10 lakhs to Rs. 20 lakhs and effective date i.e. 29.03.2018.

2. This Department has received various representations from different stakeholders seeking clarification on the effective date of the enhancement of ceiling of Gratuity. Accordingly, the issue has been considered & clarified as follows:
 - a) The payment of Gratuity under DPE guidelines dated 03.08.2017, is subject to *affordability* of the CPSEs concerned effective for the period from 01.01.2017 till 28.03.2018, in respect of Executives and Non-Unionised Supervisors of CPSEs on IDA pay pattern, where, pay has been revised w.e.f. 01.01.2017
 - b) Whereas, on and after 29.03.2018, the payment of gratuity of Rs 20 lakhs is *mandatory* for all the CPSEs irrespective of their affordability as it is *a statutory provision* in light of the amendment in the Payment of Gratuity Act, 1972. This provision is applicable to all employees of all CPSEs.
 - c) Further, the Government decision on the basis of the recommendations of the 7th Central Pay Commission (CPC), regarding raising the Gratuity ceiling from Rs 10 lakhs to Rs 20 lakhs w.e.f. 01.01.2016 is *not* applicable to the employees of CPSEs.
3. All administrative Ministries/Departments are requested to bring these clarification to the notice of CPSEs (except Banking & Insurance Sector) under their administrative control for strict compliance.

4. This issues with the approval of the Competent Authority.

Sd/-
(Samsul Haque)
Under Secretary

To

All administrative Ministries/Departments of the Government of India.

Copy to:

1. The Chief Executive Officers of Central Public Sector Enterprises.
2. The Comptroller & Auditor General of India, 9 Dean Dayal Upadhayay Marg, New Delhi.
3. Financial Advisers in the Administrative Ministries.
4. Joint Secretary, Department of Expenditure, North Block, New Delhi.
5. Joint Secretary, Department of Personnel & Training, North Block, New Delhi.
6. NIC, DPE with a request to upload this OM on the DPE website.

Sd/-
(Samsul Haque)
Under Secretary

True Typed Copy

No. 4/02/2019-P&PW(D)/40504
Govt. of India
Ministry of Personnel, P.G & Pensions
Department of Pension & Pensioners Welfare

3rd Floor, Lok Nayak Bhavan,
Khan Market, New Delhi-110003
Date:- 08th March,2019

OFFICE MEMORANDUM

Sub:- Revision of pension of the absorbed combined service pensioners of BSNL/MTNL from 01.01.2017- reg.

The undersigned is directed to forward herewith a copy of representation dated 12.2.2019 from Committee of BSNL/MTNL Pensioners' Association on the above subject and to invite the attention of the DoT to this Department's ID Note of even no. dated 14.01.2019.

2. This Department has made the following observations on the proposal of DoT for revision of pension of the combined service absorbee pensioners of BSNL/MTNL :-
 - (i) DoT has not clearly brought out as to what would be the formula for revision of pension on pre-2017 absorbee pensioners and what would be financial implications on revision of pension as per that formula.
 - (ii) It has been stated by DoT that pay of the serving employees has not been revised in implementation of recommendations of 3rd PRC, since these entities had not fulfilled the pre-conditions for grant of the facility to these serving employees. This means that serving employees of BSNL/MTNL continue to be on the same pay which they were getting since 01.01.2007. In that case the existing Government employees would also be getting pension based on their unrevised 2nd PRC pay-scale/pay. In case pension of the past pensioners is revised, their revised pension would become higher than pension to be fixed on retirement of the existing employees. This will create an anomalous situation in BSNL/MTNL as the past pensioners would be getting more pension than the freshly retired pensioners. DoT, therefore, needs to bring about as to how they propose to resolve this anomaly.
3. DoT was requested to reconsider the matter and provide information/comments on the above observations. However, the requisite clarifications/proposal has not been received from DoT so far.

4. It is requested that the issues raised in the representation dated 12.02.2019 from Committee of BSNL/MTNL Pensioners' Association may be examined by DoT, and the comments of DoT thereon, may be sent to this Department alongwith the clarifications sought in this Department's ID Note dated 14.01.2019.

Encl: as above

Sd/-

(Charanjit Taneja)

Under Secretary to the Govt. of India

DDG(Estt)

Department of Telecom,

Sanchar Bhawan, New Delhi

Copy to:-

Shri P Gangadhara Rao, Convener, Committee of BSNL/MTNL Pensioners' Association, H No.6, G No. 12th Stree, Jogupaiya, Halasuru, Bangalore-560008

True Typed Copy