

SONALI JAIN

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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPLE BENCH: NEW DELHI

The details of all the Applicants and Respondents in the case should be furnished in the given below format:

- (i) Subject (Appendix VII of CAT Rules of practice, 1993)

Release of Retrial Benefits

- (ii) Ministry/Department (As per list Attached)

Department of Telecom

Sl.No.	Description	Details
1.	Typed of O.A/P.T	O.A
2.	No. of Applicants	8
3.	No. of Respondents	4
4.	Applicant's Name	All India Retired Bharat Sanchar Nigam Limited Executive Welfare Association through its General Secretary Sh. Prahlad Rai
5.	Age	63 years
6.	Group	B
7.	Sex	Male
8.	Nationality	Indian
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Group: B, C & D
 Department: BSNL
 Subject: Pension

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 PRINCIPAL BENCH, NEW DELHI
 ORIGINAL APPLICATION NO. 1272 OF 2020

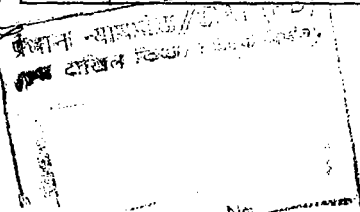
IN THE MATTER OF:

ALL INDIA RETIRED BSNL EXECUTIVES
 WELFARE ASSOCIATION & ORS. ...APPLICANTS
 VERSUS
 UNION OF INDIA & ORS. ...RESPONDENTS

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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. OF 2020**

IN THE MATTER OF:

ALL INDIA RETIRED BSNL EXECUTIVES
WELFARE ASSOCIATION & ORS. ...APPLICANTS
VERSUS
UNION OF INDIA & ORS. ...RESPONDENTS

COMPILATION - I

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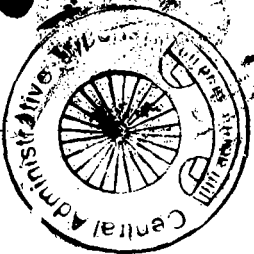
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**NEW DELHI
08.09.2020**



Pensioners, renders the objection to pension revision nugatory. As such, the Government cannot be permitted to approbate and reprobate to the detriment of 2.5 Lakh BSNL Pensioners especially after their retirement when proper pension and periodic review thereof is most crucial.

It is humbly submitted, that presently, even the minimum pension of the lowest rank of employees retired from BSNL viz., Group D equivalent Pensioners/Family Pensioners is a meagre Rs. 3, 500/- per month, as compared to a minimum pension of Rs. 9, 000/- per month drawn by government employees. It is in these exceptional circumstances, that the intervention of this Hon'ble Tribunal is sought with a prayer, *inter alia*, for a direction to DOT to revise the pension of all those BSNL Pensioners, who are erstwhile DOT employees in tandem with the government employees.

LIST OF DATES

<u>Date</u>	<u>Particulars</u>
05.07.1989	Office Memorandum issued by DoP&PW, wherein, 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 was reviewed and terms and conditions were issued to be applicable in the case of <i>en masse</i> transfer of employees. As per the said OM, 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.
25.09.2000	Note for the Cabinet seeking approval for HRD and financial issues arising out of the corporatization of the

Department of Telecom Service (DTS) and Department of Telecom Operations (DTO).

The decision of Government in June 2000 to achieve corporatization by 01.10.2000 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 and in particular to their retirement and pensionary benefits before corporatization.

Accordingly, the following framework was approved for retirement and pensionary benefits:

- All employees were to be entitled to Government scheme of pension/ family pension even after their absorption;
- Payment of pension would be made by Government;
- Arrangement would be worked out for obtaining pension contribution from the PSU to be deposited with the Government;
- The pension framework was made a part of the CCS (Pension) Rules, 1972 by insertion of Rule 37A by amending Rule 37, by virtue of powers under Article 309 of the Constitution of India.

Office Memorandum issued by Government of India to transfer the telecom services provided by the Department of Telecom Services (DTS) and the Department of Telecom Operations (DTO) to BSNL w.e.f. 1.10.2000.

After several agitations by the employees for their terms of service and retirement benefits upon absorption by the PSU, Rule 37A was inserted in the CCS (Pension) Rules, 1972 with conditions and provisions for payment of pensionary benefits on absorption consequent upon conversion of a

Government Department into a Central autonomous body or a Public Sector Undertaking, based on the combined service rendered by the employee in the Government and in the Public Sector Undertaking or the autonomous body. Under the said rules, the PSU was required to make pension contribution to the Government of India (DoT) for the period of service to be rendered by the concerned employees under that PSU or autonomous body at the rates as may be defined by the Government of India.

As per Rule 37A, BSNL was required to make pension contribution to the Government. As such, BSNL has been making pension contribution as decided by the Government, which was paid on the maximum of their pay scale. Further, the pension is paid by the Government of India (DoT) in the IDA pay scale as per the provisions of Rule 37 A of the CCS Pension Rules, 1972.

09.11.2000 Circular issued by the DOT stating that the employees getting absorbed in BSNL would continue to receive Government's scheme of pension/ family pension after their absorption and that the dismissal or removal from service of an employee after his absorption in the PSU for any subsequent misconduct would not amount to forfeiture of his retirement benefits for the service rendered under the Government and in the event of his dismissal, removal or retrenchment, the decision of BSNL would be subject to review by Administrative Ministry.

14.01.2002 Order issued by BSNL calling for options for absorption of Group 'B' officers who were transferred to BSNL &

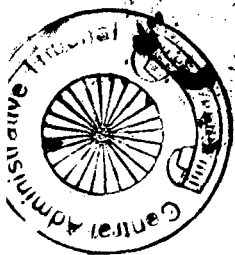
MTNL on deemed deputation basis with effect from 01.10.2000 as well as of those who remained in DOT. As per the order, officers who opted for permanent absorption in BSNL would be governed by the provisions of Rule 37-A of CCS (Pension) Rules, 1972. For reckoning emoluments for calculation of pension and pensionary benefits, the emoluments as defined in CCS (Pension) Rules, applicable to PSUs in the IDA pay scale would be taken.

06.08.2002 Group B officers challenged the letter dated 14.01.2002, calling options for absorption of Group B officers of DoT/DTS/DTO into BSNL without declaring the Terms and condition for absorption in BSNL like Pay Scales, Promotion Policy, Fitment method etc in various Tribunals. Finally, this Hon'ble Tribunal vide a common order dated 06.08.2002 passed in OA No.298/2002 and other connected OAs directed BSNL and DoT to finalise the Terms and condition for absorption in BSNL like Pay Scales, Promotion Policy, Fitment method etc before calling for options.

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

(a) after sub -rule (8), the following explanation is 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"



15.01.2003 Clarification issued by the DOT in relation to payment of Pension and Family Pension, on CDA Pay Scale or IDA Pay Scale, on introduction of the IDA pay scale by the BSNL on 07.08.2002 with effect from 1.10.2000 in replacement of existing CDA pay scale.

02.03.2003 Persons working in DOT were transferred to BSNL on an as is where is basis w.e.f. 01.10.2000 and Terms and Condition for Absorption of Group B officers in BSNL were issued by DOT.

The Applicants chose absorption in BSNL because of the assured career progression and specific conditions of service and retirement benefits at par with government employees. Had the Applicants not chosen absorption, they would have been transferred to the surplus cell of the Government of India.

28.07.2003 DoT notified the IDA pay scales corresponding to the CDA scales of DoT, approved for the Executives of BSNL. The Fitment method for Officers absorbed from DoT into BSNL was on point to point basis. The IDA pay scales offered on absorption in BSNL was higher than the corresponding CDA Pay scales.

29.08.2003 Letter issued by DOT directing BSNL to expeditiously complete the absorption of Group 'B' officers in BSNL in pursuance of the directions given by CAT on 06.08.2002 in OA No.298/2002.

Letter issued by BSNL calling for options from Group 'B' Officers in BSNL with the IDA pay scales, fitment

formula and promotional avenues. The IDA pay scales were effective from 01.10.2000.

Employees, like the Applicants, chose absorption in BSNL because of:

- (i) the specific conditions of service and retirement benefits/Government scheme of Pension on the combined service rendered in DoT and BSNL at par with the Government employees, governed by Rule 37-A of CCS (Pension) Rules 1972;
- (ii) better pay/pay scales with point to point fixation; and
- (iii) assured career progression with better promotional avenues.

12.02.2004 Order issued by DOT permanently absorbing an employee Amit Kumar Gupta in BSNL whose pension was to be governed by Rule 37-A of CCS (Pension) Rules, as amended from time to time. Similar orders were issued to all employees of BSNL/MTNL who chose absorption in either BSNL/MTNL.



01.01.2006 The revised rules for pension calculation as per the 6th Central Pay Commission ("CPC") were made applicable to Government Pensioners who retired before 01.01.2006. The said rules were made applicable to BSNL IDA Pensioners covered under Rule 37 A w.e.f. 01.01.2006 and many pensionary benefits were extended.

01.01.2007 Pursuant to the 2nd Pay Revision Committee Report (PRC) for CPSUs, the pay of BSNL employees was revised from 01.01.2007. As recommended by the 2nd

PRC, with the approval of Union Cabinet, Department of Public Enterprises ("DPE") notified the Pay Revision orders on 26.11.2008 with 30% fitment.

Similarly Pay revision for the Non-Executives was also implemented w.e.f. 01.01.2007, through a negotiated settlement with the same 30% Fitment.

Unlike Central Pay Commission, Pay Revision Committee for CPSUs deals with only Pay Revision of the Officers/Executives of CPSUs only.

12.08.2009 Circular issued by Department of Telecommunications intimating applicability of revised rules of pension calculation as per the 6th CPC in respect of limit for DCRG, Commutation Table, Emoluments, qualifying service etc. to IDA Pensioners of BSNL covered under Rule 37-A w.e.f. 01-01-2006

15.03.2011 DOT issued an order No. 40-17/2008-Pen (T)-Vol III, that was forwarded by BSNL on 04.04.2011 through its Circular No. 09 being No. 40-06/2011-Pen (B), for revision of Pension/family Pension for BSNL employees who retired between 01.10.2000-31.12.2006. The pension/ family pension was consolidated with effect from 01.10.2007 by adding together:

- (i) the existing pension/family pension, including commuted portion of Pension if any;
- (ii) Dearness Relief i.e. 68.8% of Basic Pension/Basic family pension; and
- (iii) Fitment weightage and the existing pension @ 30% of the sum of existing pension/family pension and Dearness Relief thereon.

The fixation of pension was to be subject to the provision that the revised pension, in no case, shall be lower than 50% of the minimum of the pay in the revised pay scale corresponding to the pre-revised pay scale from which the BSNL pensioner had retired.

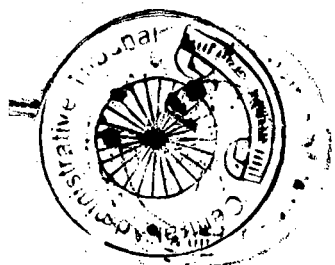
This was in line of the recommendation of pay revision formula of 2nd PRC, increase of minimum pension to Rs. 3500 as per 6th CPC and increase of pension with age maturity also as per 6th CPC. In the absence of general guidelines for pension revision on IDA pattern, DOT issued pension revision for those who retired between 01.10.2000 - 01.01.2007 from BSNL taking into accounts of the following aspects:

- (i) Pension/family pension Revision as per 2nd PRC pay revision formula;
- (ii) Increase of minimum pension to Rs 3500 as per 6th CPC; &
- (iii) Increase of pension with age maturity as per 6th CPC.

04.04.2011 In furtherance of the OM dated 15.03.2011, BSNL through its Circular No. 09 being No. 40-06/2011-Pen (B), issued directions to the administrative officers of BSNL to initiate the process of consolidation of pension/family pension to existing pre -2007 BSNL pensioners/family pensioners. Accordingly, pension revision of BSNL employees who retired before 01.01.2007 took place.

21.12.2012 The CCS Pension Rules 1972 were amended and Sub Rule 9 of Rule 37A was modified as under:

"...pension shall be calculated on fifty percent of emoluments or average emoluments, whichever is more beneficial to him".



- 20.02.2014** Vide order No: 4-12(11)/2012-PAT, CGHS facilities were also extended to BSNL Pensioners.
- 31.12.2015** DoT requested the DPE to add revision of Pensionary benefits of BSNL & MTNL Pensioners as terms of reference of 3rd PRC. [This document was received under The Right to Information Act, 2005]
- 20.07.2016** Order being No: 40-13/2013-Pen(T) issued by the Department of Pension & Pensioners Welfare, Government of India, ("DOP&PW") whereby the decision of the Union Cabinet dated 05.07.2016 was implemented and the entire pension liability of BSNL IDA pensioners taken over by the Government.
- 04.08.2016** OM issued by the Ministry of Personnel, Public Grievance and Pensions, in respect of implementation of pension revision as per the 7th CPC recommendations for pre 2016 pensioners/family pensioners. It is pertinent to mention, that the said Order was made applicable to all pensioners/family pensioners drawing pension/family pension before 01.01.2016 under the CCS (Pension) Rules 1972.
- 27.12.2016** RTI response by DOT stating that the OM dated 04.08.2016 was applicable to a government servant absorbed permanently in a PSU drawing pro rata pension only, and not for BSNL IDA pensioners.
- 16.03.2017** DOT issued a clarification *vide* No. 47-63/2015-Pen(T)(pt) on the applicability of the revised rules of CCS (Pension) Rules, 1972, to the BSNL/MTNL

absorbed combined service pensioners consequent to the 7th CPC. It was clarified that the rates of payment of death gratuity were to be revised as per para 6.1. of DoP&PW's OM dated 04.08.2016 with the maximum limit of Rs. 20 Lakhs w.e.f. 01.01.2016.

Further, it stated that there was no change in the formula for pension/family pension w.e.f. 01.01.2016 and the BSNL/MTNL absorbee employees would continue to get pension based on the same formula.

03.08.2017 Pursuant to the 3rd PRC Report for CPSUs, the DPE notified the Pay Revision orders for the Officers and Executives of CPSUs with 15% fitment. Many CPSUs implemented the Pay Revision w.e.f. 01.01.2017 for executives and non-executives both.

21.03.2017 Order issued by BSNL, enhancing the limit of Gratuity for BSNL Pensioners at par with Government employees on the basis of the recommendations of the 7th CPC.

12.05.2017 OM issued by the Ministry of Personnel, Public Grievance and Pensions in continuation of the OM dated 04.08.2016, with respect to fixation of pension as per the 7th CPC for Pensioners and Family Pensioners of pre 2016 pensioners i.e. those who retired or died prior to 01.01.2016.



28.08.2017 Representation by the All India Retired BSNL Executives Welfare Association to the Hon'ble Minister of Communications seeking pension revision consequent to the 7th CPC recommendation.

- 23.10.2017** In response to a letter dated 28.08.2017 issued by Shri
- 13.06.2018** Ajay Nishad, Member of Parliament, Lok Sabha, and letter dated 12.03.2018 issued by Shri Gopal Shetty, Member of Parliament, Lok Sabha, regarding revision of pension of BSNL/MTNL, pensioners/family pensioners who were permanently absorbed in BSNL from DOT and are getting pensions/family pension in terms of the OM dated 12.05.2017, it was stated by the Minister of State for Communications, that pension revision follows pay revision and accordingly, the case of pension revision of BSNL and MTNL employees would be taken up as and when the 3rd PRC is implemented in BSNL.
- 04.07.2018** RTI response by the Ministry of Personnel, Public Grievance and Pensions, wherein it was stated that action for revision of pension by BSNL/MTNL pursuant to 7th CPC was required to be taken by DOT.
- 10.07.2018** Order issued by DPE clarifying that payment of gratuity was to be enhanced for all CPSE's on IDA Pay scale w.e.f. 29.03.2018 and the recommendation of the 7th CPC for enhanced gratuity w.e.f. 01.01.2016 was not applicable for CPSEs. However, it is pertinent to note that the BSNL Pensioners enhancement of Gratuity was w.e.f. 01.01.2016 i.e. at par with the Government employees.
- 13.07.2018** RTI response by DOT stating that the Orders dated 04.08.2016 and 12.05.2017 regarding revision of pension of BSNL/MTNL Pensioners/Family Pensioners as per the 7th CPC, the Orders were applicable to only CDA Pensioners who were drawing monthly pension.



on a pro rata basis. The aforementioned Orders dated 04.08.2016 and 12.05.2017 were not applicable to revision of pension of employees permanently absorbed in BSNL/MTNL from DOT who were drawing pension on IDA scale in terms of Rule 37A. The case of pension revision of the permanent absorbees in BSNL/MTNL will only be taken up as and when the 3rd PRC is implemented for the revision of pay scales of the serving employees in BSNL/MTNL.

04.09.2018 Representation by the All India Retired BSNL Executives Welfare Association made to the DOT seeking pension revision consequent to the 7th CPC Commission recommendation.

17.09.2018 Representation by the All India Retired BSNL Executives Welfare Association made to the Minister of Communications seeking pension revision consequent to the 7th CPC recommendation.

08.03.2019 OM issued by DOPT&PW, requesting DOT to examine the issue of revision of pension of the combined service Pensioners of BSNL/MTNL. The following observations were made 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 pre 2017 absorbee pensioners and what would be the financial implications on revision of pension as per that formula.

(ii) It was 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 before (on) 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 would 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."

18.11.2019 Representation by the All India Retired BSNL Executives Welfare Association made to the Chairman TC & Secretary (Telecom) seeking pension revision consequent to the 7th CPC recommendation. It was stated that VRS was implemented without 3rd PRC and as such, there was no scope of any pay revision in the near future and therefore, requested for implementation of pension revision. It was further stated that the multiplication factors for BSNL IDA Pensioners would be 2.515 as per 7th CPC recommendation against 2.57 applied for CDA Pensioners and requested for implementation of the recommendations of the 7th CPC recommendations for BSNL Pensioners/Family Pensioners.

27.01.2020 Applicant No. 2 vide a representation requested the for pension revision as per the recommendations of the 7th Central Pay Commission in respect of BSNL Pensioners/Family Pensioners.

11.03.2020 The Minister of State for Communications, Human Resource Development and Electronics & Information Technology, Shri Sanjay Dhotre, while responding to the unstarred stated that the Government was not considering revision of pension of BSNL absorbed retirees in as much as pension revision was linked to pay revision.

**March- 9th
June 2020** Lockdown imposed in the Country to contain the spread of COVID-19 due to which the Applicants were unable to approach this Hon'ble Court. The Hon'ble Supreme Court

**September
2020** Hence, the present Original Application

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 1272 OF 2020**

MEMO OF PARTIES

1. **All India Retired Bharat Sanchar Nigam Limited
Executive Welfare Association**
Through its General Secretary
Shri Prahlad Rai
Registration Number: S/00108/NE-/2010 C-8/230, Applicant No. 1
Having its registered office at:
8/230, Yamuna Vihar,
Delhi-110053

2. **Sanchar Nigam Pensioners Welfare Association**
Through its General Secretary
Shri Girdhari Lal Jogi
Having its office at: Applicant No. 2
SNEA Bhawan, B-11/1&2, Ground Floor,
Opp. to Sanatan Dharma Mandir,
Ramesh Nagar, New Delhi-110015

3. **Shri Ashim Kumar Dey**
Group: B
Designation: Ex. Accounts officer, Calcutta
Telephones, BSNL
Aged about 68 years Applicant No. 3
S/o Late Shri Ramendra Nath Dey
R/o Kingshuk Apartment, 3rd Floor, Flat-
7, 344 Parnashree Pally, Kolkata -700060

4. **Shri Subhas Chandra Mitra**
Group: C
Designation: Ex TTA, Calcutta Telephones, BSNL
Aged about 71 years Applicant No. 4
S/O Late Shri Prafulla Chandra Mitra
R/o 22 Hind Road, Flat 6, 3rd Floor
New Santoshpur, Kolkata- 700075

5. **Shri Gopal Chandra Naskar**
Group: D
Designation: Ex Canteen Bearer, Calcutta
Telephones, BSNL Applicant No. 5

Aged about 66 years
S/o Late Shri Bhusan Chandra Naskar
R/o 41/A Biren Roy Road (East),
Kolkata - 700008

6. **Shri Rajendra Singh**

Group: B

Designation: Ex SDE

Aged about 65 years

S/o Late Shri Sohan Singh

R/o 43, Shahbad Ext (Gail-2), Sector 17,
Rohini, Delhi- 110081

Applicant No. 6

7. **Shri Kiran Kumar Prabhakar**

Group: B

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 121004

Applicant No. 7

8. **Shri S. Sundara Murthy**

Group: C

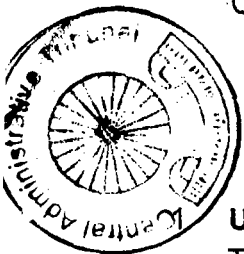
Designation: Telecom Mechanic

Aged about 66 years

S/o Shri Saminathan

R/o 28, Tirupatcheeswaran, Ayanavaram,
Chennai - 400023

Applicant No. 8



VERSUS

Union of India,

Through its Secretary,
Department of Telecommunications,
Sanchar Bhavan, 20, Ashok Road,
New Delhi- 110001

Respondent No. 1

2. **Bharat Sanchar Nigam Ltd.**

Through its CMD,

Having its registered office at:

Respondent No. 2

I
Harish Chandra Mathur Lane, Janpath,
New Delhi-110001

3. **Department of Pension & Pensioners' Welfare**

Through its Secretary
3rd Floor, Lok Nayak Bhawan,
Khan market,
New Delhi- 110003

Respondent No. 3

4. **Department of Public Enterprises**

Through its Secretary
Public Enterprises Bhawan
Block No.14, CGO Complex,
Lodhi Road,
New Delhi- 10003

Respondent No. 4

APPLICANTS

Through

Gauri Puri & Amrita Singh

Gauri Puri & Amrita Singh

D/1753/2012 & D/162/2019

Advocates for the Applicants

A-22, Ground Floor,

Defence Colony

New Delhi – 110 024

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Phone: 011-45094930



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 1272 OF 2020

IN THE MATTER OF:

ALL INDIA RETIRED BSNL EXECUTIVES
WELFARE ASSOCIATION & ORS. ...APPLICANTS
VERSUS
UNION OF INDIA & ORS. ...RESPONDENTS

ORIGINAL APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNALS ACT, 1985.

TO,

THE HON'BLE CHAIRMAN, VICE CHAIRMAN AND
OTHER HON'BLE MEMBERS OF THE HON'BLE
CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL
BENCH, NEW DELHI

THE HUMBLE APPLICATION ON BEHALF THE APPLICANTS
ABOVE NAMED:

MOST RESPECTFULLY SHOWETH:

1. PARTICULARS AGAINST WHICH THE APPLICATION IS
MADE:

- 1.1 That the present Original Application is being preferred against the inaction of the Department of Telecommunications ("DOT") to revise the pension/family pension of about 2.5 Lakh combined service Government Pensioners retired from of Bharat Sanchar Nigam Limited ("BSNL") who opted to be absorbed in BSNL from DOT, on the assurance that they would be at par with the government employees under Rule 37-A, CCS (Pension) Rules, 1972 and all employees were to be entitled to the Government scheme of pension/ family pension even after their absorption.

However, despite implementation of the recommendations of the 7th Central Pay Commission ("CPC") in respect of Government Pensioners and 3rd Pay Revision as per the Pay Revision Committee ("PRC") for the CPSUs, the last pension revision in respect of employees of BSNL took place almost 13 years ago i.e. on 01.01.2007, and no pension revision has taken place for the retired BSNL Pensioners, on the erroneous ground that no pay revision of BSNL employees has taken place and the recommendations of the 7th CPC are not applicable to BSNL IDA Pensioners.

- 1.2. It is pertinent to mention, that the Applicants are all erstwhile employees of DOT prior to the formation of BSNL and were subsequently absorbed into BSNL w.e.f. 01.10.2000. At the time of absorption, apart from other assurances, the Petitioners were assured that the pensionary benefits would be paid by the Government under Rule 37A of the CCS Pension Rules 1972 and the absorbed employees were to be entitled to Government scheme of pension/ family pension on their combined service rendered in DOT and BSNL together, even after their absorption. Even though the Pensioners would have ceased to be Civil Servants with protection under Article 311 of the Constitution of India, 1950, they chose absorption on the basis of the aforementioned assurance of their pensionary benefits being protected in terms of Rule 37A and BSNL being a Public Sector Undertaking, would not be able to resile from such pensionary

benefits on account of any unforeseen financial difficulty since pension was to be paid by the Government.

1.3. Moreover, the pension contribution of all the Applicants has already been made to DOT and that too at the maximum of their pay scales on monthly basis as decided by DOT. Consequently, denial of their legitimate rights at this stage, when the Applicants who are all Senior Citizens with a legitimate expectation to reap the benefits of their service, is wholly arbitrary and untenable in as much as the Applicants are being arbitrarily denied the benefits that would have normally accrued to them had they not chosen absorption in BSNL and continued to remain in government service. The denial of pension revision is completely contrary to the terms and condition of absorption for payment of pension under Government scheme of Pension as per Rule 37A of CCS Pension rule 1972 and liable to be interfered with by this Hon'ble Tribunal.

1.4. As mentioned above, the last pension revision in respect of retired BSNL Pensioners took place after the recommendations of the 6th CPC and 2nd PRC in the year 2007. As such, despite the implementation of the recommendations of the 7th CPC vis-à-vis Government employees in 2016 and and the 3rd Pay Revision for the Officers of Public Sector Undertakings in 2017, the pension of BSNL Pensioners, who after retirement were to

pensionary

government

employees, remains unchanged and adversely affected despite several representations made to the DOT.

1.5. The inaction of DOT is arbitrary and contrary to the assurances made at the time the Applicants, who were then government servants, chose permanent absorption in BSNL, on the specific assurance that after their retirement from BSNL, they would continue to draw their pensionary benefits at par with a government servant and all employees were to be entitled to Government scheme of pension/ family pension even after their absorption.

1.6. Therefore, the BSNL Pensioners were entitled to the same scheme of pensionary benefits that are being drawn by the government employees which includes pension revision upon the implementation of the 7th CPC. In fact, as mentioned hereinabove, except for pension revision and minimum pension, all the other recommendations of the 7th Central Pay Commission have been implemented in respect of BSNL Pensioners/Family Pensioners viz., calculation of Pension, additional pension with maturity of age, qualifying service for full pension, commutation, limit of Gratuity, Family Pension, Leave encashment amount etc.

1.7. In view of the lapse of more than 13 years, viz., more than a decade since the pension of the BSNL Pensioners who are all erstwhile DOT employees was revised, with the increase in

inflation, cost of living and expenses, pension revision of BSNL Pensioners is an urgent need of the hour.

1.8. The disparity in the pension being drawn by the BSNL retired Pensioners/Family Pensioners *vis-à-vis* the government employees is a result of the arbitrary action and failure of DOT to revise the pension as a result of which even the minimum pension of the lowest rank of employees in BSNL viz., Group D Pensioners/Family Pensioners is a meagre Rs. 3, 500/- per month, as compared to a minimum pension of Rs. 9,000/- per month drawn by government pensioners.

1.9. The BSNL Pensioners, were all government servants for most part of their service prior to their absorption in BSNL and as such, are covered under Rule 37A of the CCS (Pension) Rules, 1972 on the basis of their combined service in DOT and BSNL. As such, the statutory liability of pension lies with the DOT for which, as mentioned above, pension contribution has already been made to DOT and that too of the maximum of their pay scales.

It is in view of the above, that the Applicants are constrained to approach this Hon'ble Tribunal, seeking *inter alia*, a direction to DOT to revise the pension of all those BSNL Pensioners, who are erstwhile DOT employees in tandem with the government employees.

1.11. That the Department of Pension and Pensioners' Welfare (DOP&PW) vide an OM dated 08.03.2019 requested

examine the issue of revision of pension of the combined service of pensioners of BSNL/MTNL. It is submitted that no decision has been taken by DOT in respect of pension revision pursuant to the issuance of the said OM.

1.12. Therefore, the Applicant No. 1 *vide* a representation dated 18.11.2019 requested the DOT for pension revision as per the recommendations of the 7th Central Pay Commission in respect of BSNL Pensioners/Family Pensioners.

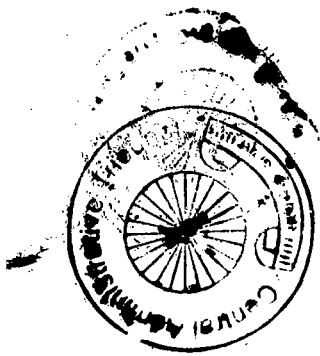
1.13. On 27.01.2020, the Applicant No. 2 *vide* a representation requested the DOT for pension revision as per the recommendations of the 7th Central Pay Commission in respect of BSNL Pensioners/Family Pensioners.

1.14. However, no response much less any final order has been passed by the DOT in respect of pension revision of BSNL Pensioners/Family Pensioners despite the representations of the Applicants.

2. JURISDICTION OF THE TRIBUNAL:

The entire cause of action has arisen within jurisdiction of this Hon'ble Tribunal, the Applicants as well as the Respondents are within the territorial jurisdiction of this Hon'ble Tribunal, hence this Hon'ble Tribunal has the jurisdiction to entertain the present Original Application.

3. LIMITATION:



That the Applicants declare that in view of the period of limitation prescribed under Section 21 of the Administrative Tribunals Act, the instant Original Application is within time in as much as no response has been received by the Applicants to the representations dated 18.11.2019 & 27.01.2019.

4. FACTS OF THE CASE:

- 4.1. The Applicant No. 1, All India Retired Bharat Sanchar Nigam Limited Executive Welfare Association ("AIRBSNLEWA") is a registered association having about 10,000 members comprising of executive, non-executive Pensioners and Family Pensioners of BSNL. The Applicant No. 1 is being represented through its General Secretary Shri Prahlad Rai.
- 4.2. The Applicant No. 2 is Sanchar Nigam Pensioners Welfare Association ("SNPWA"), which is an association of retired Pensioners of BSNL. The Applicant No. 2 is being represented through its General Secretary Shri Girdhari Lal Jogi.
- 4.3. The Applicant No. 3 is Shri Ashim Kumar Dey, who is a retired Group B Pensioner of BSNL and was working as an Accounts Officer, Calcutta Telephones, BSNL.
- 4.4. The Applicant No. 4 is Shri Subhas Chandra Mitra, who is a retired Group C Pensioner of BSNL and was working as TTA, Calcutta Telephones, BSNL.
- 4.5. The Applicant No. 5 is Shri Gopal Chandra Naskar, who is a retired Group D Pensioner of BSNL and was working as a Canteen Bearer, Calcutta Telephones, BSNL.

4.6. The Applicant no. 3, 4 & 5 are all members of the Applicant No.

1 Association and have joined the present Original Application.

4.7. The Applicant No. 6 is Shri Rajendra Singh, who is a retired

Group B Pensioner of BSNL.

4.8. The Applicant No. 7 is Shri Kiran Kumar Prabhakar, who is a

retired Group B Pensioner of BSNL.

4.9. The Applicant No. 8 is Shri S. Sundara Murthy, who is a retired

Group C Pensioner of BSNL.

4.10. The Applicant no. 6, 7 & 8 are all members of the Applicant No.

2 Association and have joined the present Original Application.

4.11. The Applicant No. 1 & 2 are Associations of retired BSNL

employees who are filing the present petition in a representative

capacity, and the remaining Applicants being the affected

parties have joined the Petition in terms of Rule 4(5)(b) of The

Central Administrative Tribunal (Procedure) Rule, 1987 and

have filed the requisite authorization as per Rule 7 of the Central

Administrative Tribunal Rules of Practice, 1993.

4.12. The Department of Pension and Pensioners' Welfare

(DOP&PW) issued an Office Memorandum on 05.07.1989,

wherein, 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 was reviewed and terms and

conditions were issued to be applicable in the case of *en masse*

transfer of employees. As per the said OM, 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.

A true copy of the OM dated 05.07.1989 issued by the Department of Pension and Pensionary Welfare (DOP&PW) is attached herewith as **Annexure A-1**.

4.13. On 25.09.2000, a note was prepared by the DOT for consideration of the Union Cabinet seeking approval for HRD and financial issues arising out of the corporatization of the Department of Telecom Service (DTS) and Department of Telecom Operations (DTO). The decision of Government in June 2000 to achieve corporatization by 01.10.2000 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 and in particular to their retirement and pensionary benefits before corporatization. Accordingly, the following framework was approved for retirement and pensionary benefits:

- All employees were to be entitled to Government scheme of pension/ family pension even after their absorption;
- Payment of pension would be made by Government;
- Arrangement would be worked out for obtaining pension contribution from the PSU to be deposited with the Government;

- The pension framework was made a part of the CCS (Pension) Rules, 1972 by insertion of Rule 37A as amendment of Rule 37 by virtue of powers under Article 309 of the Constitution of India.

A true copy of the relevant extract of the Note for the Cabinet dated 25.09.2000 prepared by the DOT is attached herewith as **Annexure A-2**.

4.14. On 30.09.2000, an Office Memorandum was issued by the Government of India to transfer the telecom services provided by the Department of Telecom Services (DTS) and the Department of Telecom Operations (DTO) to BSNL w.e.f. 1.10.2000. As per Clause IV of the OM, the officers and employees of DOT who are transferred to BSNL as a consequence of the allocation of some of DOT's business to BSNL, will operate on a deemed deputation basis w.e.f. 1.10.2000 and will be governed by the rules and regulations applicable to Government Servants, including the CCS (CCA) Rules, until such time when they exercise their options and are finally absorbed by BSNL.

A true copy of the OM dated 30.09.2000 is attached herewith as **Annexure A-3**.

15 After several agitations by the employees for their terms of service and retirement benefits upon absorption by the PSU, Rule 37A was inserted in the CCS (Pension) Rules, 1972 with provisions for payment of pensionary benefits on absorption based on combined service rendered by the employee in the

Government and the Public Sector Undertaking or the Public Sector body, consequent upon conversion of a Government Department into a Central autonomous body or a Public Sector Undertaking. Under the said rules, the PSU was required to make pension contribution to the Government of India (DoT) for the period of service to be rendered by the concerned employees under that Public Sector Undertaking or Autonomous Body at such rates as may be defined by the Government of India. Consequently, as per Rule 37A, BSNL was required to make pension contribution to the Government.

- 4.16. Consequently, BSNL has been making pension contribution for the absorbed employees on the maximum of their pay scale. The relevant extract of Rule 37 A (*conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Central autonomous body or Public Sector Undertaking*) is reproduced hereunder for ready reference:

"(8) A permanent Government servant who has been absorbed as an employee of a Public Sector Undertaking or 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 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 an 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 employee who opts for pension on the basis of combined service 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) *For the purposes of payment of pensionary benefits including family pension referred to in sub-rule (21), 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.*
- (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 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 body, be transferred to the new Provident Fund Account of the employees in such undertaking or body, as the case may be;

(b) earned leave and half pay leave at the credit of the employees on the date of absorption shall stand transferred to such undertaking or body, as the case may be;" [Emphasis Supplied]

A true copy of Rule 37A of the CCS (Pension) Rules, 1972, as amended, is attached herewith as **Annexure A-4**.

4.17. It is pertinent to mention, that while government servants and Applicants during their service in DOT were governed by CDA (Central Dearness Allowance) scales, on being absorbed in BSNL, the Applicants came to be governed by IDA (Industrial Dearness Allowance) scales and pension was to be paid in the IDA scales as per the Sub-Rule 10 of Rule 37A of CCS Pension Rules, 1972. However, like other government Pensioners on a CDA scale, the BSNL Pensioners were also drawing pension from the government, albeit under IDA scale.

4.18. Thereafter, on 09.11.2000, DOT issued a Circular stating that the employees getting absorbed in BSNL would continue to receive **Government's scheme of pension/ family pension** after their absorption and that the dismissal or removal from

service of an employee after his absorption in the PSU for any subsequent misconduct would not amount to forfeiture of his retirement benefits for the service rendered under the Government and in the event of his dismissal, removal or retrenchment, the decision of BSNL would be subject to review by Administrative Ministry. By this an Employee dismissed from BSNL made eligible for the retirement benefits for the service rendered in the government service.

A true copy of the circular dated 09.11.2000 issued by the DOT is attached herewith as **Annexure A-5**.

- 4.19. On 14.01.2002, BSNL issued an Order calling for options for absorption of Group 'B' officers who were transferred to BSNL on deemed deputation basis with effect from 01.10.2000 as well as of those who were working in DOT and MTNL. As per the order the officers who opted for permanent absorption in BSNL would be governed by the provisions of Rule 37-A of CCS (Pension) Rules, 1972. Further, 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 scale was to be taken. The process of absorption of Group 'C' & 'D' employees was completed prior to calling of options of Group 'B' employees. A true copy of the Order dated 14.01.2002 issued by BSNL calling for options is attached

4.20. The Applicants herein, all of whom were government servants working with DOT opted to seek absorption in BSNL on the assurances of better career progression and fast track promotions, and in particular, the assurance of retention of their status as a government servant upon retirement owing to their being guaranteed pensionary benefits akin to a government servant in terms of the OM dated 09.11.2000 and Rule 37A of the CCS (Pension) Rules, 1972.

4.21. On 28.12.2002, the amendment to Rule 37A was notified vide No. 4/61/99-P&PW(D) which read as under:

"(a) after sub -rule (8), the following explanation is 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"

4.22. On 15.01.2003, DOT issued certain clarifications in relation to payment of Pension and Family Pension, on CDA Pay Scale or IDA Pay Scale, on introduction of the IDA pay scale by the BSNL on 07.08.2002 with effect from 1.10.2000 in replacement of existing CDA pay scale, whereby it was clarified that pension/family pension was to be calculated on IDA Pay scale.

A true copy of the clarification dated 15.01.2003 issued by DOT

4.23. On 02.03.2003, the Applicants, who were employed in DOT, were transferred to BSNL on an as is where is basis w.e.f. 01.10.2000 and Terms and Condition for Absorption of Group B officers in BSNL were issued by DOT. It is reiterated herein that the Applicants chose absorption in BSNL because of the assured career progression and specific conditions of service and retirement benefits at par with government employees. The said letter was issued in furtherance of the Order dated 14.01.2002 issued by BSNL.

4.24. On 28.07.2003, DOT notified the IDA pay scales corresponding to the CDA scales of DOT that were approved for absorption of Group B Officers of DOT/DTS/DTO into BSNL along with point to point fitment in the corresponding IDA scale. The IDA pay scales offered on absorption in BSNL was 51%-63% higher than the corresponding CDA Pay scales of DOT. The corresponding hike in the emoluments as well as pensionary benefits was also ensured for the employees.

The IDA pay scales corresponding to the CDA scales that were offered upon absorption in BSNL are as under:

Existing CDA Scale	Corresponding IDA scale
6500-200-10500	9850-250-14600
7500-250-12000	11875-300-17275
8000-275-13500	13000-350-18250
10000-325-15200	14500-350-18700
12000-375-16500	16000-400-20800



A true copy of the order dated 28.07.2003 issued by DOT is attached herewith as **Annexure A- 8**.

- 4.25. On 29.08.2003, pursuant to directions issued by the Ld. Central Administrative Tribunal Principal Bench in OA No.298/2002 and other connected OAs, DOT issued a letter directing BSNL to expeditiously complete the absorption of Group 'B' officers in BSNL.

A true copy of the letter dated 29.08.2003 issued by the DOT to BSNL is attached herewith as **Annexure A-9**.

- 4.26. On 02.09.2003, in furtherance of the letter dated 14.01.2002, and direction of this Hon'ble Tribunal in O.A. 298/2002 and connected OAs, BSNL issued an Order calling for options from Group 'B' Officers in BSNL with the IDA pay scales, fitment formula and promotional avenues. The IDA pay scales were effective from 01.10.2000. The IDA pay scales offered on absorption in BSNL was 51%-63% higher than the corresponding CDA Pay scales of DOT. Corresponding hike in the emoluments as well as pensionary benefits were also assured to the employees.

- 4.27. The Fitment method for BSNL executives absorbed into BSNL was defined as: *"In respect of DOT/DTS/DTO Group B and Group A Officers (including CSS/CSSS Officers) on absorption in BSNL w.e.f. 01.10.2000, the basic pay of the Executives as on 01.10.2000 in the IDA scales would be fixed at the stage corresponding to the stage which they had reached under CDA*

Pay scales on 30.09.2000 i.e. pay fixation will be on point to point basis" The Fitment method for BSNL executives appointed by BSNL in CDA Pay scales on or after 01.10.2000 would be deemed to have been appointed in the corresponding IDA Pay Scale and the pay was to be fixed at the minimum of IDA scale corresponding to the CDA Pay Scale.

A true copy of the Order dated 02.09.2003 issued by BSNL is attached herewith as **Annexure A-10**.

- 4.28. On 12.02.2004, DOT issued an Order in respect of an employee Shri Amit Kumar Gupta, permanently absorbing him in BSNL whose pension was to be governed by Rule 37-A of CCS (Pension) Rules, as amended from time to time. Such orders were issued in respect of all the BSNL Pensioners who were absorbed from DOT.

A true copy of the Order dated 12.02.2004 issued by DOT is attached herewith as **Annexure A-11**.

- 4.29. In the meanwhile, the recommendations of the 6th Central Pay Commission were implemented in respect of the government employees w.e.f. 01.01.2006. In view of the same, the revised rules for pension calculation as per the 6th Central Pay Commission were made applicable to the Government Pensioners who retired before 01.01.2006.

- 4.30. Thereafter on 26.11.2008, pursuant to the 2nd PRC Report for Central/Public Sector Undertakings (CPSUs), and with the approval of Union Cabinet, DPE notified the 2nd Pay Revision



for the CPSUs w.e.f. 01.01.2007 with 30% fitment *vide* OM No:2(70)/08-DPE(WC). The pay of BSNL officers and executives were revised from 01.01.2007. Similarly, the pay of non-executives was also revised w.e.f. 01.01.2007 through a negotiated settlement with 30% fitment. A true copy of the 2nd PRC as notified *vide* OM No:2(70)/08-DPE(WC) dated 26.11.2008 is attached herewith as **Annexure A-12**.

4.31. That on 04.05.2009, circular issued by DOP&PW in respect of rules of pension calculation as per the 6th Central Pay Commission for limit for DCRG, Commutation Table, Emoluments, qualifying service etc. and its applicability to IDA Pensioners of BSNL covered under Rule 37-A.

A true copy of the circular dated 04.05.2009 issued by DOP&PW is attached herewith as **Annexure A-13 (Colly)**.

4.32. On, 29.12.2010, DOT issued a note seeking cabinet approval for revision of pension for pre 2007 (those who retired between 01.10.2000-01.01.2007) retirees of BSNL, on IDA pattern in the absence of general guidelines for pension for pension revision on IDA pattern. The same was received under the Right to Information Act, 2002 *vide* a letter dated 23.12.2014. By this note, the DOT proposed the following three aspects to the cabinet *viz.*:

- (i) Revision of pension of pre 2007 Pensioners
- (ii) Fixation of Minimum Pension ; &
- (iii) Increase of pension on the basis of age.

While the revision of pension of pre 2007 Pensioners was in furtherance of the 2nd PRC, the, fixation of minimum Pension and increase of Pension on the basis of age was in line with the recommendations of 6th Central Pay Commission. It is therefore evident, that the DOT had prepared the Cabinet Note on the basis of the recommendations of the 6th Central Pay Commission coupled with the 2nd PRC.

A true copy of the cabinet note dated 29.12.2010 issued by the DOT is attached herewith as **Annexure A-14**.

- 4.33. That on 15.03.2011, DOT issued an order being No. 40-17/2008-Pen (T)-Vol III, for revision of Pension for officers and other employees who retired between 01.10.2000-31.12.2006. The pension/ family pension was consolidated with effect from 01.10.2007 by adding together Dearness Relief i.e. 68.8% of Basic Pension/Basic family pension, Fitment weightage and the existing pension @30% of the sum of existing pension/family pension and Dearness Relief thereon. The fixation of pension was subject to the provision that the revised pension, in no case, shall be lower than 50% of the minimum of the pay in the revised pay scale corresponding to the pre-revised pay scale from which the BSNL Pensioner had retired. Further, the minimum pension was increased to Rs. 3,500/- and increase of pension on the basis of age of the Pensioner was also made applicable.

It is pertinent to mention, that for pre 2007 IDA Pensioners, the pension revision took place in view of the pay revision formula of the 2nd PRC, although, the 2nd PRC had no recommendation for pension revision and was restricted to pay revision only. While the revision of pension of pre 2007 Pensioners was in furtherance of the 2nd PRC fitment, the fixation of minimum pension and increase of pension on the basis of age, was in line with the recommendations of the 6th Central Pay Commission. It is therefore evident, that the revision of pension was on the basis of the recommendations of the 6th Central Pay Commission coupled with the 2nd PRC.

A true copy of the OM dated 15.03.2011 being No. 40-17/2008-Pen (T)-Vol III issued by the DOT is attached herewith as

4.34. The aforementioned OM was forwarded by BSNL on 04.04.2011 through its Circular No. 09 being No. 40-06/2011-Pen (B). A true copy of the Circular No. 09 being No. 40-06/2011-Pen (B) issued by BSNL dated 04.04.2011 is attached herewith as **Annexure A-16**.

4.35. On 21.12.2012, the CCS Pension Rules 1972 was amended wherein Sub rule 9 of Rule 37-A was modified to the extent that:

"...pension shall be calculated on fifty percent of emoluments or average emoluments, whichever is more beneficial to him".

A true copy of the Gazette notification dated 21.12.2012 is attached herewith as **Annexure A-17**.

4.36. On 20.02.2014, vide order No: 4-12(11)/2012-PAT, CGHS facilities were also extended to BSNL Pensioners. It is pertinent to mention that this medical facility through CGHS is not extended to the serving employees of BSNL who got absorbed from DoT/DTS/DTO.

A true copy of the order No: 4-12(11)/2012-PAT dated 20.02.2014 issued by DoT is attached herewith as **Annexure A- 18.**

4.37. On 31.12.2015, DOT sent a request to the nodal Ministry for CPSUs, to add revision of pensionary benefits of BSNL & MTNL Pensioners as terms of reference of 3rd PRC. By this action, the government made its intention very clear that the Pension Revision of BSNL Pensioners is due w.e.f. 01.01.2017. [*This document was received under The Right to Information Act, 2005*]

A true copy of the letter F-No. 47-63/2015-Pen(T) dated 31.12.2015 received under The Right to Information Act, 2005 is attached herewith as **Annexure A- 19 (Colly.).**

4.38. It is submitted vide order No: 40-13/2013-Pen(T) dated 20.07.2016, the entire pension liability of BSNL Pensioners, absorbed from DOT was to be borne by the Government of India, thereby rescinding the liability of BSNL towards the payment of Pensionary benefits of the retired employees.

4.39. As per earlier OM No: 1-45/2003-B dated 15.06.2006, the annual pension liability on Government was limited to 60% of

the annual receipts to the Government from BSNL and the remaining amount is to be borne by BSNL. By the modified order, the Government share and the ceiling imposed on the annual pension liability of the Government was rescinded.

4.40. As per the OM dated 20.07.2016:

- "(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 the Government from the items specified in the OM dated 15.06.2006, is hereby rescinded.*
- (c) BSNL will continue to discharge pension liability by way of pension contribution in accordance with FR 116".*

A true copy of order No: 40-13/2013-Pen(T) dated 20.07.2016 is attached herewith as **Annexure A-20**.

4.41. Thereafter, on 04.08.2016, the Ministry of Personnel, Public Grievance and Pensions issued an OM in respect of implementation of the 7th Central Pay Commission recommendations for pre 2016 Pensioners/Family Pensioners. It is pertinent to mention, that the said Order was made applicable to all Pensioners/Family Pensioners were drawing

Pension/family Pension before 01.01.2016 under the CCS (Pension) Rules 1972. In so far as the government servants were concerned, on permanent absorption in public sector undertakings/autonomous bodies, their pension was to be updated in terms of these orders in view of Para 7(a) of the said OM. As per para 4.1 of the said OM, the revised pension/family pension w.e.f. 01.01.2016 was to be determined by multiplying the pension/family pension, as had been fixed at the time of implementation of the 6th Central Pay Commission i.e. by '2.57'. A true copy of the OM dated 04.08.2016 issued by the Ministry of Personnel, Public Grievance and Pensions is attached herewith as **Annexure A-21**.

4.42. It is submitted, that in view of the aforementioned order, the pension of the BSNL retired officers, who were erstwhile DOT employees and were drawing pension as government servants in view of Rule 37A, was to be revised in a similar manner.

4.43. To explain the methodology and formula in respect of the recommendations of the 7th Central Pay Commission for revision of pension of the Central Government Employees, the following is to be noted:

The effective date of implementation of the recommendations of the 7th Central Pay Commission for was 01.01.2016 and on that date, the CDA was 125% of the basic pension. Therefore, for Rupee 1/- of basic pension, the CDA was Rs. 1.25/-.

- As per the 7th Central Pay Commission, there was an increase of 14.29% on Rs. 2.25/- (Basic pension + CDA

i.e. Rs. 1+1.25) which comes to Rs. 0.321/- for basic pension of Rupee 1/-.

- Thus, the new basic pension was Rs. $1+1.25+0.321 = 2.57$ for old basic pension of Rupee 1/-.
- Thus, the multiplication factor for arriving at the new basic pension would be the old basic pension multiplied by 2.57.

4.44. It is submitted that if the same recommendation of 14.29% for pension revision is applied to BSNL IDA Pensioners as on 2017 (here 2017 is taken in place of 2016 since the last IDA pension revision was done in 2007) then the following is to be noted:

- The IDA as on 01.01.2017 was 119.5% of basic pension, i.e. for Rupee 1/- of basic pension, the IDA was Rs. 1.195/-.
- If the recommendations of the 7th Central Pay Commission are to be applied, then there is an increase of 14.29% on Rs. 2.195/- (Basic pension + IDA i.e. Rs. 1+1.95) which comes to Rs. 0.313/- for basic pension of Rupee 1/-.
- Thus, the new basic pension of BSNL IDA Pensioners will be Rs. $1+1.195+0.313 = 2.508$ or 2.51 for old Basic pension of Rupee 1/-.
- Thus the multiplication factor for arriving new basic pension will be old basic pension multiplied by 2.51.

4.45. In view of the failure of DOT to revise the pension of BSNL IDA Pensioners, a few retired BSNL Pensioners submitted applications under the Right to Information Act, 2002, seeking information in respect of applicability of para 7(a) of the OM dated 04.08.2016 for BSNL/MTNL IDA Pensioners, issued by

the Ministry of Personnel, Public Grievance and Pensions to the retired BSNL Pensioners.

Para 7(a) of the OM dated 04.08.2016 is extracted hereunder for ready reference:

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

(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.....”.

4.46. Vide letter dated 27.12.2016, DOT responded to the application under the Right to Information Act, 2002, stating that the OM dated 04.08.2016 was applicable to a government servant absorbed permanently in a PSU drawing pro rata pension only. A true copy of the RTI response by DOT dated 27.12.2016, is attached herewith as **Annexure A-22**.

On 16.03.2017, DOT issued a clarification on the applicability of the revised rules of CCS (Pension) Rules, 1972, to the BSNL/MTNL combined service pensioners consequent to the 7th Central Pay Commission.

It was clarified that the rates of payment of death gratuity was to be revised as per para 6.1. of DoP&PW's OM dated 04.08.2016 with the maximum limit of Rs. 20 Lakhs w.e.f. 01.01.2016. Further, it stated that there was no change in the formula for pension/family pension w.e.f. 01.01.2016 and the BSNL/MTNL absorbee employees would continue to get pension based on the same formula. A true copy of the clarification dated 16.03.2017 issued by DOT is attached herewith as **Annexure A-23**.

4.48. Thereafter, on 21.03.2017, BSNL issued an order enhancing the limit of Gratuity for BSNL Pensioners at par with Government employees on the basis of the recommendations of the 7th Central Pay Commission. A true copy of the order dated 21.03.2017 issued by BSNL for enhancement of gratuity is attached herewith as **Annexure A-24**.

4.49. On, 12.05.2017, OM issued by the Ministry of Personnel, Public Grievance and Pensions in continuation of the OM dated 04.08.2016, with respect to fixation of pension as per the 7th Central Pay Commission. By virtue of the said OM, another method for calculation of revised pension had been specified in addition to earlier method of multiplying the old pension by 2.57 as per which, the revised pension/family pension w.e.f. 01.01.2016 in respect of all central civil pensioners/family pensioners was to be revised notionally fixing their pay in the pay matrix recommended by the 7th Central Pay Commission in

the level corresponding to the pay in the pay scale/pay band and grade pay at which they retired and, the higher of the two formulae was to be applied for the revision of pension. A true copy of the OM dated 12.05.2017 is attached herewith as

4.50. In view of the failure of DOT to revise the pension of the BSNL, combined service Pensioners of BSNL, the All India Retired BSNL Executives Welfare Association made a representation dated 28.08.2017, to the Hon'ble Minister of Communications seeking pension revision consequent to the pension revision for Government Pensioners in CDA scale under CCS pension Rules 1972 as per 7th Central Pay Commission recommendation.

A true copy of the representation dated 28.08.2017 on behalf of the All India Retired BSNL Executives Welfare Association to the Hon'ble Minister of Communications is attached herewith as

4.51. For the directly recruited employees of BSNL after 01.10.2000, the pensionary benefits are borne by BSNL alone as per Rule 37-A and as per the guidelines issued by Dept of Public Enterprises (DPE).

4.52. For the purpose of retiral benefits of directly recruited employees of BSNL, contribution @ 12% of the emoluments without ceiling is being made to Employees Provident Fund organization. In to a

Superannuation Pension Fund has been formed as per the guidelines issued by DPE. BSNL is contributing towards this fund which is managed by a Trust. The Gratuity is paid by a separate Gratuity Trust from the contribution made by BSNL.

The Gratuity limit is equivalent to the BSNL IDA pensioner.

Leave encashment is to be paid by BSNL from a separate fund.

4.53. Considering the hike in consumer price index, inflation, cost of living and expenses, the Government constituted the 3rd PRC for recommending pay revision for the officers/Executives of CPSUs. On 03.08.2017, pursuant to the recommendation of the 3rd PRC and with the approval of Union Cabinet, DPE notified the 3rd Pay Revision for the CPSUs w.e.f. 01.01.2017 with 15% fitment vide OM No: W-02/0028/2017-DPE(WC)-GL-XIII/17. An important provision in the said OM is review of the fitment after every 3 years based on the affordability as mentioned at (iv).

A true copy of the OM No: W-02/0028/2017-DPE(WC)-GL-XIII/17 dated 03.08.2017 issued by Department of Public Enterprises is attached herewith as **Annexure A-27**.

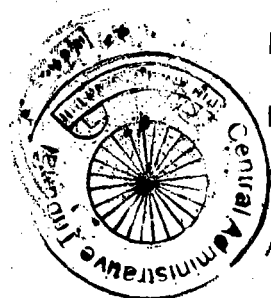
4.54. In the same manner the pay and pension revision for the Central Government employees implemented after 10 years considering the hike in consumer price index, inflation, cost of living and expenses, the revision of Pension/family pension for the combined service Government pensioners retired from BSNL prior to 2017 is also to be implemented after 10 years, from 01.01.2017.

4.55. In response to a letter dated 28.08.2017 issued by Shri Ajay Nishad, Member of Parliament, Lok Sabha, and letter dated 12.03.2018 issued by Shri Gopal Shetty, Member of Parliament, Lok Sabha, regarding revision of pension of BSNL pensioners/ family pensioners who were permanently absorbed in BSNL from DOT and are getting pensions/family pension in terms of the OM dated 12.05.2017, the Minister of State for Communications replied stating that, pension revision follows pay revision and accordingly, the case of pension revision would be taken up as and when the 3rd PRC is implemented in BSNL which is in complete contrast to the assurances made at the time of absorption and, more importantly, contrary to the mandate of Rule 37A.

True copies of letters dated 23.10.2017 and 13.06.2018 issued by the Minister of State for Communications are attached herewith as Annexure A-28 (Colly.).

4.56. Thereafter, on 04.07.2018, Ministry of Personnel, Public Grievance and Pensions responded to an application under the Right to Information Act stating that action for revision of pension by BSNL/MTNL pursuant to 7th Central Pay Commission was required to be taken by DOT.

A true copy of the response dated 04.07.2018 by the Ministry of Personnel, Public Grievance and Pensions is attached herewith



4.57. On 10.07.2018, DPF issued an order clarifying that payment of gratuity was to be enhanced for all CPSE's on IDA Pay scale w.e.f. 29.03.2018 and the recommendation of the 7th Central Pay Commission for enhanced gratuity w.e.f. 01.01.2016 was not applicable for CPSEs.

However, it is pertinent to note that the BSNL Pensioners enhancement of Gratuity was w.e.f. 01.01.2016 i.e. at par with the Government employees. A true copy of the OM dated 10.07.2018 issued by DPE is attached herewith as **Annexure A-30**.

4.58. That on 13.07.2018, DOT responded to an application under the Right to Information Act, 2002, stating that the Orders dated 04.08.2016 and 12.05.2017 regarding revision of pension of BSNL/MTNL Pensioners/family pensioners as per the 7th Central Pay Commission, the Orders were applicable to only CDA Pensioners who were drawing monthly pension on a pro rata basis. The aforementioned Orders dated 04.08.2016 and 12.05.2017 were not applicable to revision of pension of employees permanently absorbed in BSNL/MTNL from DOT who were drawing pension on IDA scale in terms of Rule 37A. It was further stated that the case of pension revision of the permanent absorbees in BSNL/MTNL will only be taken up as and when the 3rd PRC is implemented in BSNL/MTNL. A true copy of the response by DOT dated 13.07.2018 is attached

4.59. Thereafter, *vide* a representation dated 04.09.2018, the All India Retired BSNL Executives Welfare Association requested DOT to revise the pension for the combined service Pensioners of BSNL consequent to pension revision for Government Pensioners in CDA scale under CCS pension Rules 1972 as per the 7th Central Pay Commission recommendation. It is pertinent to mention, that no response has been received by the Applicants in respect of the aforementioned representation.

A true copy of the representation dated 04.09.2018 made to the DOT by All India Retired BSNL Executives Welfare Association is attached herewith as **Annexure A-32**.

4.60. On 17.09.2018, All India Retired BSNL Executives Welfare Association made another representation to the Minister of Communications seeking pension revision consequent to the 7th Central Pay Commission recommendation. A true copy of the representation dated 17.09.2018 made to the Minister of Communications by All India Retired BSNL Executives Welfare Association is attached herewith as **Annexure A-33**.

4.61 The Applicants have come to know that BSNL's Board considered the 3rd Pay revision Order issued by the DPE and after detailed deliberations, recommended 3rd Pay Revision for the BSNL Officers and Executives with 15% fitment by relaxation of the affordability clause (3) of DPE OM dated 03.08.2017. Similarly, for the Non-Executives also, the Board recommended uniform fitment of 15%. In addition, the Board



recommended relaxation in the affordability clause citing the socio-economic importance of BSNL for the nation as it fulfils the social obligations of the Government by providing Telecom services in the difficult terrains, commercially unviable rural/naxal affected and far flung areas of the country. It is acting as a market regulator and executing all important Government projects like NOFN, NFS, LWE project etc. and has always stood with the nation during emergencies and natural calamities. The recommendation of BSNL's Board was communicated to DOT on 06.11.2018, requesting DOT to approve the same. However, DOT has not approved the proposal citing the non-affordability clause.

4.62. Vide an OM dated 08.03.2019, the DOPT&PW, requesting DOT to examine the issue of revision of pension of the combined service of pensioners of BSNL/MTNL and the following observations were made 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 pre 2017 absorbee pensioners and what would be the financial implications on revision of pension as per that formula.*
- (ii) It was 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 before 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 would 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."

A true copy of the OM dated 08.03.2019 issued by the DOPT&PW is attached herewith as **Annexure A-34**.

4.63. If at all any anomaly occurs between pre-2017 and post 2017 combined service pensioners of BSNL, it will be limited to few more years as almost all the employees absorbed in BSNL from DoT/DTS/DTO and eligible for combined service Pension under Rule 37-A of CCS(Pension) Rules 1972 will retire by the next Pay revision which is due in 2027.

4.64. In fact, All Unions and Associations of BSNL (AUAB) representing all the serving employees of BSNL gave a proposal to the Government on 31.01.2019 to give notional pay revision for the BSNL serving employees w.e.f. 01.01.2017 without creating any additional financial liability for BSNL. This

proposal was to facilitate revision of Pension/family pension of the BSNL pensioners and remove any anomaly between pre-2017 and post 2017 combined service pensioners of BSNL, without any additional financial liability on BSNL.

A true copy of the letter dated 31.01.2019 from AUAB addressed to the Secretary, Dept of Telecom is attached herewith as **Annexure-35**.

4.65. It is pertinent to mention, that there is a difference between the Applicants who are all absorbees in BSNL and the current BSNL officers/employees who were recruited directly by BSNL. As such, in terms of the absorption letter as well as Rule 37A of the CCS (Pension) Rules, the pension of the BSNL absorbees is to be borne by the Government unlike the BSNL officers/employees recruited directly. Therefore, the absence of pay revision will not have any effect whatsoever on the revised pension, which ultimately is to be borne by the Government. As such, pay revision is not linked to pension revision in any manner whatsoever. The 3rd Pay Revision orders for the CPSUs has been issued by the Government of India with 15% fitment and implemented by several CPSUs. While the pay revision as per the 3rd PRC has not taken place in view of the non-affordability of BSNL, the pension revision cannot be linked to such pay revision by BSNL, since ultimately, the pension is to be governed by Rule 37A of the CCS (Pension) Rules, 1972, and the pension is to be borne by the Government. In addition

to that, 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. As such it would be improper to link their pensionary benefits with the financial status of the Company.

4.66. While it is true that there may be an anomaly that may arise on account of revision of pension of BSNL/MTNL absorbtees w.e.f. 01.01.2017 without revising the pay of the employees retiring after 01.01.2017, but the same is limited to only the absorbtees which can be settled by deriving a formula to sort out the said anomaly as has been done after several pay revision committees. It is relevant to mention that, that after the implementation of the scheme of Voluntary Retirement Service (VRS"), only a few thousand absorbtees are left in BSN/MTNL who are also due to retire before the next pay commission due in the year 2027. Therefore, the anomaly that may arise is only for limited employees/officers and not a recurring problem.

4.67. However, denial of pension revision of BSNL pensioners on the ground that no pay revision of BSNL has taken place since it is a loss making entity, and that there may be an anomaly caused, is not ground whatsoever to deny pension revision and the denial, is whimsical and arbitrary. This is particularly since the pension is being paid by the Government and is not related in any manner whatsoever to the financial feasibility of BSNL. Further, 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.

4.68. In the meanwhile, Voluntary Retirement Scheme was issued by BSNL on 04.11.2019 inviting options from BSNL employees to exercise the option of seeking voluntary retirement on the terms and conditions mentioned therein. Almost 78,600 BSNL employees have retired on 30.01.2020 under the said scheme. A true copy of the notification dated 04.11.2019 for the Voluntary Retirement Scheme by BSNL is attached herewith as

4.69. In view of the issuance of the VRS scheme and losses being incurred by BSNL, it is submitted that there is no scope of any pay revision in the near future. This is because pursuant to VRS, only a few thousand employees (BSNL absorbees) will remain who are due to retire in 4-5 years.

4.70. Several meetings took place between the Applicants and DOT on the issue of revision of pension revision pursuant to the OM dated 08.03.2019 issued by the DOPT&PW, wherein DOT was requested to examine the issue of revision of pension.

4.71. However, despite several discussions, no action has been taken by DOT in respect of pension revision for BSNL Pensioners/Family Pensioners. Therefore, the Applicant No. 1 was constrained to make a representation dated 18.11.2019 reiterating the request for pension revision.

A true copy of the representation dated 18.11.2019 issued by the All India Retired BSNL Executives Welfare Association is attached herewith as **Annexure A-37**.

4.72. Similarly, on 27.01.2020, the Applicant No. 2 *vide* a representation to the Hon'ble Minister, Ministry of Communications & IT and Secretary DOT, requested for pension revision as per the recommendations of the 7th Central Pay Commission in respect of BSNL Pensioners/Family Pensioners. A true copy of the representation dated 27.01.2020 issued by Sanchar Nigam Pensioners' Welfare Association is attached herewith as **Annexure A-38**.

4.73. In fact, on 11.03.2020, The Minister of State for Communications, Human Resource Development and Electronics & Information Technology, Shri Sanjay Dhotre, while responding to the unstarred stated that the Government was not considering revision of pension of BSNL absorbed retirees in as much as pension revision was linked to pay revision. A true copy of the response of the unstarred Question No. 2950 and the answer dated 11.03.2020 is attached herewith as **Annexure A-39**.

4.74. In view of the fact that no response has been received by the Applicants to the representation dated 18.11.2019 and a stand is now being taken that pension revision is linked to pay revision, the present Original Application is being preferred.

4.75. Lastly, it is pertinent to mention that in the event there is no pension revision on the basis of the logic put forth by DOT, then, there will never be any pension revision for BSNL Pensioners/Family pensioners in the times to come since pension is only for the BSNL absorbees and in the coming few years, there will be no BSNL absorbee left as all would have retired. In fact, the poorest section of these pensioners/family pensioners will continue to draw a meagre pension of Rs. 3,500/- only, which is a deplorable state of affairs in these times with rising inflation.

4.76. Hence the present Original Application.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS:

That the present Original Application is being preferred by the Applicants on the basis of the following amongst other grounds, which are taken without prejudice to each other:

- 5.1. Because the inaction and non-implementation of revised pension as per the 7th Central Pay Commission and 3rd Pay Revision tantamount to discrimination by DOT amongst the retired BSNL Pensioners and the government servants in as much as the BSNL Pensioners are the combined Service Government pensioners by virtue of Rule 37 A of the CCS (Pension) Rules, 1972, and have retained their status of a government servant upon retirement.

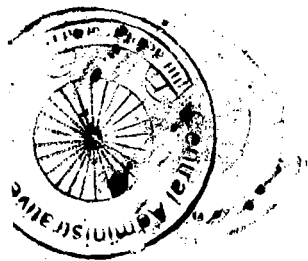
5.2. For that, pension revision and pay revision have no relation whatsoever in so far as the combined service BSNL Pensioners are concerned, since the pension of the latter is to be borne by the Government by virtue of Rule 37 A of the CCS (Pension) Rules, 1972. As such it would be improper to link pensionary benefits with the financial status of a Company especially after their retirement.

5.3. 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 servant 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 37-A and therefore, cannot be denied the benefit of pension revision as has been done in respect of other government pensioners.

5.4. 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 Revision of Pension/family Pension, Revision of minimum pension,

full

of



commutation of Pension, method of calculation of pension, restoration /increase in pension, leave encashment etc.

5.5. For that, as per Rule 22 of Rule 37-A 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 Applicants herein whose pension is to be paid by the Government as no affordability clause is applicable for them. For that, pension revision cannot, therefore, be linked to pay revision.

5.6. 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.

5.7. Because even earlier, the pension revision w.e.f. 01.01.2007, while was on the basis of the fitment formula given in the 2nd PRC for pay revision, there was no recommendation in the 2nd PRC for pension revision. As such, pension for the purposes of BSNL absorbees was on the basis of the recommendation of the 6th Central Pay

Commission albeit on the fitment formula under the 2nd PRC.

- 5.8. Because the Central Government Pensioners and the combined service Government pensioners retired from BSNL are at par on pensionary benefits as every amendment to CCS (Pension) Rules, 1972 from time to time was made applicable to combined service Pensioners of BSNL under Rule 37-A also to make them at par.
- 5.9. Because, before formation of BSNL, the Government scheme of Pension/family pension benefits were assured to the absorbees in BSNL. For the Central Government pensioners, pension revision was implemented from 01.01.2016, after 10 years. As per Government scheme of Pension/family pension, the other set of Government pensioners, the combined service pensioners who retired from BSNL are also eligible for pension revision after 10 years which is due from 01.01.2017.
- 5.10. Because the arbitrariness of the DOT is further demonstrable from the fact that 9 recommendations of the 7th Central Pay Commission namely, qualifying service for full pension, method of calculation of pension, family pension, commutation of Pension, restoration /increase in pension, limit of DCRG, leave encashment etc. have been implemented in favour of the BSNL Pensioners on their

IDA Pay/pension scale, but for pension revision minimum pension. 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 the recommendations of the Central Pay Commission in favour of the BSNL Pensioners, and therefore, cannot approbate and reprobate.

5.11. Because the stand of the DOT that no pension revision can take place in the absence of pay revision, is illegal and contrary to the assurances made to the erstwhile DOT employees who chose absorption in BSNL.

5.12. Because it is also to be noted that with the introduction of the VRS scheme for downsizing BSNL, almost 78,600 officers and employees have retired on 31.01.2020. As such, even on a *demurrer*, if pension revision is linked to pay revision, with the downsizing of BSNL, it is obvious that no pay revision would take place despite the 3rd PRC being implemented for other PSUs.

5.13. Because it is further important to mention, there are only a handful of serving employees in BSNL who were absorbed from DOT, and therefore, no officer or employee would be concerned with pension revision since the BSNL directly

recruited officers and employees do not stand on the same pedestal as the BSNL absorbed officers, who are entitled to pension pursuant to their retirement as they retain their status of a government servant upon retirement. This leads to a situation where there will absolutely be no pension revision in BSNL since the employees and officers would not be entitled for it in any event on account of being recruited in BSNL directly.

5.14. Because the failure of DOT to revise the pension on the misconceived ground of linking pension revision with pay revision is devoid of any logic and entirely contrary to the assurances and Rule 37A. What is even more egregious is that in the absence of any pension revision, Group D Pensioners are getting a meagre pension of Rs. 3,500/- whereas as per the recommendation of the 7th Central Pay Commission has revised the minimum pension to Rs. 9,000/-.

5.15. Because pay revision being presently linked to profitability of the PSU, and as such the non-affordability of BSNL for pay revision cannot be a ground to deny pension revision to the BSNL Pensioners, who being erstwhile employees of DOT were guaranteed at the time of their absorption as also evident from Rule 37A that they are to be treated at par with government servants for the purposes of pension, and therefore, cannot at this stage, after rendering their

entire life serving in DOT & BSNL, be denied the pension revision akin to other government employees.

5.16. Because the pension contribution of all the combined service BSNL Pensioners has already been made to DOT as per the provisions of Rule 37-A and that too of the maximum of their pay scales and at this stage, when the Applicants who are all Senior Citizen with a legitimate expectation to reap the benefits of their service, 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.

5.17. Because the serving employees of BSNL who were not absorbed in BSNL cannot be compared with the Applicants herein who were all absorbed in BSNL from DOT and unlike the serving employees in BSNL recruited directly, Rule 37A governs the pension of the Applicants.

5.18. Because the Applicants are entitled to pension revision at par with the government servants by virtue of Rule 37-A, and the assurance made at the time of absorption in respect of the Government's scheme of pension to be applicable to the BSNL combined service Pensioners.

5.19. Because the last pension revision in respect of the Applicants was done almost 13 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. Similarly, 3rd PRC also recommended pay revision and the Government decided pay revision for the CPSEs after 10 years, from 01.01.2017 and issued the guidelines for pay revision on 03.08.2017 with 15% fitment, which have been implemented by several CPSUs.

5.20. Because on 31.12.2015, DoT sent a request to the nodal Ministry for the CPSUs, Dept of Public Enterprises (DPE) to add Revision of Pensionary benefits of BSNL & MTNL Pensioners as terms of reference of 3rd PRC which has not been acted upon by the DPE.

5.21. Because since there are no separate guidelines for pension revision on IDA pay scales, DoT sent a proposal to DoP&PW for revision of pension/family pension for the combined service pensioners retired from BSNL prior to 01.01.2017. However, DoT not acted further for the revision of pension/family pension w.e.f. 01.01.2017 and ought to have revised in the manner as was done 13 years back based on the recommendations of 6th CPC and 2nd PRC.

5.22. 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.

5.23. Because at the time of absorption, the assurance that the absorbed employee would retain the status of a government servant was one of the biggest incentives that led the Applicants choosing absorption in BSNL, for which purpose Rule 37 of the CCS (Pension) Rules, 1972, were amended to add Rule 37-A. At this juncture, while the DOT employees have the benefit of the recommendations of the 7th Central Pay Commission's revised pension, the Applicants herein have been arbitrarily denied pension revision.

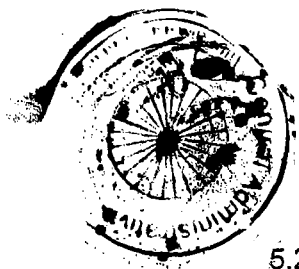
5.24. Pertinently, FR 116 & 117 under Chapter XII of the Fundamental Rules which are applicable to Government servants deal with the rates of pension contribution prescribed to secure to the Government servant the pension that he would have earned by service under Government if he has not been transferred to foreign service. As such, Pension Contribution is payable 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.

5.25. 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 pension drawn by a Central Government Pensioner.

5.26. Because the question of any anomaly that may arise on account of pension revision between the pre 2017 and post 2017 pensioners can be resolved by a suitable protection formula as has been in the past by the anomaly committees constituted after pay commissions. For that, the anomaly is a temporary one-time matter, as in future almost all the employees absorbed in BSNL from DoT/DTS/DTO and eligible for combined service Pension under Rule 37-A of CCS(Pension) Rules 1972 will retire by the next Pay revision which is due in 2027.

5.27. Because DOT's stand that pension revision would lead to a disparity between the two groups viz., those who retire after 01.01.2017 and those who retired before 01.01.2017 is completely misplaced in as much as it can be settled by arriving at a suitable protection formula, as has been done in the past.

5.28. Because the BSNL combined service pensioners cannot be compared to the serving BSNL employees recruited directly to resolve any anomaly as they belong to a distinct



5.29. Any other grounds that may be raised at the time of the hearing.

6. DETAILS OF REMEDIES EXHAUSTED:

The Applicants herein declare that they have exhausted all the remedies available to them under the Rules and have no other remedy left to them except seeking redressal of their grievances from this Hon'ble Tribunal.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:

The Applicant further declares that they have not filed any other Writ Petition, Suit or Proceedings regarding the matter in respect of which this Original Application is being made, in any court or other authority or any other bench of the Hon'ble Tribunal nor is any such Suit, Writ Petition or Application is pending before any authority mentioned above, which is filed by the Applicant herein.

8. RELIEF SOUGHT:

It is, therefore, most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to: -

- (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) Department of Telecommunications to 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;

- (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;
- (d) Pass such other further order (s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case and in the interest of justice.

AND FOR THIS ACT OF KINDNESS, THE HUMBLE APPLICANTS, AS IN DUTY BOUND, SHALL EVERY PRAY.

9. INTERIM RELIEF, IF ANY PRAYED FOR:

The Applicants are entitled to revised Pension w.e.f. 01.01.2017 and pray that the differential amount of revised Pension be released to the Applicants.

10. MODE OF FILING THE APPLICATION:

That this OA has been filed and the Applicants require an oral hearing and desire oral hearing at the time of Admission.

11. PARTICULARS OF BANKS DRAFT/POSTAL ORDER FILED IN RESPECT OF THE APPLICATION FEE:

<u>Postal order Nos.:</u>	53H133093;	53H133094;
	53H133091;	53H133054
<u>Name of Issuing Post Office:</u>	National Green Tribunal Post Office	

1:

Kindly peruse the Index.

APPLICANTS

Through

Gauri Puri & Amrita Singh
Gauri Puri & Amrita Singh
D/1753/2012 & D/162/2019
Advocates for the Applicants

VERIFICATION

I, Shri. Prahlad Rai, General Secretary of Applicant No. 1, having its registered office at 8/230, Yamuna Vihar, Delhi-110053, duly authorized to represent the Applicant No. 1 association, do hereby verify that the contents of the above Original Application are true and correct to the best of my knowledge and nothing material has been concealed there from.

Verified before me at New Delhi on this the 4th day of September, 2020.

Pr
[Signature]
[Stamp]

[Signature]

Applicant No. 1

VERIFICATION

I, Shri Girdhari Lal Jogi, General Secretary of Applicant No. 2, having its registered office at SNEA BHAVAN B-11/1&2, Ground Floor, Opp. to Sanatan Dharma Mandir, Ramesh Nagar, New Delhi-110015, duly authorized to represent the Applicant No. 2 association, do hereby verify that the contents of the above Original

Application are true and correct to the best of my knowledge and nothing material has been concealed there from.

Verified before me at New Delhi on this the ____ day of September, 2020.

&

Applicant No. 2

VERIFICATION

I, Shri Ashim Kumar Dey, aged about 68 years, S/o Lt. Ramendra Nath Dey, R/o Kingshuk Apartment, 3rd.Floor, Flat-7, 344 Parnashree Pally, Kolkata 700060, do hereby verify that the contents of the above Original Application are true and correct to the best of my knowledge and nothing material has been concealed there from.

Verified before me on this the 7th day of September, 2020.

&



Applicant No. 3

VERIFICATION

I, Shri Subhas Chandra Mitra, aged about 71 years, S/o Lt Prafulla Chandra Mitra, R/o- 22, Hind Road, Flat-6, 3rd Floor, New Santoshpur, Kolkata-700075, do hereby verify that the contents of the above Original Application are true and correct to the best of my knowledge and nothing material has been concealed there from.

Verified before me : on this the 7th day of September, 2020.

&

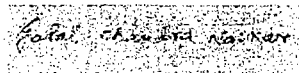


Applicant No. 4

VERIFICATION

I, Shri Gopal Chandra Naskar, aged about 66 years, S/o Lt Bhusan Chandra Naskar, R/o-41/A, Biren Roy Road (East), Kolkata-700008, do hereby verify that the contents of the above Original Application are true and correct to the best of my knowledge and nothing material has been concealed there from.

Verified before me on this the 7th day of September, 2020.

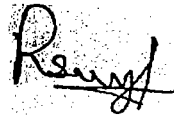


Applicant No. 5

VERIFICATION

I, Shri Rajendra Singh, aged about 65 years, S/o Late Sh. Sohan Singh, R/o 43, Shahbad Ext (Gail-2), Sector 17, Rohini, Delhi 110081, do hereby verify that the contents of the above Original Application are true and correct to the best of my knowledge and nothing material has been concealed there from.

Verified before me at New Delhi on this the 7th day of September, 2020.



Applicant No. 6

VERIFICATION

I, Shri Kiran Kumar Prabhakar, aged about 67 years, S/o Sh. M. L. Prabhakar, R/o Flat no 201, 2nd Floor, BSNL Govt. Employee Diamond CGHS LTD., Plot no GHS-07, Sector 65, Bullabgarh, Faridabad 121004, do hereby verify that the contents of the above Original Application are true and correct to the best of my knowledge and nothing material has been concealed there from.

Verified before me on this the 7th day of September, 2020.

Q

[Signature]

Applicant No. 7

VERIFICATION

I, Shri S. Sundara Murthy, aged about 66 years, S/o Sh. Saminathan, R/o- No. 28, Tirupatcheeswaran, Ayanavaram, Chennai- 400023, do hereby verify that the contents of the above Original Application are true and correct to the best of my knowledge and nothing material has been concealed there from.

Verified before me on this the 7th day of September, 2020.

Q

Applicant No. 8

APPLICANTS

Through

Gauri Puri & Amrita Singh

Gauri Puri & Amrita Singh
D/1753/2012 & D/162/2019

Advocates for the Applicants

A-22, Ground Floor,

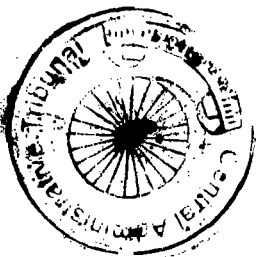
Defence Colony

New Delhi – 110 024

E-mail: gauri@gpuri.in

Mobile: +91 9899339554;

Phone: 011-45094930



NEW DELHI
07.09.2020

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. OF 2020

IN THE MATTER OF:

ALL INDIA RETIRED BSNL EXECUTIVES

WELFARE ASSOCIATION & ORS.

...APPLICANTS

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

AFFIDAVIT

I, Shri Prahlad Rai, aged about 63 years, S/o Keshar Lal, R/o 122/85, Vijaypath, Aggarwal Farms, Mansarovar, Jaipur-302020, do hereby solemnly affirm and declare as under:

1. That I am the General Secretary of Applicant No. 1 having its registered office at 8/230, Yamuna Vihar, Delhi-110053. I state that I am authorized to represent the Applicant No. 1 association and I am fully conversant with the facts and circumstances leading to the institution of the instant Original Application and am competent to swear this Affidavit.
2. That I have read through the contents of the accompanying Original Application and I state that the contents therein are true and correct to the best of my knowledge and belief and are based on records, and submissions made therein are based on legal advice received from my counsel.





DEPONENT

VERIFICATION

I, the Deponent above named, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge and nothing material has been concealed there from.

Verified before me at New Delhi on this the 7th day of September, 2020.





DEPONENT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
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...RESPONDENTS

AFFIDAVIT

I, Shri Girdhari Lal Jogi, aged about 67 years, S/o Late Prem Nath Jogi, R/o Plot No.1068, 1st floor, Sector 46, Gurgaon-122003, do hereby solemnly affirm and declare as under:

1. That I am present General Secretary of Applicant no. 2 having its registered office at B-11/1, Double Storeyed, Ramesh Nagar, New Delhi-110015. I state ~~that~~ I am authorized to represent the Applicant No. 2 association and I am fully conversant with the facts and circumstances leading to the institution of the instant Original Application and am competent to swear this Affidavit.
2. That I have read through the contents of the accompanying Application and I state that the contents therein are true and correct to the best of my knowledge and belief and are based on records, and submissions made therein are based on legal advice received from my counsel. *G*

DEPONENT

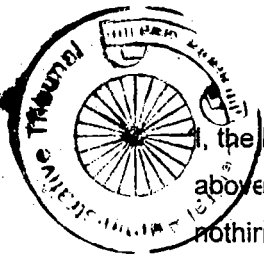
VERIFICATION

I, the Deponent above named, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge and nothing material has been concealed there from.

Verified before me at New Delhi on this the 7th day of September, 2020.

G

DEPONENT



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
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AFFIDAVIT

I, Shri Ashim Kumar Dey, aged about 68 years, S/o Lt. Ramendra Nath Dey, R/o Kingshuk Apartment, 3rd Floor, Flat-7, 344 Parnashree Pally, Kolkata 700060, do hereby solemnly affirm and declare as under:

1. That I am the Applicant No. 3 in the instant Original Application and that I am fully conversant with the facts and circumstances leading to the institution of the Original Application and I am competent to swear this Affidavit.
2. That I have read through the contents of the accompanying Original Application and I state that the contents therein are true and correct to the best of my knowledge and belief and are based on records, and submissions made therein are based on legal advice received from my counsel. *AK*

Copy Print



DEPONENT

VERIFICATION

I, the Deponent above named, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge and nothing material has been concealed there from.

Verified before me at New Delhi on this the 7th day of September, 2020.

DEPONENT

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AFFIDAVIT

I, Shri Subhas Chandra Mitra, aged about 71 years, S/o Lt Prafulla Chandra Mitra, R/o- 22, Hind Road, Flat-6, 3rd Floor, New Santoshpur, Kolkata-700075, do hereby solemnly affirm and declare as under:

1. That I am the Applicant No. 4 in the instant Original Application and that I am fully conversant with the facts and circumstances leading to the institution of the Original Application and I am competent to swear this Affidavit.
2. That I have read through the contents of the accompanying Original Application and I state that the contents therein are true and correct to the best of my knowledge and belief and are based on records, and submissions made therein are based on legal advice received from my counsel.

cl

Subhas Chandra Mitra

DEPONENT

VERIFICATION

I, the Deponent above named, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge and nothing material has been concealed there from.

Verified before me at New Delhi on this the 7th day of September, 2020.

cl

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
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AFFIDAVIT

I, Shri Gopal Chandra Naskar, aged about 66 years, S/o Lt Bhusan Chandra Naskar, R/o-41/A, Biren Roy Road (East), Kolkata-700008, do hereby solemnly affirm and declare as under:

1. That I am the Applicant No. 5 in the instant Original Application and that I am fully conversant with the facts and circumstances leading to the institution of the Original Application and I am competent to swear this Affidavit.
2. That I have read through the contents of the accompanying Original Application and I state that the contents therein are true and correct to the best of my knowledge and belief and are based on records, and submissions made therein are based on legal advice received from my counsel.

Gopal Chandra Naskar

Gopal Chandra Naskar

DEPONENT

VERIFICATION

I, the Deponent above named, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge and nothing material has been concealed there from.

Verified before me at New Delhi on this the 7th day of September, 2020.

Gopal Chandra Naskar

DEPONENT

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AFFIDAVIT

I, Shri Rajendra Singh, aged about 65 years, S/o Late Sh. Sohan Singh, R/o 43, Shahbad Ext (Gail-2), Sector 17, Rohini, Delhi 110081, do hereby solemnly affirm and declare as under:

1. That I am the Applicant No. 6 in the instant Original Application and that I am fully conversant with the facts and circumstances leading to the institution of the Original Application and I am competent to swear this Affidavit.
2. That I have read through the contents of the accompanying Original Application and I state that the contents therein are true and correct to the best of my knowledge and belief and are based on records, and submissions made therein are based on legal advice received from my counsel.

Gauri Puri
CP
Rajendra Singh

DEPONENT

VERIFICATION

I, the Deponent above named, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge and nothing material has been concealed there from.

Verified before me at New Delhi on this the 7th day of September, 2020.

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
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...RESPONDENTS

AFFIDAVIT

I, Shri Kiran Kumar Prabhakar, aged about 67 years, S/o Sh. M. L. Prabhakar, R/o Flat no 201, 2nd Floor, BSNL Govt. Employee Diamond CGHS LTD., Plot no GHS-07, Sector 65, Bullabgarh, Faridabad 121004, do hereby solemnly affirm and declare as under:

1. That I am the Applicant No. 7 in the instant Original Application and that I am fully conversant with the facts and circumstances leading to the institution of the instant Original Application and I am competent to swear this Affidavit.
2. That I have read through the contents of the accompanying Original Application and I state that the contents therein are true and correct to the best of my knowledge and belief and are based on records, and submissions made therein are based on legal advice received from my counsel.

Q

[Signature]

DEPONENT

VERIFICATION

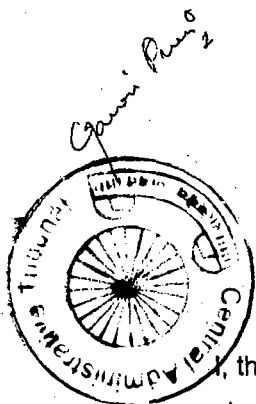
I, the Deponent above named, do hereby verify that the contents of the above affidavit are true and correct to the best of my knowledge and nothing material has been concealed there from.

Verified before me at New Delhi, on this the 7th day of September, 2020.

Q

[Signature]

DEPONENT



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
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...APPLICANTS

VERSUS

UNION OF INDIA & ORS.

...RESPONDENTS

AFFIDAVIT

I, Shri S. Sundara Murthy, aged about 66 years, S/o Sh Saminathan,
R/o- No 28, Tirupatcheeswaran, Ayanavaram, Chennai - 400023, do
hereby solemnly affirm and declare as under:

1. That I am the Applicant No. 8 in the instant Original Application
and that I am fully conversant with the facts and circumstances
leading to the institution of the Original Application and I am
competent to swear this Affidavit.
2. That I have read through the contents of the accompanying
Original Application and I state that the contents therein are true
and correct to the best of my knowledge and belief and are based
on records, and submissions made therein are based on legal
advice received from my counsel.

Puneri
ca
DEPONENT

VERIFICATION

I, the Deponent above named, do hereby verify that the contents of the
above affidavit are true and correct to the best of my knowledge and
nothing material has been concealed there from.

Verified before me at New Delhi on this the 7th day of September, 2020.

Q
DEPONENT

18.	<u>Annexure A-12:</u> A true copy of the 2 nd PRC as notified vide OM No:2(70)/08-DPE(WC) dated 26.11.2008	164-172
19.	<u>Annexure A-13:</u> A true copy of the circular dated 04.05.2009 issued by DOP&PW	173-177
20.	<u>Annexure A-14:</u> A true copy of the cabinet note dated 29.12.2010 issued by the DOT	178-215
21.	<u>Annexure A-15:</u> A true copy of the OM dated 15.03.2011 being No. 40-17/2008-Pen (T)-Vol III issued by the DOT	216-224
22.	<u>Annexure A-16:</u> A true copy of the Circular No. 09 being No. 40-06/2011-Pen (B) issued by BSNL dated 04.04.2011	225
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APPLICANTS

Through

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O.A. No. 1272/2020, 1271/2020, 1329/2020

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. No. 1272/2020

M.A. No. 1581/2020,

M.A. No. 76/2020,

M.A. No. 1582/2020

With

O.A. No. 1271/2020 &

O.A. No. 1329/2020

Reserved on : 24.08.2023

Pronounced on : 20.09.2023

Hon'ble Mr. Tarun Shridhar, Member (A)

Hon'ble Mrs. Pratima K. Gupta, Member (J)

OA No 1272/2020

1. All India Retired Bharat Sanchar Nigam Limited

Executive Welfare Association

Through its General Secretary

Shri Prahlad Rai

Registration Number: S/00108/NE-12010 C-8/230,

Having its registered office at:

8/230, Yamuna Vihar,

Delhi-110053

2. Sanchar Nigam Pensioners Welfare Association

Through its General Secretary

Shri Girdhari Lal Jogi

Having its office at:

SNEA Bhawan, B-11/1&2, Ground Floor,

Opp. to Sanatan Dharma Mandir.

Ramesh Nagar, New Delhi-110015

3. Shri Ashim Kumar Dey

Group: B

Designation: Ex. Accounts officer, Calcutta

Telephones, BSNL

Aged about 68 years

S/o Late Shri Ramendra Nath Dey

R/o Kingshuk Apartment, 3rd Floor, Flat-

7, 344 Parnashree Pally, Kolkata -700060

4. Shri Subhas Chandra Mitra

Group: C

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- 700075

5. Shri Gopal Chandra Naskar

Group: D

Designation: Ex Canteen Bearer, Calcutta

Telephones, BSNL

Aged about 66 years

S/o Late Shri Bhusan Chandra Naskar

R/o 41/A Biren Roy Road (East),

Kolkata -700008

6. Shri Rajendra Singh

Group: B

Designation: Ex SDE

Aged about 65 years

S/o Late Shri Sohan Singh

R/o 43, Shahbad Ext (Gail-2), Sector 17,

Rohini, Delhi- 110081

7. Shri Kiran Kumar Prabhakar

Group: B

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 121004

8. Shri S. Sundara Murthy

Group: C

Designation: Telecom Mechanic

Aged about 66 years

S/o Shri Saminathan

R/o 28, Tirupatcheeswaran, Ayanavaram,

Chennai - 4000023

....Applicants

[By Advocate : Ms. Gauri Puri and Ms. Aditi Gupta]

VERSUS

1. Union of India,

Through its Secretary,

Department of Telecommunications,

Sanchar Bhavan, 20, Ashok Road,

New Delhi- 110001

2. Bharat Sanchar Nigam Ltd.

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

Through its Secretary

3rd Floor, Lok Nayak Bhawan,

Khan market,

New Delhi- 110003

4. Department of Public Enterprises

Through its Secretary

Public Enterprises Bhawan

Block No.14, CGO Complex,

Lodhi Road,

New Delhi- 10003

.... RESPONDENTS

[By Advocate : Mr. R.V. Sinha and Mr. Amit Sinha for R-2, Mr. S.N. Verma]

OA No 1271/2020

1. Retired Telecom Officers' Welfare Association,

New Delhi

Through its General Secretary

Shri Shyam Sunder Nanda

Registration Number: S/57799/2007

Having its registered office at:

C-20, Mukhram Garden

Tilak Nagar, New Delhi -110018

New Delhi -110018

6. Shri Rajendra Kumar

Group: B

Designation: SDE, MTNL

Aged about 67 years

S/o Late Shri R.D. Mudgal.

R/o G-3/83, Sector -11, Rohini, Delhi – 110085

W.P.(C)-4946/2024

7. Shri Ajay Kumar Kapoor

Group: B

Designation: A.O., MTNL

Aged about 64 year

C-103, 11th Floor, Kunj Vihar C.G.H.S. Ltd., Plot

No. 19, Sector- 12, Dwarka,

New Delhi-110075.

8 Shri Badri R. Pathak

Group: B

Designation: SDE

S/o Rameshwar Pathak

Aged about 70 years,

R/o G-104, shri Swami Samarth CHS.,

Bedurkar Pata, Near Hindustan Bank,

Kalyan (W)

Mumbaj- 421301

9. Shri Janardan Singh Yadav

Group: B

Designation: Deputy Manager, MTNL

Aged about 65 years

S/o Jagannath Chaudhury

R/o Residing at A-402, Gayatri Avenue,

2. Retired Telecom Officers' Welfare Association,
Mumbai

Through its President

Shri K. Jawahar

Registration Number: F-37187 / Mumbai of 2008

Having its office at:

402, Gayatri Avenue, 90' Road, Thakur Complex,
Kandivali (E)

W.P.(C)-4946/2024

Mumbai-400 101

3. MTNL Pensioners' Welfare Association,

Mumbai

Through its General Secretary

Shri Sadanand Mahadev Sawant

Having its office at:

1st Floor, Sai Ganesh Niwas,

Shivaji Nagar, S.R. Marg, Ville Parle (E)

Mumbai- 400057

4. Shri Ranbir Singh

Group: B

Designation: SDE, MTNL

Aged about 63 years

R/o A-502, Prince Apartment, Plot No. 54

I.P. Extension, Delhi - 110092

5. Shri Manish Kumar Bagchi

Group: B

Designation: SDE, MTNL

Aged about 76 years

S/o Late Shri Sachindra Narayan Bagchi

R/o A-106, U/G Floor, Shankar Garden,

90 Road, Thakur Complex, Kandivali (E)

Mumbai-400 101

10. Shri Virendra Singh

Group: B

Designation: Deputy Manager, MTNL

Aged about 64

S/o Ajab Singh

R/o B-202, Mangal Murti Apartment,

Nalasopara Virar Link Rd.

W.P.(C)-4946/2024

Moregaon, Nalasopara (E) asai-401 209,

11. Shri Kishore A. Haldankar

Group: C

Designation: Sr. TOA(G), MTNL

Aged about 64 years

S/o Late Ankush Sahdev Haldankar

R/o 9/16, Topiwala Lane, D.B. Marg,

Mumbai- 400007

12. Shri Eknath Maruti Rajpure

Group: C

Designation: Sr. TOA(P), MTNL

Aged about 58 years

S/o Late Maruti Shankar Rajpure

R/o 1/109, Gharkul Building, NM Joshi Marg,

1st Cross Lane, Byculla (West)

Mumbai- 400011

13. Shri Shrinath Kisun Yadav

Group: C

Designation: Works Assistant, MTNL

Aged about 62 years

S/o Late Kisun Yadav

R/o 14/15, Shyamraj Yadav Chawl,

Behram Bagh, Jogeshwari (W),

Mumbai- 400102

....Applicants

[By Advocate : Ms. Gauri Puri and Ms. Aditi Gupta]

VERSUS

1. Union of India,

Through its Secretary,

Department of Telecommunications,

W.P.(C)-4946/2024

Sanchar Bhavan, 20, Ashok Road,
New Delhi- 110001

2. Mahanagar Telephone Nigam Limited

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

Through its Secretary

3rd Floor, Lok Nayak Bhawan,

Khan market,

New Delhi- 110003

4. Department of Public Enterprises

Through its Secretary

Public Enterprises Bhawan

Block No. 14, CGO Complex,

Lodhi Road,

New Delhi- 10003

.... RESPONDENTS

[By Advocate : Mr. S.N. Verma]

OA No 1329/2020

1. All India BSNL Pensioners' Welfare Association

Represented by General Secretary,

Potharaju Gangadhara Rao,

S/o Late Sh. P. Sudharshanam,

Aged about 72 years,

Residing at : No. 6 G No. 12th Street,

Jogupalaya, Halasuru,

W.P.(C)-4946/2024

Bengaluru – 560008.

2. Shri Ramankutty Nair PS,
S/o Late R. Sivaraman Nair,
Aged about 76 years,
Residing at TC 52/2369, CTO Colony,
Pappanamcode,
Thiruvananthapuram – 695018

3. Shri Anupam Kaul,
S/o Sh. Jagan Nath kaul,
Aged about 66 years,
Residing at A-402,
PMO Apartments,
C-58/20, Sector 62, Noida

4. V. Latha,
W/o S Vijayan,
Aged about 59 years
Residing at New 7 Old 44/2,
VV Colony First Street,
Adambakkam,
Chennai - 600088

....Applicants

[By Advocate : Mr. Sanjoy Ghose, Senior Advocate assisted by Mr. Gautam Narayan, Ms. Asmita Singh, Mr. Rohan Mandal, Mr. Harshit Goel, Ms. Akriti Arya and Mr. Siddhant Singh]

VERSUS

1. Union of India,
Represented by its Secretary,
Department of Telecommunications,
Sanchar Bhavan, No. 20, Ashok Road,
New Delhi- 110001

2. The Department of Pension and Pensioners' Welfare,
Represented by its Secretary,
Lok Nayak Bhavan,
Khan market,
New Delhi- 110003

3. Department of Expenditure
Represented by its Secretary
129-A North Block,
New Delhi- 110001

.... RESPONDENTS

[By Advocate : Mr. R.V. Sinha and Mr. Amit Sinha for R-4, Mr. N.D. Kaushik]

ORDER

Hon'ble Mr. Tarun Shridhar, Member (A)

In all these O.A(s)., the applicants are agitating similar grievance as they are all identically placed and seek identical reliefs; barring number of paragraphs and paginations, facts, circumstances and the issues in all the OAs are identical. Accordingly, with the request and consent of learned counsel for the parties, all the O.A(s) have been taken up together for disposal and these are being decided by a common order. However, facts of only OA No. 1272/2020 are being discussed.

2. Arguments on behalf of the applicants have been collectively put forth, led by Mr. Sanjay Ghosh, learned Senior Advocate, assisted by Mr. Gautam Narayan, Ms. Asmita Singh, Mr. Rohan Mandal, Mr. Harshit Goel, Ms. Akriti Arya and Mr. Siddhant Singh in OA No. 1329/2020 and Ms. Gauri Puri and Ms. Aditi Gupta in OA No. 1272/2020 and OA No. 1329/2020.

3. Arguments on behalf of the respondents have been collectively led by Mr. S.N. Verma, Mr. N.D. Kaushik and Mr. R.V. Sinha, assisted by Mr. Amit Sinha.

4. The applicants were erstwhile employees of the Department of Telecom (DoT), Government of India. The terms and conditions of their service were in accordance with the service rules applicable upon regular government employees. Subsequent to the

corporatization leading to creation of Bharat Sanchar Nigam Limited (BSNL) and Mahanagar Telephone Nigam Limited (MTNL) their services were placed at the disposal of these two organizations.

5. The background and history of the case as briefly explained by Shri Sanjay Ghosh, learned senior advocate for the applicants is that at the time of their initial placement and absorption in BSNL and MTNL, it was stipulated that they shall continue to be governed by the terms and conditions of service as were applicable upon them in their capacity as government servants prior to corporatization.

6. Learned counsel clarifies that the terms and conditions which were to remain in operation in the case of the applicants included pensionary benefits; he draws attention to the documents annexed to the O.A. to substantiate this claim. He further informs that pursuant to the recommendations of the various Central Pay Commissions (CPCs) necessary benefits as recommended by the CPCs and accepted by the Government have been extended in favour of the applicants except for revision of pensionary benefits pursuant to Pay Commission recommendations. Aggrieved by the same, they seek the following relief(s) by way of the present O.A.:-

"(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 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;

(d) Pass such other further order (s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case and in the interest of justice."

7. Learned senior counsel also draws attention towards a communication dated 08.03.2019 placed at page 245 of the convenience compilation which is a communication from the Department of Pensions and Public Grievances seeking clarification from the DoT as to why benefit of revision of pension is not being extended to these employees.

8. Learned counsel refers to the General Terms and Conditions governing the absorption of erstwhile employees of the Department of Telecommunication into BSNL/MTNL. Particular attention is drawn to clause 5, which reads as under:-

"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."

9. Learned counsel would argue that in view of the unambiguous provision contained in the said clause, the respondents cannot absolve themselves of the obligation of making an appropriate revision of the pension of the applicants in accordance with such a revision which has been extended in favour of regular government pensioners. Further attention is drawn to a notification dated 21.12.2012 vide which Central Civil Services (Pension) Rules have been amended. The amendment to Rule 37A of the CCS (Pension) Rules has been done vide Rule 10 of the Amendment Rules, the relevant extracts of which reads as under:-

"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."

"(21) Nothing contained in sub-rules(13) 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."

10. Learned counsel would argue that it may be noted that a specific provision has been placed in the said amendment rules with respect to those employees who were absorbed in BSNL from the Department of Telecommunication (DOT). The amendment categorically states that the liability of pension in case of such employees vests with the Government through the concerned Ministry.

11. Learned counsel reiterates the arguments put forth previously that the Ministry of Personnel, Pensioners and Public Grievances under the DoP&T had also categorically sought a clarification from DOT as to why the benefit of revision of pension was not extended in favour of employees who have been absorbed in BSNL/MTNL from DoT. He has clarified that pursuant to the recommendations of the 7th CPC all other benefits except for revision of pension have been extended in favour of the applicants.

12. Mr. R.V. Sinha, learned counsel appearing on behalf of respondent No. 2 (MTNL in O.A. No. 1272/2020) submits that the liability of pension is to be borne by the Government of India and in this case the relief being sought is directed towards respondent No. 1.

13. Mr. SN Verma, learned counsel for the respondents submits that showing any indulgence to the claim of applicants is going to result in discrimination against another set of employees of BSNL/MTNL. Further, what the applicants seeks is a benefit of both the Government as also the PSU. Once they had consciously opted for absorption under a Public Sector Undertaking (PSU), they shall be governed under the provisions of salary, allowances and pension governing such public sector employees. He argues that, in fact, what the applicants desire is the benefit of higher scales of PSU and better

pensionary award of the Government. And they cannot be allowed to choose what suits them at a particular juncture, he submits. He draws strength from the averments made in the counter-reply, specifically, in para 2 and 3, which read as under :

2. After absorption in BSNL, these employees ceased to be Government servants and they were deemed to have retired from Government service from the date of their absorption as per Sub-rule 4 of Rule ibid. As per Sub-rule 8 of Rule 37-A of CCS (Pension) Rules, 1972, these absorbed employees were eligible for pensionary benefits on the basis of the combined service rendered by them with the Central Government and the BSNL in accordance with formula for calculation of pension and family pension under CCS (Pension) Rules, 1972 at the time of their retirement from BSNL. The absorbed employees of BSNL, who retired after 01.10.2000 got pension and dearness relief thereon in IDA pattern on the basis of last pay or last ten months' average pay, whichever is more beneficial, as per Sub-Rules 9 & 10 of Rule ibid. The pension to absorbed employees of BSNL is paid by Government as per Sub-rule 21 of Rule ibid.

3. In case of BSNL absorbed employees, IDA pension was made applicable with effect from 01.10.2000 onwards. Therefore, the applicants of the present OA are ex-absorbed combined services pension optees of BSNL and they are getting their pension/family pension in IDA pattern from Government as per Rule 37-A of CCS (Pension) Rules, 1972 (Annexure A-4 of the OA). Subsequently, on implementation of the recommendations of the 6h CPC, DoP&PW issued OM dated 01.09.2008 and 02.09.2008 revising pension/family pension of Government pensioners/family pensioners, who were drawing pension/family pension as on 31.12.2005 (pre-2006 pensioners/family pensioners) and revised rules for grant of pension/Gratuity and Commutation of Pension etc. for Government employees retiring after 01.01.2006 (post-2006 pensioners). However, a substantial number of its recommendations, as contained in DOP&PW's OM No.38/37/08-P&PW(A) dated 01.09.2008, were extended and made applicable to the BSNL DA pensioners also with effect from 01.01.2006, viz (i) calculation of pension, (ii) additional pension with maturity of age, (iii) qualifying service for full pension (iv) commutation (v) limit of gratuity (vi) family pension (vii) leave encashment amount etc.

14. Mr. ND Kaushik, learned counsel submits that the relief being sought by the applicants is not maintainable. Drawing strength from the averments made in the counter reply he too argues that what the applicants are seeking is preferential treatment to the detriment of other employees of BSNL and the same organisation cannot and should not create two sets of employees in terms of financial benefits. Assisted by Mr. Raj Kumar, Director (Establishment) in the Department of Telecommunication, he clarifies that right now BSNL is not in a position to bear the financial liability of pension and in case, the relief sought for by the applicants is awarded in their favour, similar demand on the ground of discriminatory treatment is likely to be raised by other BSNL employees, thus, placing unbearable financial burden on BSNL, which is already reeling under losses.

15. Learned counsel appearing on behalf of BSNL and MTNL submit that in terms of the relief sought and the rules governing the same, the issue is to be decided by the Government and in case there is a financial liability, the same is to be borne by the Government. BSNL and MTNL have neither any role to play nor any responsibility / obligation to discharge.

16. Mr. Sanjoy Ghose, learned senior counsel reiterates that the claim preferred by the applicants in this O.A. is fully covered under the Central Civil Services (Pension) Amendment Rules 2000, wherein Rule 37 A has been inserted. He argues that while provision for a pension fund to be managed by a trust has been incorporated in the said Amendment Rules, there is a specific dispensation with respect to the erstwhile employees of Department of Telecommunications who was absorbed in BSNL. He again quotes Rule 21 of the said Rules which, though quoted earlier, is reproduced as under:-

"(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."

He further draws attention to a communication of the Department of Telecommunications dated 09.11.2000 which reads as under:-

"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.

May be widely circulated in your circle/ unit so that the employees are duly informed of the decision taken by the Government"

In addition, he refers to a clarification issued by the Department of Pension & Pensioners' Welfare on 27.04.2009, with respect to the applicability of revised rules for determining qualifying service of ex-DOT employees who were absorbed in BSNL. The said communication reads as under:-

"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 to ex-DOT employees absorbed in 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 OM 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 SNI 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 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 the PSU/CAB". The formula applicable to Central Govt. pensioners has been changed vide DoP&PW OM. dated 2.9.2008 and therefore, the changed formula provided in OM. 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 OM contains instructions for revision of pension of pre 2006 central Government pensioners only."

17. He argues that it is abundantly clear that not only is the claim of pension of the applicants, being ex-employees of DOT who were absorbed in BSNL, to be determined strictly on the pattern of entitlement of regular Government employees but it is to be revised from time to time, without exception, strictly on the same analogy.

18. Ms. Gauri Puri, learned counsel for the applicants in **O.A. Nos. 1271/2020** and **1272/2020** argues that right from the stage of deputation of the applicants from DOT to BSNL till the clarification of 2009, each and every communication/document/notification establishes that the applicants are to be governed by pension and family pension in accordance with the entitlement of regular Government employees. She emphatically states that their initial terms of deputation leading to absorption have specific terms and conditions to this effect. Reversing the

situation now amounts to denying their legitimate claim and expectation. These employees agreed to get absorbed in BSNL only on account of assurance of social security by way of pension which was made applicable to them in their status as the Government servants. She also draws attention to the Office Memorandum dated 20.07.2016 which states that pension liability in respect of employees of DOT who were absorbed in BSNL and retired on 01.10.2000 is solely to be borne by the Government of India; she clearly mentions that BSNL has no liability in respect of these employees. She further submits that a condition imposed earlier that the liability of pension shall not consist more than 60% of the annual revenue; however, this condition has also been since rescinded. Alleging discrimination she submits that the benefits of revision on account of recommendations of the 7th Central Pay Commission have been extended to serving absorbed BSNL and MTNL employees except for the ones who had retired. This is in contravention to what has been set forth in the amended Central Civil Services Pension Rules, specifically Rule 37 A.

19. Vehemently contesting the averments and the arguments put forth by the learned counsel for the applicants, Mr. S N Verma, learned Senior Central Government Standing Counsel, draws attention to the Rule 375 of CCS (Pension) Rules, 2020 and submits, once the applicants opted to be absorbed in BSNL, they ceased to be Government employees with effect from the date of such absorption. The provisions of CCS Pension Rules which provide for fixation and subsequent revision of pensions is a general provision applicable on the Government pensioners. Once the applicants have ceased to possess the status of the Government employee and got absorbed in a public sector, they would be outside the purview of these rules as they govern only govt. servants. The provision of revision of pension pursuant to the recommendation of Central Pay Commission was incorporated to redress the anomaly in pension between past and future retirees. In the instant case, if the applicants' prayer is allowed, such anomalies are likely to be created once again. He submits that once the applicants have been absorbed in BSNL, they cannot claim to be governed under CCS Pension Rules. The reason these employees continue to get pension is solely on account of their being erstwhile DOT employees. They cannot claim an open-ended and indefinite benefit of the provisions of CCS Pension Rules considering the fact that when they retired, they were not the employees of the government but of BSNL. The provisions of Rule 37 being quoted by the applicants through their learned counsel is a special dispensation given to these employees and they continue to enjoy the same. However, revision on

account of Central Pay Commission is a subsequent event, and hence cannot be automatically extended in their favour. The Central Pay Commission domain is only for Government employees and not employees of public sector undertakings even though they may have been absorbed, he adds. He further argues that these employees having retired, in this case from BSNL, are already enjoying a different set of benefits and rewards as are extended to PSU employees. Sh. Verma further submits that the issue under consideration in this OA has been a subject of O.A. No. 346/2018 decided on 30.10.2019 by the Ernakulam Bench as also another O.A. No. 116-134/2018 dated 27.11.2019 of the Bangalore Bench. Both these Benches have held that BSNL was a commercial and corporate entity, and once an employee has consciously chosen to opt for absorption in a corporate body, he could not claim the benefits available to a Government employee nor can he claim parity in any other respect.

20. Mr. N.D. Kaushik, learned counsel for the respondents while supporting the arguments put forth by Mr. S N Verma, learned counsel, further informs that the issue has been settled by the Hyderabad Bench of this Tribunal in O.A. No. 813/2017 dated 11.01.2019, besides the Ernakulam Bench and Bangalore Bench and the said Benches have also identically held that once absorbed in a public sector undertaking, the applicants cannot be claiming the benefits available to the Government employees. He also places on record, for our consideration, a judgment of Hon'ble Apex Court in Civil Appeal No. 3520/1991 decided on 25.07.1997. The said judgment has extensively discussed the doctrine of precedence and impressed upon maintaining consistency and uniformity in judicial verdicts. He reiterates that once the co-ordinate Benches of the Tribunal have adjudicated this issue, we are bound to adjudicate it on similar lines.

21. We have gone through the voluminous pleadings on record and also heard the detailed arguments put forth by the learned counsel on more than a couple of occasions.

22. The facts of the case are not disputed, nor is questioned any documents relied upon by the respective parties. There is no ambiguity that at the time of their placement and absorption in BSNL and MTNL, it was categorically stated that the erstwhile employees of the Department of Telecommunication shall continue to be governed by their existing terms and conditions of the service which means that they shall continue to be treated as government servants for all intents and purposes. It is also not in dispute that from time to time, the recommendations of the Central Pay Commission, as accepted and notified by the government, were made applicable in their case too. There is no ambiguity with respect to the general terms and conditions governing absorption,

as circulated and quoted in para 5 of this order, stating categorically that provisions of Rule 37 (A) of the CCS (Pension) Rules, shall guide payment of pension to these employees.

23. Section 37 (A) of the CCS (Pension) Rules has to be read in totality and sub para 21 of the same further clarifies that pensionary benefits of these employees, including family pension shall be paid by the government. In fact, several communications and memoranda, extracts of which have been quoted in this judgment, lead only to one inference that a very well-considered conscious decision was taken and expressly stated that the terms and conditions of the service of employees of Department of Telecommunications shall remain protected even on their absorption in BSNL/MTNL and further, it has been emphasized that these terms and conditions are inclusive of pension and family pension.

24. The relevant rules as quoted above have further clarified that since BSNL and MTNL are corporate entities, the liability of pension and family pension shall be borne by the government. We do appreciate the arguments put forth by the learned counsel for the respondents, especially the fact that once the applicants have ceased to be government employees, they should not and cannot expect the benefits available to government employees in perpetuity. Further, we also appreciate that there may have been specific facts and circumstances at the relevant time of their absorption when the decision to protect their terms and conditions was taken. However, no document has been shown to us which would substantiate these arguments that protection was to be available for a specific period only.

25. Learned counsels have submitted that the applicants have now ceased to be governed by the CCS (Pension) Rules and in case they are allowed to agitate their claim at this juncture, it would open up the Pandora box and thus, strike at the very roots of the governance of corporate entities.

26. We are not inclined to consider the extended arguments on behalf of the respondents even though we acknowledge some merit in these. The decision qua these employees, as further reflected under innumerable communications, is unambiguous and has been, so far, implemented also. We reiterate that even on their absorption in the corporate undertaking, the terms and conditions of services governing them were to remain the same as they existed when they are employees of the Department of Telecommunications. Further, these terms and conditions include pension and family pension and this has been expressly stated in the rules and several subsequent

communications which have been elaborately quoted in some of the preceding paragraphs of this order.

27. We have no hesitation in concluding that the present application deserves positive consideration. The government had given a promise and stated it in black and white. How could it now retract from the promise, that too not by any law or rules but by simply a refusal to honour it?

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 favour of the applicants, analogous to the revision of such pension in case of Central Government pensioners.

29. The directions contained herein shall be complied with within a period of ten weeks from the date of receipt of a certified copy of this order.

30. The OA stand allowed against the background of the aforesaid directions. Pending MA(s), if any, stands disposed of accordingly.

There shall be no orders as to costs.

(Pratima K. Gupta)

Member (J)

(Tarun Shridhar)

Member (A)

/NISHA/

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRAORDINARY CIVIL JURISDICTION

W.P.(C). No 4946 of 2024

IN THE MATTER OF:

Union of India & Ors

.....Petitioners

Versus

All India Retired Bharat Sanchar
Nigam Limited Executive Welfare
Association & Ors

.....Respondents

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Petitioners

New Delhi

Dated 21.03.2024

Through

**Himanshu Pathak**

Counsel for the Petitioners

Senior Panel Counsel

Union of India

Chamber No 29

Patiala House Court

New Delhi 110001

Mobile No: 9643121390

E-Mail: Hpathak1951@gmail.com

**IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRAORDINARY CIVIL JURISDICTION**

W.P. (C). No of 2024

IN THE MATTER OF:

Union of India & Ors

.....Petitioners

Versus

All India Retired Bharat Sanchar
Nigam Limited Executive Welfare
Association & Ors

.....Respondents

URGENT APPLICATION

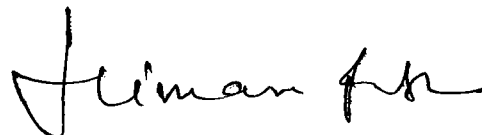
To,
The Registrar
Delhi High Court
New Delhi
Sir,

Kindly treat the accompanying Writ Petition as urgent one as per
High Court Rules as urgent relief is prayed for.

New Delhi
Date: 21/03/2024

Petitioners

Through



HIMANSHU PATHAK
Counsel for the Petitioners

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRAORDINARY CIVIL JURISDICTION
W.P. (C). No of 2024

IN THE MATTER OF:

Union of India & Ors

.....Petitioners

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All India Retired Bharat Sanchar
Nigam Limited Executive Welfare
Association & Ors

.....Respondents

NOTICE OF MOTION

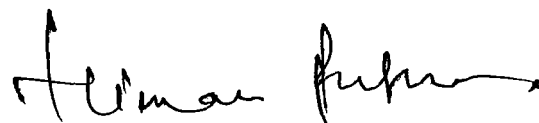
Take notice that the accompanying Writ Petition will be listed before the Hon'ble Court on _____ at _____ or so soon thereafter as may be convenient to the Hon'ble Court.

New Delhi

Date: 21/03/2024

Petitioners

Through



HIMANSHU PATHAK
Counsel for the Petitioners

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRAORDINARY CIVIL JURISDICTION
W.P. (C). No of 2024

MEMO OF PARTIES

1. **UNION OF INDIA,**
Through its Secretary,
Department of Telecommunications,
Sanchar Bhavan,
20, Ashok Road, New Delhi-110001
2. **BHARAT SANCHAR NIGAM LTD.**
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**
Through its Secretary
3rd Floor, LokNayakBhawan,
Khan market, New Delhi-110003
4. **DEPARTMENT OF PUBLIC ENTERPRISES**
Through its Secretary
Public Enterprises Bhawan
Block No.14, CGO Complex,
Lodhi Road, New Delhi-10003

...Petitioners

VERSUS

1. **ALL INDIA RETIRED BHARAT SANCHAR NIGAM LIMITED EXECUTIVE WELFARE ASSOCIATION**
Through its General Secretary
Shri Prahlad Rai Registration Number: S/00108/NE-12010
C-8/230, Having its registered office at: 8/230, Yamuna
Vihar, Delhi-110053

**SANCHAR NIGAM PENSIONERS WELFARE
ASSOCIATION**

Through its General Secretary
Shri Girdhari Lal Jogi

Having its office at: SNEA Bhawan, B-11/1&2,
Ground Floor, Opp. to Sanatan Dharma Mandir.
Ramesh Nagar, New Delhi-110015.

3. SHRI ASHIM KUMAR DEY

GROUP: B

Designation: Ex. Accounts officer, Calcutta Telephones,
BSNL Aged about 68 years
S/o Late Shri Ramendra Nath Dey
R/o Kingshuk Apartment, 3rd Floor,
Flat-7, 344 Parnashree Pally, Kolkata -700060

4. SHRI SUBHAS CHANDRA MITRA

GROUP: C

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- 700075

5. SHRI GOPAL CHANDRA NASKAR

GROUP: D

Designation: Ex Canteen Bearer, Calcutta Telephones,
BSNL Aged about 66 years
S/o Late Shri Bhusan Chandra Naskar
R/o 41/A Biren Roy Road (East), Kolkata-700008

6. SHRI RAJENDRA SINGH

GROUP: B

Designation: Ex SDE
Aged about 65 years
S/o Late Shri Sohan Singh
R/o 43, Shahbad Ext (Gail-2), Sector 17,
Rohini, Delhi-110081

7. SHRI KIRAN KUMAR PRABHAKAR**GROUP: B**

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 121004

8. SHRI S. SUNDARA MURTHY**GROUP: C**

Designation: Telecom Mezhanic

Aged about 66 years

S/o Shri Saminathan R/o 28,

Tirupatcheeswaran, Ayanavaram, Chennai-400023

.... Respondents

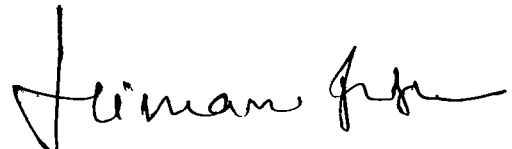
WRIT PETITION UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA INTER ALIA SEEKING ISSUANCE OF WRITS/ORDERS/DIRECTIONS IN NATURE OF CERTIORARY TO QUASH/SET ASIDE THE IMPUNGED ORDER/JUDGMENT DATED 20.09.2023 PASSED BY THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH, NEW DELHI IN O.A. NO. 1272/2020 ALONG WITH CONNECTED MATTERS.

New Delhi

Date: 21/03/2024

Petitioners

Through



HIMANSHU PATHAK
Counsel for the Petitioners

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRAORDINARY CIVIL JURISDICTION
W.P. (C). No of 2024

IN THE MATTER OF:

Union of India & Ors

.....Petitioners

Versus

All India Retired Bharat Sanchar
Nigam Limited Executive Welfare
Association & Ors

.....Respondents

CONSOLIDATED COURT FEE

		VOID	AM 0000106589
GOVERNMENT OF NCT OF DELHI			
e-Court Fee			
DATE & TIME :		21-MAR-2024 14:50:40	
NAMES OF THE ACC/ REGISTERED USER :		SHCIL	
LOCATION :		PATIALA COURT	
e-COURT RECEIPT NO :		DLCT2101C24500251	
e-COURT FEE AMOUNT :		₹ 500	
		(Rupees Five Hundred Only)	
			
DLCT2101C24500251			
Statutory Alert : The authenticity of this e-Court fee receipt should be verified at www.shcilestamp.com. Any discrepancy in the details on this receipt and as available on the website renders it invalid. In case of any discrepancy please inform the Competent Authority. This receipt is valid only after verification & locking by the Court Official.			

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRAORDINARY CIVIL JURISDICTION
W.P. (C). No of 2024

IN THE MATTER OF:

Union of India & Ors

.....Petitioners

Versus

All India Retired Bharat Sanchar
Nigam Limited Executive Welfare
Association & Ors

.....Respondents

SYNOPSIS AND LIST OF DATES

By way of present writ petition the petitioners seeks to assail the order/judgment dated 20.09.2023 passed by the Central Administrative Tribunal, Principal Bench, New Delhi in three connected matters namely Original Application No. 1272/2020, 1271 of 2020 and 1329 of 2020.

The learned Tribunal by virtue of impugned order/judgment observed that the permanently absorbed employees of BSNL and MTNL will be treated at par with the Central Government Employees despite the fact that after absorption in the public sector undertaking, the terms and conditions of service governing absorbed employee were not to remain the same as in the case of Central Government Employees. The learned Tribunal hold that the benefit of 7th Central Pay Commission will also be applicable to the absorbed BSNL and MTNL employees and therefore the absorbed employee are entitled for revision of pension at par with Central Government Employees.

The respondent had filed the Original Application seeking direction of the Tribunal that to the effect that the respondents are

entitled to have parity with Central Government pensioners in the matter of revision of pension on the same yardstick as granted to the Central Government Pensioners and to direct the petitioners herein to revise the pension of the members of the respondent association in terms of the recommendations of 7th Central Pay Commission.

The decision of the learned Tribunal is contrary to the record and settled law. It is stated that the learned Tribunal without any occasion & even without giving any reason completely ignored and sideline the judgment of co-ordinate benches on the similar & identical issues namely:

- a. O.A. No. 346/2018 decided on 30.10.2019 by the Ernakulam Bench, Central Administrative Tribunal.*
- b. O.A. No. 116-134/2018 decided on 27.11.2019 of the Bangalore Bench, Central Administrative Tribunal.*
- c. O.A. No. 813/2017 decided on 11.01.2019 by Hyderabad Bench, Central Administrative Tribunal.*

Otherwise also; the impugned judgment is untenable because after absorption in BSNL, those employees ceased to be the Government Servant and they were deemed to have retired from the Service from the date of absorption as per Sub Rule 4 of Rule 37-A of CCS (Pension) Rules, 1972. As per sub-rule 8 of Rule 37-A of CCS (pension) Rules, 1972, these absorbed employees were only eligible for pensionary benefit on the basis of the combined service rendered by them with the Central Government and BSNL/MTNL in accordance with the formula for calculation of pension and family pension under CCS (Pension) Rule, 1972 at the time of their retirement from BSNL and MTNL. For the

of for calculation of
CCS(Pension) 1972, 2 of of

CCS(Pension) 1972 states that in the case of a Government servant retiring in accordance with the provisions of these rules after completing qualifying service of not less than ten years, the amount of pension shall be calculated at fifty per cent of emoluments or average emoluments, whichever is more beneficial to him. Sub-Rule 8 of Rule-37(A) of CCS(Pension) Rules, 1972 advocates the same spirit of Rule 49 for the purpose of formula for calculation of Pension. In the similar manner, the calculation of other retirement benefits such as Gratuity, Family Pension, Commutation of pension is to be done with the same formula that is accounted for Central Government Employees.

The term emoluments is specified in the Rule 33 of CCS(Pension) Rules, 1972 which states that The expression 'emoluments' means basic pay as defined in Rule 9 (21) (a) (i) of the Fundamental Rules which a Government servant was receiving immediately before his retirement or on the date of his death, whereas regarding average emoluments Rule 34 of CCS(Pension) Rules, 1972 states that Average emoluments shall be determined with reference to the emoluments drawn by a Government servant during the last ten months of his service. If the Sub-Rule 8 of Rule 37(A) of CCS(Pension) Rules, 1972 is applied together with the spirit of Rule 33, 34 and 49, pension of BSNL/MTNL combined service is to be calculated fifty percent of emoluments , which is last basic pay of the employee on Industrial Dearness Allowance (IDA) scales or average emoluments, which is more beneficial. In the similar way, amount of other retirement benefits i.e. Gratuity, Family Pension, Commutation of Pension is to be calculated on IDA scales with the same calculation formula used for Central Government Employees.

C The permanent absorbed BSNL and MTNL employees cannot be treated at par with the Central Government employees because the terms and conditions of services, salary, allowances etc. are different and governed by different set of rules. Sub- Rule 7 of CCS(Pension) Rules, 1972 states that 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. Therefore whatever the service conditions, allowances and other perks are to be decided that is under the domain of BSNL/MTNL.

The absorbed employees are only entitled for pension as stated above, however, they were not entitled for the revision of pension because there is no provision of revision of pension under the CCS (Pension) Rule, 1972. The respondent being the absorbed employee cannot claim revision of pension as a matter of right.

The learned Tribunal failed to appreciate that the Central Pay Commission is applicable to the Government Employees and are not for the employees of Central Public Sector Enterprises (CPSEs). The revision of salary of employee of the Central Public Sector Enterprises (CPSEs) is governed by the Pay Revision Committee Report, constituted by Department of Public Enterprises. The pay revision committee previously recommended wage revision for the employees of CPSEs w.e.f. 01.01.2017 vide Department of Public Enterprises Office Memorandum dated 03.08.2017. In case of BSNL and MTNL, pay and pension of BSNL/MTNL employees have already been

revised as per the recommendations of 2nd Pay Revision Committee. However, the benefit of the 3rd Pay Revision Committee has not yet been extended to the employees of BSNL and MTNL due to the affordability clauses cited in the recommendations of 3 Pay Revision Committee, as, BSNL and MTNL are continuously making financial losses. As, the pay revision of BSNL and MTNL employees has not yet been occurred, there is no fundamental need for Pension Revision, as there is absolute parity maintained between the serving employees of BSNL and MTNL and retired employees of BSNL and MTNL.

The Tribunal failed to appreciate that the respondents were given higher Industrial Dearness Allowances (IDA) pay scales as compared to their counter-parts in the Government Service receiving the pay scales on Central Dearness Allowances (CDA) pattern at the time of absorption and thereafter. In terms of salary and other allowances the respondents were always at the beneficial position in comparison to their counter-part government employees. At then considering the benefits etc. the respondents voluntarily on their own volition opted to get absorbed in BSNL and MTNL. It is stated that unfortunately on account of financial issues in BSNL and MTNL the report of 3rd PRC was not implemented and therefore salary of BSNL and MTNL employees has not yet been revised. Therefore, the retired absorbed employees of the BSNL and MTNL tried to have the financial benefit of the 7th CPC and lastly instituted the present matter, ignoring the fact that the Central Public Sector Enterprises Employees and Central Government Employees are altogether two different categories and governed with two different types of Pay scales i.e. CDA scales for Central

Government Employees and IDA scales for Central Public Sector Enterprises Employees. The Tribunal failed to observe that the respondents desire is to have the benefit of higher scales of PSU (IDA scales) and better pensionary award of Government by having the scales and fitment factors of the Government which are for Central Government Employees only and this cannot be allowed to choose what suits them at a particular juncture as the same is violation of rule of law.

Hence this writ petition.

LIST OF DATES & EVENTS

Dates	Particulars
01.10.2000	The BSNL was formed on 01.10.2000 by conversion of the erstwhile Department of Telecom Services (DTS) and Department of Telecom Operations (DTO) into a Public Sector Undertaking.
14.01.2002	The government employees in DTS & DTO were first transferred en-masse to BSNL on deemed deputation basis. The employees who were in deputation in BSNL were given option to either continue to be in government service or to seek permanent absorption in BSNL
01.06.2006	The revised rule of pension calculation as per 6 th Central Pay Commission (hereinafter referred as CPC) was made applicable to Government Pensioners who retired before 01.01.2006.
01.01.2007	Pursuant to 2 nd Pay Revision Committee Report (hereinafter of BSNL employee was revised.

15.03.2011	The benefits of revision of pay scale in PSU qua consequential benefit of revision of pension were extended to the retired ex-absorbed employee of BSNL who retired before 01.01.2007
04.08.2016	The OM issued by Ministry of Personnel, Public Grievances and Pension in respect of implementation of pension revision for pre 2016 government pensioners.
03.08.2017	On the recommendations of the 3rd PRC on wage revision of employees of CPSEs, the Department of Public Enterprises(DPE) issued orders laying down the effective date of implementation, vide its OM No. 02/0028/2017-DPE (WC)-GL-XIII/17 dated 03.08.2017 wherein it was indicating that the revised pay scales of the Board Level and below board level executives and non- unionised supervisors would be implemented by issue of Presidential Directive in respect of each CPSE separately by the concerned Administrative Ministry/Department. However, the recommendation of 3rd PRC on wage revision of employees for employees in Central Public Sector Enterprises (CPSEs), as contained in DPE'S OM 02/0028/2017-DPE (WC)-GL- XIII/17 dated 03.08.2017 , which put the pre-condition of profitability of the PSU for its implementation, hence pay revision based on this OM could not be extended to the employees of BSNL with effect from 01.01.2017 as BSNL was recurring losses continuously year after year and the CPSU could not afford extra burden on revision of pay scales of its employees/executives.

	As result thereof; the pay scales of the employees/executives of BSNL could not be revised with effect from 01.01.2017 on implementation of the recommendations of 3rd PRC and therefore, the pension/family pension of absorbed combined service pension optee of BSNL also could not be revised with effect from that date.
September 2020	The respondent had filed the OA seeking direction of the Tribunal that the respondents are entitled to parity with Central Government pensioners in the matter of revision of pension on the same yardstick as granted to the Central Government pensioners and to direct the petitioners herein to revise the pension of the members of the respondent association in terms of the recommendations of 7th CPC
	The Tribunal vide order/judgment dated 20.09.2023 in three connected matter namely Original Application No. 1272/2020, 1271 of 2020 and 1329 of 2020 allowed the petition.
	Since the impugned order is untenable in law hence this petition.

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRAORDINARY CIVIL JURISDICTION
W.P. (C). No of 2024

IN THE MATTER OF:

- 1. UNION OF INDIA,**
Through its Secretary,
Department of Telecommunications,
Sanchar Bhavan, 20,
Ashok Road, New Delhi-110001
- 2. BHARAT SANCHAR NIGAM LTD.**
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**
Through its Secretary
3rd Floor, Lok Nayak Bhawan,
Khan market, New Delhi-110003
- 4. DEPARTMENT OF PUBLIC ENTERPRISES**
Through its Secretary
Public Enterprises Bhawan
Block No.14, CGO Complex,
Lodhi Road, New Delhi-10003

...Petitioners

Versus

- 1. ALL INDIA RETIRED BHARAT SANCHAR NIGAM LIMITED EXECUTIVE WELFARE ASSOCIATION**
Through its General Secretary
Shri Prahlad Rai Registration Number: S/00108/NE-12010
C-8/230, Having its registered office at: 8/230, Yamuna Vihar, Delhi-110053

2. SANCHAR NIGAM PENSIONERS WELFARE ASSOCIATION

Through its General Secretary
Shri Girdhari Lal Jogi

Having its office at: SNEA Bhawan, B-11/1&2,
Ground Floor, Opp. to Sanatan Dharma Mandir.
Ramesh Nagar, New Delhi-110015.

3. SHRI ASHIM KUMAR DEY

GROUP: B

Designation: Ex. Accounts officer, Calcutta Telephones,
BSNL Aged about 68 years
S/o Late ShriRamendraNathDey
R/o Kingshuk Apartment, 3rd Floor,
Flat-7, 344 Parnashree Pally, Kolkata -700060

4. SHRI SUBHAS CHANDRA MITRA

GROUP: C

Designation: Ex TTA, Calcutta Telephones, BSNL
Aged about 71 years
S/O Late ShriPrafulla Chandra Mitra
R/o 22 Hind Road, Flat 6, 3rd Floor
New Santoshpur, Kolkata- 700075

5. SHRI GOPAL CHANDRA NASKAR

GROUP: D

Designation: Ex Canteen Bearer, Calcutta Telephones,
BSNL Aged about 66 years
S/o Late Shri Bhusan Chandra Naskar
R/o 41/A Biren Roy Road (East), Kolkata-700008

6. SHRI RAJENDRA SINGH

GROUP: B

Designation: Ex SDE
Aged about 65 years
S/o Late ShriSohan Singh
R/o 43, Shahbad Ext (Gail-2), Sector 17,
Rohini, Delhi-110081

7. SHRI KIRAN KUMAR PRABHAKAR**GROUP: B**

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 121004

8. SHRI S. SUNDARA MURTHY**GROUP: C**

Designation: Telecom Mezhanic

Aged about 66 years

S/o ShriSaminathan R/o 28,

Tirupatcheeswaran, Ayanavaram, Chennai-4000023

.... Respondents

WRIT PETITION UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA INTER ALIA SEEKING ISSUANCE OF WRITS/ORDERS/DIRECTIONS IN NATURE OF CERTIORARY TO QUASH/SET ASIDE THE IMPUNGED ORDER/JUDGMENT DATED 20.09.2023 PASSED BY THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH, NEW DELHI IN O.A. NO.1272/2020 TITLED "*ALL INDIA RETIRED BHARAT SANCHAR NIGAM LIMITED EXECUTIVE WELFARE ASSOCIATION& ORS VERSUS UNION OF INDIA & ORS.*"

MOST RESPECTFULLY SHOWETH:

1. That the present writ petition is preferred against the order/judgment dated 20.09.2023 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred as learned Tribunal) in three connected matters namely Original Application No. 1272/2020, 1271 of 2020 and 1329 of 2020 whereby, the

Learned Tribunal had decided the aforesaid original applications in favour of the respondent herein.

2. That the respondents in aforesaid three connected matter were agitated similar grievance as they are all identically placed and seek identical reliefs; barring number of paragraphs and paginations, facts, circumstances and the issues in all the OAs were identical. Accordingly, the learned Tribunal had taken all the O.A(s) together for disposal and decided the same by a common order dated 20.09.2023. The impugned order dated 20.09.2023 is untenable in the eyes of law and is liable to be set aside. The certified copy of the impugned order dated 20.09.2023 passed by the Central Administrative Tribunal, Principal Bench, New Delhi is annexed herewith as **Annexure-P-1**.
3. The brief facts of the case necessary for adjudication of present petition are as under:
 - a. That the BSNL was formed on 01.10.2000 by conversing the erstwhile Department of Telecom Services and Department of Telecom Operation into a Public Sector Undertaking, whereas MTNL was formed on 01.04.1986 by conversing erstwhile Delhi and Mumbai Telephones units of DoT.
 - b. That the government employees in these departments were first transferred en-masse to BSNL/MTNL on deemed deputation basis. The employees who were on deemed deputation in BSNL and MTNL were given option to either continue to be in government service or to seek permanent absorption in BSNL/MTNL.

- c. It is matter of record that:
 - i. At the time of absorption in the BSNL and MTNL the government had provided the provision for pension to the absorbed employees. However, the salary of absorbed employee would be independently regulated as per the norms & rules of PSU. The salary of PSU including BSNL and MTNL governed on IDA pattern and is regulated by Pay Revision Committee (PRC).
 - ii. As matter of course at the time of absorption in the BSNL and MTNL, the salary of these absorbed employees is often more than that of government employee and the chances of number of promotion/ career progression were always better than the Government. Succinctly speaking; at the time of inception of BSNL and MTNL, the service there in was more lucrative as compared to the Government service therefore the employees opted for absorption in BSNL and MTNL
 - iii. Apart thereof; often the quantum of pension of absorbed employee of BSNL and MTNL remains on higher side as compared to the pension of their counterpart government employees.
 - iv. At then in PSU, the scheme of pension to be paid from Government was not matter of right, however, at the time of inception of BSNL and MTNL, the pension to absorbed employees was offered as a special dispensation so that more employees can opt for absorption in BSNL and

MTNL. Thus, the government employees finding better salary option along with pension in comparison to the counter-part Government employees opted for absorption in the BSNL/MTNL, on their own volition.

It is stated that for those employees who opted for permanent absorption in BSNL, the Presidential Orders were issued in their favour laying down comprehensive terms and conditions of their absorption in BSNL and MTNL in accordance with Rule 37-A of CCS (Pension) Rules, 1972.

It is stated that after absorption in BSNL and MTNL, these employees, ceased to be the Government Servant and they were deemed to have retired from the Government service from the date of absorption as per Sub Rule 4 of Rule ibid. As per sub-rule 8 of Rule 37-A of CCS (pension) Rules, 1972, these absorbed employee were only eligible for pensionary benefit on the basis of the combined service rendered by them with the Central Government and BSNL in accordance with the formula for calculation of pension and family pension under CCS (pension) Rule, 1972 at the time of their retirement from BSNL.

It is stated that pension is calculated on fifty percent of last pay drawn/emoluments or average emoluments for last 10 month of the service before retirement, whichever is beneficial for Government servant as per the Rule 44 of

CCS(Pension) Rules, 2021. In case of Central Government Employees the pension is calculated on Central Dearness Allowance (CDA) pattern, as they receive their last pay at the time of retirement on CDA pattern, whereas in case of CPSEs, pension is calculated on IDA pattern, as they receive their last pay on IDA pattern. It is the matter of record that majority of IDA pensioners of BSNL and MTNL, more than 98 %, are getting more pension comparing to their counterparts in Government who opted to remain in Government at the time of absorption.

As per sub rule 9 & 10 of Rule 37A of CCS(Pension) Rules, 1972, the absorbed employee of BSNL and MTNL who retired after 01.10.2000 are getting pension and dearness relief thereon in IDA pattern on the basis of last pay/emoluments or last ten month average pay/average emoluments, whichever is more beneficial. The pension to absorbed employees of BSNL and MTNL is paid by Government as per Sub-Rule 22 of Rule ibid.

In case of BSNL absorbed employees, who opted for combined service pension, IDA pension was made applicable with effect from 01.10.2000 onwards, whereas in case of MTNL group C & D employees, who opted for absorption in MTNL and pension on combined service, IDA pension was made applicable w.e.f. 01.11.1998 and for

group A & B employees w.e.f. 01.10.2000. Therefore, the respondents herein are ex-absorbed combined services pension optees of BSNL and MTNL and they are getting their pension/family pension on IDA pattern from the Government as per Rule 37-A of CCS (Pension) Rules, 1972.

This is the settled law that revision in pension is directly proportional to the increase in the Pay Scale. It is stated that in the year 2006 on implementation of the recommendations of the 6th CPC, the pay scales of the Central Government Employee were revised and accordingly, pension of Central Government pensioners was also revised and benefits of recommendations of 6th CPC were also extended to Central Government Pensioners.

That roughly after a year of implementation of the 6th CPC; on the recommendations of the 2nd Pay Revision Committee (PRC) on wage revision of employees of Central Public Sector Enterprises (CPSEs), the Department of Public Enterprises issued orders laying down the effective date of implementation, vide its OM No. 2(70)/08-DPE (WC)-GL-XVL/08 dated 26.11.2008 indicating that the revised pay scales of the Board Level and below board level executives and non-unionised supervisors would be implemented by issue of Presidential Directive in respect of each CPSE separately by the concerned Administrative

Ministry/Department. The revised pay scales are to be effective from 01.01.2007.

In case of PSU, 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/Department for approval. The concerned Administrative Ministry with the concurrence of its Financial Advisor is to issue the Presidential Directive. The revised pay scales for employees in Central Public Sector Enterprises (CPSEs), as contained in DPE OM No.2(70)/08-DPE(WC)-GL-XVL/08 dated 26.11.2008 were extended to the employees of BSNL, with effect from 01.01.2007, vide letter No.26-01/2009-SU dated 27.02.2009 and in case of MTNL, benefits of pay revision as per DPE OM dated 26.11.2008 were extended to the employees of MTNL with effect from 01.01.2007 vide letter No. 11-1/2009-SU-II dated 13.05.2009.

Thus as a result, employees who retired from BSNL and MTNL after 01.01.2007 started to get higher pension than the employees who retired before 01.01.2007. In another words, after revision of the pay scales, the employee who retired after such revision on revised pay scales started to get enhanced pension compared to the employee who retired before 01.01.2007 on pre-revised scales.

m. Given, the conditions that there are no provisions related to revision of pension in Rule 37-A of CCS(Pension) Rules, 1972, Government, in order to remove the anomaly in pension of those BSNL pensioners who retired between 01.10.2000 and 01.01.2007, revised the pension/family pension as per the recommendations of 2nd PRC and with the same fitment benefit that was given to the serving employees in wage revision, with the approval of Union Cabinet. Accordingly, necessary orders were issued, vide order No.40-70/2008-Pen (T) (Vol.III) dated 15.03.2011). Thus, the benefits of revision of pay scale in PSU qua consequential benefit of revision of pension were extended to the retired ex-absorbed employee of BSNL who were retired before 01.01.2007. Similarly, the benefits of 2nd PRC recommendations were also extended to the MTNL Combined service Pensioners vide MTNL Office Order No. MTNL/IRW/21(119)/2004/317 dated 01.10.2012, after consultation with Department of Telecommunications.

That pension being derivative of pay needs to be revised in line with the applicable last pay drawn of the existing pay scales. Making any deviation in the existing criteria of pension fixation may have grave repercussions.

That as stated above the revision in pension is directly proportional to the increase in the Pay

Scales. It is stated that in the year 2016 on implementation of the recommendations of the 7th CPC, the pay scales of the Central Government Employee were revised and accordingly, in order to remove anomaly between pre and post 7th CPC retirees, Government, extended the benefits of 7th CPC to the Central Government Pensioners.

Later, on the recommendations of the 3rd PRC on wage revision of employees of CPSEs, the DPE issued orders laying down the effective date of implementation, vide its OM No. 02/0028/2017-DPE (WC)-GL-XIII/17 dated 03.08.2017 wherein it was indicated that the revised pay scales of the Board Level and below board level Executives and Non- Unionised Supervisors would be implemented by issue of Presidential Directives in respect of each CPSE separately by the concerned Administrative Ministry/ Department. The revised pay scales are effective from 01.01.2017. The implementation would 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 based on their affordability to pay and submit the same to the Administrative Ministry/Department for approval. The concerned Administrative Ministry with the concurrence of its Financial Advisor is to issue the Presidential Directive.

- q. However, the recommendations of 3rd PRC on wage revision for employees in Central Public Sector Enterprises (CPSEs), as contained in DPE'S OM 02/0028/2017-DPE (WC)-GL-XIII/17 dated 03.08.2017 could not yet be extended to the employees of BSNL and MTNL as BSNL and MTNL are continuously incurring losses and these PSUs are not fulfilling the affordability criteria as per the DPE OM dated 03.08.2017 for wage revision.

As a result thereof, since there is no anomaly in the pension between pre and post 01.01.2017 combined service optee retirees, the pension/family pension of combined service optee retirees of BSNL and MTNL who retired prior to 01.01.2017 could also be not revised with effect from that date.

This was due to the fact that had the IDA pension of combined service pension optee of BSNL and MTNL pensioners/family pensioners been revised with effect from 01.01.2017 by adopting special provisions, an anomalous situation would have arisen as absorbed employees who retired or would retire from BSNL and MTNL after 01.01.2017, have to get lesser pension than those BSNL and MTNL IDA pensioners who had retired before 01.01.2017.

Thus, since the pay scales of the BSNL and MTNL have not yet been revised there is no

driving force that necessitates revision of pension of the retired employees.

- u. However, it was contended by the applicants that pursuant to the recommendations of the various Central Pay Commissions (CPCs), necessary benefits as recommended by the CPCs and accepted by the Government have also been extended in favour of the applicants except for revision of pensionary benefits pursuant to Pay Commission recommendations. Thus aggrieved by the same, the respondent sought the following relief(s) before the Tribunal:-

(a) Pass an Order directing the Telecommunications to revise the Department 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 and retired prior to 01.01.2017 by applying the fitment formula on IDA pension as on 01.01.2017;

(b) Pass an Telecommunications Order directing the Department of 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 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 Telecommunications to revise the pension for,

BSNL combined service pensioners parallel to the revision of pension the Central government servants without linking with Pay revision in BSNL:

(d) Pass such other further order (s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case and in the interest of justice."

That, the recommendations of various CPCs such as enhancing the ceiling limit of Gratuity was extended in favour of BSNL/MTNL absorbees due to the statutory rules i.e. Rule 37-A of CCS(Pension) Rules, which implies the retirement benefits shall be calculated in the same manner, since, for these combined service absorbed employees, the calculation of gratuity is done on IDA scales with same formula as used in Central Government, the ceiling amount as enhanced in Central Government, was extended for them also. Similarly, facilities of CGHS to these absorbees pensioners were extended because of the sub-rule 22 of CCS(Pension) Rules, which mandates Government to pay the pension to these absorbed employees. As these employees receive pension from civil estimates, therefore as per the rules of CGHS, facility of CGHS was extended to these absorbed pensioners. However, it is worth to mention that these absorbed employees do not get the benefits of CGHS during their service time. So, whatever the benefits were extended to them

are because of the statutory rule 37-A. There are various other recommendations also, which have not been extended in favour of the absorbed employees of BSNL and MTNL such as MACP, rate of dearness allowance (which is altogether different for BSNL and MTNL employees), date of increment etc. It is also worth to mention that minimum pension/family i.e. 9000/- as recommended by 7th Central Pay commission is also not applicable to these IDA pensioners, as their IDA scales are different.

That it is matter of record that the retired absorbed BSNL and MTNL employees were always on the beneficial position as compared to their counterparts in Central Government, as the IDA scales offered to them were higher to the existing CDA scales at the time of retirement and further they had better career opportunities in the PSU because of the time bound promotion policies of BSNL and MTNL. They were enjoying the more financial benefits till the PSU was a profitable institution. On account of financial loss and breakdown of BSNL/MTNL, the recommendations of 3rd PRC could not be extended to the BSNL and MTNL employees and thus the pay scales of these employees are not yet revised. Therefore; the retired absorbed employees demand unethical and illegal advantages by claiming benefit of revision of their pension as per 7th CPC withstanding the fact that

3rd PRC could not be implemented. The following table demonstrate the stated fact:

		Rs. 7290 in the IDA(PSU) pay scale of 6550-185-9325.
<u>Pay revision</u>	After the absorption process in BSNL, the employee who remained in Government availed benefits of 6 th Pay Commission w.e.f. 01.01.2006 and 7 th Pay Commission w.e.f. 01.01.2016.	The employee B who opted for absorption in BSNL availed the benefit of 2 nd Pay revision committee w.e.f. 01.01.2007.
<u>Pay after respective pay revisions</u>	Earlier pay (Rs. 5000) of employee A was revised to Rs. 12100 w.e.f. 01.01.2006 in 6 th Central Pay Commission and Rs. 31900 w.e.f. 01.01.2016 in Level-5 in 7 th Central Pay Commission.	Earlier pay (Rs. 7290) of Employee B was revised to Rs. 16890 w.e.f. 01.01.2007 after wage revision as per 2 nd Pay revision Committee
<u>Assume both employees retired on 01.01.2017</u>	Basic pension of Employee A = $31900/2 = \text{Rs. } 15950/-$	Basic Pension of Employee B = $16890/2 = \text{Rs. } 8445/-$
<u>Gross Pension as on 01.01.2017</u>	Gross Pension of Employee A with Central Dearness relief 4% = $15950 \times 1.04 = \text{Rs. } 16588/-$ (Central Dearness Relief was 4% as on	Gross Pension of Employee B with Industrial Dearness relief 119.5% =

	01.01.2017.)	8445*2.195 = Rs.18537/- (Industrial Dearness Relief was 119.5% as on 01.01.2017.)
<u>Conclusion</u>	It is clearly indicating that employee B is at advantageous stage to employee A who opted to remain in Government. It is also evident that employee A availed benefits of two central pay commissions whereas employee B availed benefits of only one wage revision, even thereafter, employee B is at advantageous stage.	

Assumptions : Annual increment in both the cases have not been accounted for. Career progression/Promotion avenues have also not been accounted in both the cases. If it is also accounted for, employee B would be at more advantageous stage as career progression in BSNL is comparatively better due to Executives Promotion Policy (EPP)/Non Executives Promotion Policy (NEPP).

- x. That the petitioner herein had filed the counter affidavit and contested the matter. The learned Tribunal vide order/judgment dated 20.09.2023 allowed the Original Applications and directed the petitioner herein “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 the recommendations of the Pay Commission, shall stand extended in favour of the applicants, analogous to the revision of such pension in case of Central Government pensioners” The copies of the entire Tribunal record are annexed herewith as **Annexure P-2**.

4. It is submitted that the impugned order is not sustainable in the eye of law on the following amongst the other grounds:-

A. **BECAUSE** the impugned order is based upon surmises and conjecture and passed in pre-determined manner. Apart thereof; the impugned order is not sustainable and suffers from various infirmities both in law and fact, therefore, is liable to be set aside.

B. **BECAUSE** it is settled law that a policy decision taken by Government is not liable to interference unless the court is satisfied that the rule making authority has acted arbitrarily or in violation of fundamental rights. Hon'ble Supreme Court of India has also laid down the guidelines that matters involving the policy issues are within the exclusive domain of executive and the same can be resolved only through an executive/administration related decision. The policy matters which have wider implications, Hon'ble Tribunal is to settle the point of law in rem before cautiously before pronouncing the decision on the individual representation.

- C. **BECAUSE** the impugned order leads to framing of a clause in the CPC i.e. policy itself which is in contravention of the law as settled by the Hon'ble Supreme Court of India. The impugned judgment leads to intervention in the policy making without any justified ground.
- D. **BECAUSE** the learned Tribunal failed to appreciate the moot question under consideration that whether without revision of the pay scale the pension could be revised or not. The Tribunal without any justified ground put unwanted huge financial burden on the Government of India.
- E. **BECAUSE** the learned Tribunal failed to appreciate that the prayers of the respondent in OA were absurd. The implementation of order of the learned Tribunal leads to violation of the right to equality as enshrined under the Constitution of India.
- F. **BECAUSE** the learned Tribunal failed to appreciate that the CPC is applicable to the Government Employees not for employees of Central Public Sector Enterprises (CPSEs). The Tribunal failed to appreciate that the respondents were given higher IDA pay scale as compare to their counter-part in the Government Service receiving CDA pay scale.
- G. **BECAUSE** the learned Tribunal failed to appreciate that the DoP&PW issued OM dated 04.08.2016 revising pension/family pension of government pensioners who were drawing pension/family pension as on 31.12.2015 (pre-2016 pensioners/family pensioners). DOP&PW further

issued OM dated 12.05.2017. Para 7 (a) of DoP&PW OM dated 04.08.2016 and para 12 of OM dated 12.05.2017 clearly indicates that when the Government servant on permanent absorption in PSU/s continue to draw pension from the Government separately, the pension of such absorbees will be updated in terms of these orders. These OMs are applicable to the pensioners who are drawing monthly pension from the Government on permanent absorption in PSUs on pro-rata basis in CDA pattern based on their service in Government only. Therefore, OM No.38/37/2016-PPW (A) dated 12.05.2017 issued by DoP&PW consequent to the recommendations of the 7th Central Pay Commission (CPC) revising the pension/family pension of pre-2016 pensioners/family pensioners are applicable to only Government pensioners/family pensioners and not applicable to ex-absorbed combined service pension optees of BSNL/MTNL i.e. the respondents herein.

H. **BECAUSE**, the learned Tribunal failed to appreciate that these combined service optees employees/pensioners of BSNL and MTNL had option to receive pro-rata pension based on their service in the Government at the time of absorption in PSU. However, the respondents on their own volition opted for combined service pension on IDA scale because of the assured and enhanced pension. Had they opted pro-rata pension on CDA scales, it would have already been revised on the

recommendations of the Central Pay Commissions. Now they selectively are asking to revise their IDA combined service pension as per the recommendations of Central Pay Commission following the CDA pattern.

- I. **BECAUSE** the learned Tribunal failed to appreciate that the General Terms and Conditions governing the absorption of erstwhile employees of the Department of Telecommunication into BSNL/MTNL wherein clause 5, which reads as under:-

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. Administrative

- J. **BECAUSE** the learned Tribunal failed to appreciate that as per CCS (Pension) Rule there is no provision for the revision of pension per se and that too in case where the pay scale is itself not implemented in favour of BSNL employees. Apart thereof after absorption in BSNL, those employees ceased to be the Government Servant and they were deemed to have retired from the Service from the date of absorption as per Sub Rule 4 of Rule 37-A of CCS (pension) Rules, 1972. As per sub-rule 8 of Rule 37-A of CCS (pension) Rules, 1972, these absorbed

employee were eligible for pensionary benefit on the basis of the combined service render by them with the Central Government and BSNL in accordance with the formula for calculation of pension and family pension under CCS (Pension) Rule, 1972 at the time of their retirement from BSNL. Thus, the observance of the Tribunal in para 22 of the impugned order that “.....erstwhile employees of the Department of Telecommunication shall continue to be governed by their existing terms and conditions of the service which means that they shall continue to be treated as government servants for all intents and purposes.....” is contrary to record and therefore untenable.

K. **BECAUSE** the learned Tribunal failed to misread the Rule 37 (A) of CCS Pension Rules and therefore wrongly hold in para 23 of the impugned order that same terms and condition will be application without any qualification. Thus, in effect the learned Tribunal abolished the concept of deputation and absorption in government service.

L. **BECAUSE** the observance of the learned Tribunal in para 26 of the impugned order that “*We reiterate that even on their absorption in the corporate undertaking, the terms and conditions of services governing them were to remain the same as they existed when they are employees of the Department of Telecommunications. Further, these terms and conditions include pension and family pension and this has been expressly stated in the rules and*

several subsequent communications” is contrary to record and therefore untenable.

M. **BECAUSE** the learned Tribunal failed to appreciate that on earlier occasion on the recommendations of 2nd PRC, the pay scale of the BSNL were revised and in order to remove the anomaly in pension of those BSNL and MTNL pensioners who retired between 01.10.2000 and 01.01.2007, approval of Union Cabinet was sought for revision of their pension and therefore the Government of India had granted the benefit to the employees who retired between 01.10.2000 and 01.01.2007.

N. **BECAUSE** the learned Tribunal failed to appreciate that employees of BSNL cannot claimed revision of pension even without revision of pay scale as matter of right as they ceased to be government employee with effect from date of permanent absorption.

O. **BECAUSE** the learned Tribunal wrongly observed in para 27 of the impugned order that the petitioners have ever made any promise for revision of pay as observed by the Tribunal. The said observation is contrary to record.

P. **BECAUSE** the learned Tribunal failed to appreciate that the counter-part employees of Central Government and the permanent absorbed employees of BSNL and MTNL cannot be treated at par with each other qua the salary and pension as both governed by different rules. The Tribunal failed to appreciate that the benefit of recommendation of

CPC cannot be extended per se to the absorbed employees of BSNL.

Q. **BECAUSE** the learned Tribunal failed to appreciate that as alleged by the respondents that the all the benefit of 7th CPC except for revision of pension have been extended in favour of the respondent is factually incorrect.

R. **BECAUSE** the learned Tribunal failed to appreciate that the respondents had opted for absorption under a Public Sector Undertaking (PSU) and therefore they shall be governed under the provisions of salary, allowances and pension governing such public sector employees. The Tribunal failed to observe that the respondent desire is to have the benefit of higher scales of PSU and better pensionary award of the Government and this cannot be allowed to choose what suits them at a particular juncture as the same is violation of rule of law.

S. **BECAUSE** the learned Tribunal failed to appreciate that respondents are seeking preferential treatment to the detriment of other employees of BSNL. The Tribunal failed to appreciate that the same organization cannot create two sets of employees in terms of financial benefits.

T. **BECAUSE** the learned Tribunal failed to appreciate that pension revision as per the recommendations of 2nd PRC was done to redress the anomaly in pension between past and future retirees of the BSNL employees, however, the Tribunal allowing the

respondent's prayer created another set of anomalies because in respect of 3rd PRC the pay scales of the BSNL and MTNL employees have not revised yet as was in case of 2nd PRC.

U. **BECAUSE** the learned Tribunal without any occasion and without giving any reason ignored the judgment of co-ordinate bench on the similar issues namely

- a. O.A. No. 346/2018 decided on 30.10.2019 by the Ernakulam Bench, Central Administrative Tribunal.
- b. O.A. No. 116-134/2018 decided on 27.11.2019 of the Bangalore Bench, Central Administrative Tribunal.
- c. RA No. 021/02/2019 in O.A. No. 813/2017, decided on 11.01.2019 by Hyderabad Bench, Central Administrative Tribunal.

In OA No. 116-134/2018 decided by Hon'ble CAT, Bengaluru bench on 21.11.2019, Hon'ble Tribunal observed that the retired employees of BSNL have not a pre-dominating right to claim parity because their existence and enhancement depends on commercial viability of their organization and not on the parity to be provided to the government employees universally across the board in Government service. Therefore, having elected to be in BSNL, they are now estopped by the implied promise that they had given to go by the BSNL tents and to grow on it, If the BSNL can not grow on it, naturally the employees will suffer a little diminishment. At this point of time they can not turn around and say that the

DoT employees may have stolen a march over them. As they have already made their choice, they have to abide by it.

Whereas, in OA No. 813/2017 Hon'ble CAT, Hyderabad bench observed that being a BSNL employee the applicant cannot compare himself with DoT employee and allege discrimination. One is a Govt. Department and the other is a PSU. Therefore no parallels can be drawn in regard to the issue in question. To sum up, the applicant is not a Government employee and hence he does not come under the ambit of 7th CPC.

5. That the petitioner has not filed any other petition before this Hon'ble Court or any other court challenging the impugned order.
6. That there is no other efficacious and statutory remedy available qua the order passed by and therefore this Writ Petition is filed.
7. That this Hon'ble Court has jurisdiction to entertain the present writ petition as the impugned judgment/order has been passed at Delhi by the Central Administrative Tribunal, Principal Bench, Delhi.
8. That there is no undue delay and laches in filling the present writ petition. The impugned order was passed on 20.09.2023. After getting approval from the department, the petitioners sought legal opinion and thereafter the file was sent to Litigation Branch, Delhi High Court for appointment of the Counsel. The department gets the certified copy of entire record on 5.10.2023 and accordingly handed over the same to the Counsel. Since the records are

voluminous and all the connected three matter runs into more than thousand pages, therefore, conferences, discussion, research and draft work takes some time. The counsel sends the draft petition for vetting on 27.12.2023. The petitioners send the draft petition on 19/03/2024 for filling.

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9. That the annexure are certified copy of the Original.

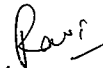
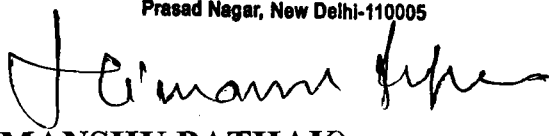
PRAYER

In view of the above-mentioned facts and circumstances of the case, it is most respectfully prayed before this Hon'ble Court that this court may graciously be pleased to:

- a. issue the Writs/Orders/Directions in nature of Certiorari, thereby quashing or setting aside order/judgment dated 20.09.2023 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred as Tribunal) in Original Application No. 1272/2020 titled "*All India Retired Bharat Sanchar Nigam Limited Executive Welfare Association & Ors Versus Union Of India & Ors*".
- b. Pass any other appropriate order/direction which this Hon'ble Court deem fit and proper in the favour of petitioners and against the respondents.

New Delhi
Date: 21/03/2024

Through


रवि कुमार चौधरी / RAVI KUMAR CHAUDHARY
सहायक निरीक्षक / Assistant Controller
कार्यालय प्रधान नियंत्रक संचार सेवा / O/o. PR. CCA
प्रसाद नगर, नई दिल्ली-110005
Prasad Nagar, New Delhi-110005

(HIMANSHU PATHAK)
Advocate
Counsel for the Petitioners

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRAORDINARY CIVIL JURISDICTION
W.P. (C). No of 2024

IN THE MATTER OF:

Union of India & Ors

.....Petitioners

Versus

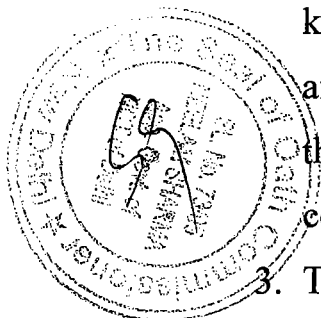
All India Retired Bharat Sanchar
 Nigam Limited Executive Welfare
 Association & Ors

.....Respondents

AFFIDAVIT

I, Ravi Kumar Chaudhary S/o Shri Raj Kumar Chaudhary aged about 31 years working as Assistant Controller of Communication Accounts, O/o Principal Controller of Communication Accounts, Department of Telecommunications, Sanchar Lekha Bhawan, New Delhi-110005 do hereby solemnly affirm and declare as under:-

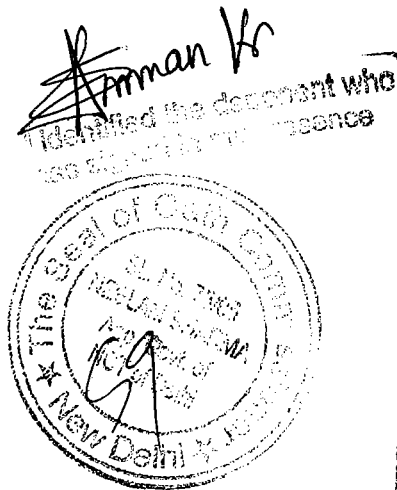
1. That I am well conversant with the facts and circumstances of this case as per official records and duly authorized to file this affidavit on behalf of all the petitioners No. 1 to 4.
2. That I have read over and understand the contents of the accompanying Writ Petition, which has been drafted by the counsel on my instructions and the statement of facts and submissions made therein are true and correct to my knowledge and the same be read as part and parcel of the affidavit to avoid repetition. The legal submissions made therein are as per advice received and believed to be correct.
3. That contents of synopsis and list of date and events qua deponent are true and correct to my knowledge.



4. That the factual averment made qua the petitioner from para 1 to 9 of writ petition are true and correct to my knowledge.
5. That the ground and legal averment made to para A to para U and the Prayer is based on the legal advice which I believe to be correct.
6. That the annexure qua the deponent annexed with the Writ Petition are true copies of respective originals.

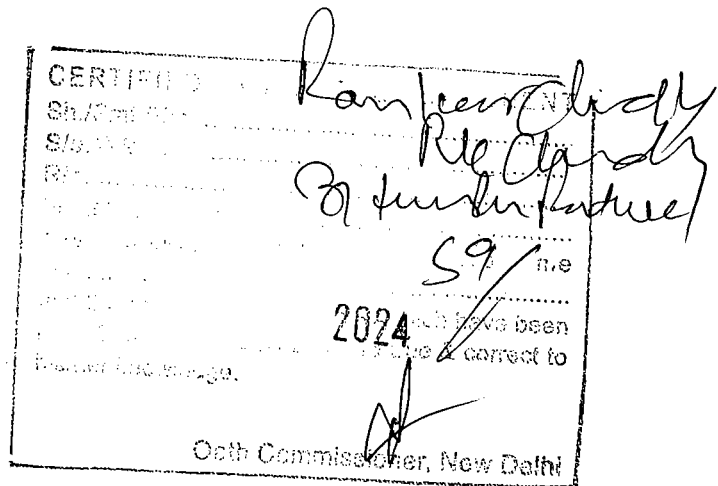
VERIFICATION

Verified at New Delhi, on this 20/03/24 that the contents of paras 1 and 6 of the above affidavit are true and correct to my knowledge. Nothing is false and nothing material has been concealed therefrom.



Ravi
रवि कुमार चौधरी / RAVI KUMAR CHAUDHARY
सहायक नियंत्रक / Asstt. Controller
कार्यालय प्रधान नियंत्रक संचार सेवा / O/o. PR. CCA
प्रसाद नगर, नई दिल्ली-110005
Prasad Nagar, New Delhi-110005

Ravi
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कार्यालय प्रधान नियंत्रक संचार सेवा / O/o. PR. CCA
प्रसाद नगर, नई दिल्ली-110005
Prasad Nagar, New Delhi-110005



**IN THE HIGH COURT OF DELHI AT NEW DELHI
W.P. (C) NO. 4946 OF 2024**

IN THE MATTER OF:

UNION OF INDIA & ORS.

... PETITIONERS

VERSUS

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

... RESPONDENTS

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KIRTIMAN SINGH

Advocate for Petitioner

Central Government Standing Counsel

Office:- A-20, Lower Ground Floor

Lajpat Nagar III

New Delhi-110024

Phone:-011-49071872

Date : 08.08.2024

Place: New Delhi

\$~53 to 55

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
(53)+ 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, Mr.Maulik Khurana,
 Mr.Arjun Chopra and
 Ms.Khyaati Bansal, Advs.

versus

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

.....Respondents

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

(54) 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, Mr.Maulik Khurana,
 Mr.Arjun Chopra and
 Ms.Khyaati Bansal, Advs.

versus

ALL INDIA BSNL PENSIONERS WELFARE
 ASSOCIATION & ORS.

.....Respondents

Through: Mr.Sanjay Ghose, Sr. Adv.
 with Ms.Asmita Singh,
 Mr.Rohan Mandal, Ms.Ankita
 Makan and Ms.Disha Joshi,
 Advs.

(55) **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, Mr.Maulik Khurana,
Mr.Arjun Chopra and
Ms.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 NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

ORDER

% **19.08.2025**

1. The learned senior counsel for the petitioners submits that the petitioners have filed an additional affidavit to place on record the Order dated 30.10.2019 passed by the learned Central Administrative Tribunal, Ernakulam Bench, in O.A. No. 180/00346/2018, **titled *All India BSNL Pensioners' Welfare Association & Anr. v. Union of India & Ors.***, and the Judgment dated 07.02.2025 passed by the High Court of Kerala at Ernakulam, as well as the Order dated 08.08.2025 passed by the Supreme Court in SLP (C) Diary No. 39478/2025, whereby the petitioners were granted liberty to file a review against the Judgment dated 07.02.2025 passed by the High Court of Kerala, Ernakulam in OP (CAT) No.60/2020. He further submits that he has also placed on record the Office Memorandums dated 17.07.2018 and

27.03.2025, may have bearing on issue to be adjudicated before this Court.

2. On the other hand, the learned senior counsel and Mr. Ankur Chhibber, the learned counsels appearing for the respondents, submit 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. They submit that the said Judgment pertained to an altogether different issue.

3. Be that as it may, since the additional affidavit is not yet on record. Let the same be brought on record.

4. The respondents shall be at liberty to file a brief reply to the additional affidavit, if they so desire, within a period of two weeks from today.

5. List on 13th October, 2025 at 3:30 P.M..

NAVIN CHAWLA, J

MADHU JAIN, J

AUGUST 19, 2025/sg/DG

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 4946 of 2024

IN THE MATTER OF:

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

...PETITIONER

VERSUS

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

...RESPONDENT

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THROUGH: -

PETITIONER

Ms. Laavanya Kaushik
Government Pleader
(Union of India)

FOR RESPONDENT

475, LAWYERS CHAMBERS
DELHI HIGH COURT,
NEW DELHI – 110 002
MOB. 9871049740

Email: litigation@laavanyakaushik.com

DELHI
DATED 19.08.2025

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

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

...PETITIONER

VERSUS

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

...RESPONDENT

ADDITIONAL AFFIDAVIT ON BEHALF OF PEITIONERS

AFFIDAVIT OF Sh. Rakesh Jain S/o Late Shri Kailash Chand Jain, aged about 48 years, presently posted as Assistant Controller of Communication Accounts, Department of Telecommunications, Sanchar Lekha Bhawan, Prasad Nagar, New Delhi-110005.

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

1. That presently I am Assistant Controller of Communication Accounts, Department of Telecommunications, New Delhi. In my official capacity I am conversant with the facts of the case and competent and duly authorised to depose about the same.
2. The present affidavit is being filed to bring on record subsequent developments on the issue under consideration in the present matter.
3. Bharat Sanchar Nigam Limited (BSNL) was formed on 01.10.2000 by conversion of the erstwhile Department of Telecom. Services (DTS) and Department of Telecom. Operations (OTO) into a Public Sector Undertaking (PSU). The Government employees in these two Departments were first transferred en-masse to BSNL on deemed deputation basis. These employees were later given option to either continue to be in Government Service or to seek permanent absorption in BSNL. Those employees who opted for absorption in BSNL, Presidential Orders were issued in their favour laying down comprehensive terms and conditions of their absorption in BSNL with effect from 01.10.2000 in accordance with Rule 37-A of CCS (Pension) Rules, 1972. The absorbed employees of BSNL were given higher IDA pay scales as

compared to their counter parts in Government Service receiving CDA pay scales.

4. After absorption in BSNL, these employees ceased to be Government servants and they were deemed to have retired from Government service from the date of their absorption as per Sub-rule 4 of Rule ibid. The absorbed employees of BSNL, who retired or retiring after 01.10.2000 are getting pension and dearness relief thereon in IDA pattern as per Rule 37 (16) of CCS(Pension) Rules, 1972.
5. The Answering Respondent respectfully submits that the case of the Respondents is inter alia that even though there is no change in the pay scale, they are never the less entitled to an enhancement in pension. The Respondents inter alia base their case on the OM dated 12.05.2017 which was issued pursuant to the 7th CPC. As submitted hereinbefore, the Respondents herein are not Government servants and the CPC recommendations are ipso facto not applicable to them. The Respondents being ex-employees of BSNL were governed by the pay scales provided for in the IDA pattern and not the CDA pattern. Contrary to the case of the Respondent the OM dated 12.05.2017 has been issued in continuation of the OM dated 04.08.2016 providing for the various options for pensioners benefits for Government Servants only.
6. It is respectfully submitted however, that the Respondents herein had in fact filed an Original Application before the Ld. CAT at Ernakulam seeking the extension of the benefit of OM dated 12.05.2017 to them. The aforementioned OA was titled, All India BSNL Pensioners Welfare Association and Shri. P. Vadivel (DoB - 18.11.1942, DoE- 19.7.1962 & DoR -30.11.2002) bearing OA No.180/00346/2018 with following prayer:

"To direct the respondents to extend to the pre-2006 DoT absorbed BSNL /Dapensioners, the benefit of Annexure-5 OM (DoPPW OM dated 12.05.2017), revise their pension by applying the pension formula of 50% of the last pay drawn or 50% of the last ten month average pay which ever is advantageous to them and disburse all the consequential benefits to them with arrears and interest."

7. Without prejudice to the submission of the Petitioner that on this ground alone the OA before the Ld. Tribunal at Delhi was not maintainable, and should have been rejected on that ground alone, by judgment and order 30.10.2109 Ld. CAT Ernakulam Bench the aforementioned OA was rejected. Copy of Order

dated 30.10.2019 in OA No.180/00346/2018 is annexed herewith and marked as **ANNEXURE - P1.**

8. Aggrieved thereby, the Respondents herein challenged the said order before the Hon'ble High Court of Kerala vide OP No. 60/2020 which was partially allowed vide Judgment dated 07.02.2025. Copy of judgment dated 07.02.2025 in OP No. 60/2020 is annexed herewith and marked as **ANNEXURE - P2.**
9. The Union of India, thereafter challenged the said Order before the Hon'ble Supreme Court vide SLP bearing Diary No. 39478/2025. When the matter was taken up before the Hon'ble Supreme Court it was brought to its attention that clarifications dated 17.07.2018 and 27.03.2025 have been issued by DOP&PW which unambiguously and expressly stated that the OM dated 12.05.2017 had no application whatsoever to IDA pensioners such as the Respondents herein. The relevant portion of the said clarification dated 17.07.2018 is reproduced hereunder:

"It is correct that the OMs dated 04-08-2016 and dated 12-05-2017 issued by this Department for revision of pension w.e.f. 01-01-2016 are applicable to Central Government Civil Pensioners drawing pension on CDA pattern and are not applicable to the BSNL absorbee pensioners getting pension under IDA pattern. It may be stated that similar orders issued by this Department for revision of pension of Central Govt. Civil Pensioners based on the recommendations of 6th Central Pay Commission were also not applicable to the BSNL absorbee pensioners under IDA pattern. However, DoT had issued separate orders for revision of pension of the absorbee pensioners of BSNL w.e.f. 01-01-2007 based on the recommendations 2nd Pay Revision Committee. In its subsequent clarification dated 27.03.2025 also, DoP&PW has re-iterated that- "Vide DoP&PW OM dated 17.07.2018, it has already been clarified that the OM dated 12.05.2017 issued by DoP&PW for revision of pension w.e.f. 01.01.2016 are applicable to Central Government Civil Pensioners drawing pension on CDA pattern and are not applicable to the BSNL absorbee pensioners getting pension under IDA pattern".

Further, it is also submitted that the IDA Pay Scales applicable in BSNL are revised by the Deptt of Public Enterprises, Ministry of Finance for all the Central PSUs through a separate mechanism of Pay Revision Committee(PRC), which is different from the Central Pay Commission. As the Pension is the

derivative of the Pay, so after revision of the IDA Pay Scales, revision of Pension of IDA Pensioners is examined separately by the Administrative Ministry. Therefore, OM dated 12.5.2017 issued by DoP&PW regarding revision of pension of CDA Pensioners is not applicable to the BSNL absorbee combined service IDA Pensioners.

Copies of OM's dated 17.07.2018 and 27.03.2025 issued by DoP&PW are annexed herewith and marked as **ANNEXURE – P3 & P4**.

10. Keeping in mind the aforesaid, the SLP was withdrawn with liberty to approach the Hon'ble High Court of Kerala and place the said clarification for its consideration in as much as, the said clarification was admittedly not before it when the Order/Judgment dated 07.02.2025 was passed. Liberty was further given to approach the Hon'ble Supreme Court in case the Union was aggrieved by any orders passed by the Hon'ble High Court subsequent thereto. Copy of order dated 08.08.2025 of the Hon'ble Supreme Court is annexed herewith and marked as **ANNEXURE – P5**.
11. The aforementioned subsequent developments as well as clarification dated 27.03.2025 are being placed on record for the consideration of this Hon'ble Court. The Petitioner respectfully submits that the contentions of the Respondents that they are in anyway entitled to the benefit of OM dated 12.05.2017 is completely negated once again in view of the express and unambiguous contents of the clarification dated 27.03.2025.

It is pertinent to mention that the DoP&PW's OM dated 12.05.2017 is in continuation of their OM dated 04.08.2016. Para 7(a) of the letter clearly indicates that when the Government servant on permanent absorption in PSUs continue to draw pension from the Government separately, the pension of such absorbees will be updated in terms of these orders. Accordingly, para 12 of the OM dated 12.05.2017 is applicable for the pensioners who are drawing monthly pension from the Government on permanent absorption in PSUs on pro-rata basis in CDA pattern based on their service in Government only. Therefore, OM dated 12.05.2017 issued by DoP&PW consequent to recommendations of the 7th Central Pay Commission (CPC) revising the pension/family pension of ex-Government employees are not applicable to the applicants.

The Para No. 4 & 12 of the OM dated 12.05.2017 cannot be read in isolation, without understanding the Subject, and the Context. And the subject

of this OM makes it very clear that it is related to the Seventh Central Pay Commission and the Context is Revision of Pension. Even the Exhibit attached with the OM as Annexure-1 mentions only the Central Pay Commissions (CPCs) only. So, its Clauses cannot be made applicable to anybody who is not covered under Central Pay Commission like the IDA Pensioners. Therefore, OM dated 12.5.2017 issued by DoP&PW regarding revision of pension is not be applicable to BSNL absorbee pensioners.

DEPONENT

VERIFICATION

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

Verified at New Delhi in this 19 day of August, 2025.

DEPONENT

CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

Original Application No.180/00346/2018Wednesday, this the 30th day of October, 2019**CORAM:****HON'BLE Mr.E.K.BHARAT BHUSHAN,****...ADMINISTRATIVE MEMBER**

1. All India BSNL Pensioners' Welfare Association

(Regd.1833/09), Central Headquarters,

A.H 189/61 3rd Street, Auroville Flats,

Anna Nagar, Chennai-600040.

Represented by its President, P.S.Ramankutty,

Aged 74 years,

S/o Late R.Sivaraman Nair,

residing at TC 55/1953, CTO Colony,

Pappanamcode, Trivandrum-695 018.

2. P. Vadivel,

Aged 75 years,

S/o Late V.Perumal,

Retired Chief Section Supervisor,

O/o Principal General Manager,

BSNL Bhavan, Ernakulam,

residing at 10/855 Ambady,

S.S. Krishnan Road,

Fort Kochi,

Kochi.

....Applicants

(By Advocate Mr.R.Sreeraj)**V e r s u s**

1. The Union of India

represented by the Secretary,

Department of Telecom,

Sanchar Bhavan,
20, Asoka Road,
New Delhi – 110 001.

2. The Bharat Sanchar Nigam Limited,
Corporate Office, Bharat Sanchar Bhawan,
Harish Chandra Mathur Lane,
New Delhi – 110 001.

3. The Secretary,
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- 110 001.

4. The Secretary,
Government of India,
Ministry of Personnel, Public Grievances
and Pensions, Department of Pensions and
Pensioners' Welfare,
New Delhi – 110 001.

5. The Controller of Communication Accounts,
BSNL Bhawan, Kerala Circle,
Trivandrum-695 033.Respondents

**[By Advocate Mr. K.C. Muraleedharan, ACGSC for Respondents (1 & 3-5) &
Mrs. Girija K. Gopal (R2)]**

This application having been heard on 24th October, 2019, the Tribunal on 30th October, 2019 delivered the following :

ORDER**By Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member -**

OA No.346/2018 is filed by a Welfare Association of BSNL Pensioners' represented by its President and the 2nd applicant is a member of the Association.

2. They submitted that on acceptance of the recommendations of the VIth Central Pay Commission orders have been issued granting pension @ 50% of the average emoluments for the last 10 months or 50% of the last pay drawn whichever is more beneficial to the pensioner. Since the applicants who are Department of Telecommunication absorbed BSNL employees covered under the CCS (Pension) Rules, 1972, the above benefits of VIth Central Pay Commission were extended to those who retired after 1.1.2006 from the BSNL. The impact was that from 1.1.2006 all those with qualifying service of ten years became entitled for full pension and that the grant of full pension for those who had a qualifying service of 33 years or more alone as stipulated under Rule 49 of CCS (Pension) Rules, 1972 was dispensed with. Later based on the decision taken by the Government on the recommendations of the VIIth Central Pay Commission, orders for revision of pension of pre-2016 pensioners/family pensioners were issued whereby it was provided 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 time of implementation of the recommendations of the VIth Central Pay Commission. Further the Government decided that the revised pension/family pension w.e.f. 1.1.2016 in respect of all Central Civil Pensioners/Family pensioners, including CAPFs who retired/died prior to 1.1.2016 may be revised by notionally fixing their pay in the pay matrix recommended by the VIIth Central Pay Commission in the level, corresponding to the pay in the pay scale/pay band and Grade at which they retired/died. It was further decided that this will be done by notional pay fixation under each intervening Pay Commission based on the formula for revision of pay. However, Annexure A5 introduced a new and a drastic concept. It provided that the last pay drawn by a pre-2016 pensioner undergoes notional change after every pay commission till the VIIth Central Pay Commission and the pension is fixed ultimately at 50% of that notional pay finally arrived at. Annexure A5 has been totally lost as far as the pre-2006 pensioners of BSNL are concerned. BSNL pensioners are illegally and unreasonably subjected to a further classification as those retired prior to 1.1.2006 and those retired after 1.1.2006. Objecting to this alleged discrimination, the applicants submitted representations. However, no action has been

taken on the same. Aggrieved the applicants have approached this Tribunal seeking relief as under:

- "1) To direct the respondents to extend to the pre-2006 DoT absorbed BSNL IDA pensioners, the benefit of Annexure A5 OM, revise their pension by applying the pension formula of 50% of the last pay drawn or 50% of the last ten months average pay which ever is advantageous to them and disburse all the consequential benefits to them with arrears and interest.
- 2) Such other relief as may be prayed for and this Hon'ble Tribunal may deem fit to grant.
- 3) Grant the cost of this Original Application."

3. The applicants submit that the further classification of BSNL IDA pensioners as those retired prior to 1.1.2006 and those retired after 1.1.2006 violates Articles 14 & 16 of the Constitution of India. The applicants have relied upon the judgment of the High Court of Kerala in ***Kamala Devi v. K.S.F.E. Ltd.*** - 2002 (1) KLT 157 wherein it was held that Article 14 guarantees equality before law and equal protection of laws but the same does not prohibit classification. Moreover, non-extension of the benefit of Annexure A5 OM to the BSNL IDA pensioners who retired from service prior to 1.1.2006 amounts to negation of the rights conferred on them under sub-rule (8) of Rule 37-A of the CCS (Pension) Rules, 1972 which *inter alia* states that the amount of pension of the absorbed employee on retirement or on death from the public sector undertaking shall be calculated in the same way as calculated of a Central Government servant retiring on the same day.

4. A detailed reply statement had been filed by the respondents Nos. 1, 3 to 5 who contend that BSNL was formed on 1.10.2000 by conversion of the erstwhile Department of Telecom Services and Department of Telecom Operations to a public sector undertaking. The Government employees in these two Departments were first transferred en-masse to BSNL on deemed deputation basis. These employees were later given option to either continue to be in Government service or to seek permanent absorption in BSNL. For those employees who opted for absorption in BSNL, presidential orders were issued laying down comprehensive terms and conditions for their absorption in BSNL w.e.f. 1.10.2000. The absorbed employees of BSNL were given higher IDA pay scales as compared to their counterparts in Government service receiving CDA pay scales. These absorbed employees were eligible for pensionary

benefits on the basis of combined service rendered by them in the Central Government and the BSNL in accordance with formula for calculation of pension and family pension under CCS (Pension) Rules, 1972 at the time of

their retirement from BSNL. The IDA pension was made applicable to BSNL absorbed employees w.e.f. 1.10.2000 onwards and it was subsequently revised w.e.f. 1.1.2007. The applicants are getting their pension/family pension in IDA pattern from Government as per Rule 37-A of CCS (Pension) Rules, 1972. The respondents further submitted that Annexure A5 OM dated 12.5.2017 is applicable to the pensioners who are drawing monthly pension from the Government on permanent absorption in public sector undertakings on pro-rata basis in CDA pattern based on their service in Government only. They further contended that certain benefits of Annexure A4 OM have been extended to the BSNL IDA pensioners vide DoT OM dated 16.3.2017 (Annexure R2). Respondents pray for dismissing the OA.

5. Heard Shri R. Sreeraj, learned counsel for the applicants, Mr. K.C. Muraleedharan, learned ACGSC appearing for respondents Nos. 1, 3 to 5 and Mrs. Girija K. Gopal, learned counsel appearing for respondent No. 2. Perused the record.

6. The short point to be considered in this OA is whether Annexure A5 OM dated 12.5.2017 is applicable to the applicants who are BSNL IDA pensioners? On formation of BSNL w.e.f. 1.10.2000 the Government employees in Department of Telecom Services and Department of Telecom Operations were transferred en-masse to BSNL on deemed deputation basis. Later they were given option to either continue to be in Government service or to seek permanent absorption in BSNL. The applicants opted for absorption in BSNL and presidential orders were issued in their favour laying down comprehensive terms and conditions of their absorption in BSNL w.e.f. 1.10.2000. The applicants were given higher IDA pay scales as compared to their counterparts in Government service receiving CDA pay scales. The applicants were eligible for pensionary benefits on the basis of combined service rendered by them with the Central Government and the BSNL in accordance with formula for calculation of pension and family pension under CCS (Pension) Rules, 1972 at the time of their retirement from BSNL. The IDA pension was made applicable to BSNL absorbed employees w.e.f. 1.10.2000 onwards and it was subsequently revised w.e.f. 1.1.2007. The applicants are getting their pension/family pension in IDA pattern from Government as per Rule 37-A of CCS (Pension) Rules, 1972. Sub-rule (4) of Rule 37-A clearly stipulates as under:

"(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.**" (emphasis supplied)

7. In the present case w.e.f. 1.10.2000 i.e. the date of the presidential order of absorption of the applicants in BSNL, they shall cease to be Government servants and shall be deemed to have retired from Government service. Therefore, w.e.f. 1.10.2000 the applicants are not Government servants after their absorption and shall be treated as employees of the public sector undertaking. Sub-rule (7) of Rule 37-A of CCS (Pension) Rules, 1972 clearly stipulates that employees opting for permanent absorption in the public sector undertaking shall on and from the date of absorption be governed by the rules and regulations or by-laws of the public sector undertaking. Sub-rule (8) of Rule 37-A and the explanation below it reads thus:

"(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 extraordinary 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."

The above quoted sub-rule 8 clearly stipulates that a permanent Government servant absorbed as an employee of a Public Sector Undertaking shall be eligible for pensionary benefits (including commutation of pension, gratuity, family pension or extraordinary 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 at his option, to receive benefits for the service rendered under the Central Government in accordance with the orders issued by the Central Government. Here the applicants have given option for permanent absorption in BSNL and retired on superannuation from BSNL. The applicants have not given any option to receive benefits for the service rendered under the Central Government in accordance with the orders issued by the Central Government. Moreover, the explanation only makes it clear that the amount of pension in respect of the absorbed employee on retirement from public sector undertaking shall be calculated in the same way as calculated in case of a Central Government servant retiring or dying on the same day. The respondents in their reply statement submitted that Annexure A5 OM is meant for Central Government CDA pensioners and pro-rata pension optee of BSNL absorbees drawing pension on CDA pattern for Government service period only and not for combined service pension optee BSNL IDA pensioners like the applicants. This fact has not been denied by the applicants by filing any rejoinder.

8. In view of the above, this Tribunal does not find any merit in the OA. Accordingly, the OA is dismissed. No order as to costs.

(E.K.BHARAT BHUSHAN)

ADMINISTRATIVE MEMBER

"SA"

List of Annexures in O.A. No.180/00346/2018

1. **Annexure A1:** True copy of the Department of Pension & Pensioners' Welfare OM F.No.38/37/08-P&PW(A) dated 10.12.2009.
 2. **Annexure A2:** True copy of the Department of Telecom letter No.40-31/2008-Pen(T) dated 16.08.2010.
 3. **Annexure A3:** True copy of the Department of Pension & Pensioners' Welfare Resolution No.38/37/2016-P&PW(A)(ii) dated 4.8.2016.
 4. **Annexure A4:** True copy of the Department of Pension & Pensioners' Welfare OM No.38/37/2016-P&PW(A)(ii) dated 4.8.2016.\
 5. **Annexure A5:** True copy of the Department of Pension & Pensioners' Welfare OM No.38/37/2016-P&PW(A) dated 12.5.2017.
 6. **Annexure A6:** True copy of the representation dated 23.6.2017 submitted by the 1st applicant Association to the 1st respondent.
 7. **Annexure R1:** Copy of Rule 37-A of CCS (Pension) Rules, 1972.
 8. **Annexure R2:** Copy of OM No.40-31/2008-Pen(T) dated 16.03.2017.
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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

&

THE HONOURABLE MR.JUSTICE K. V. JAYAKUMAR

FRIDAY, THE 7TH DAY OF FEBRUARY 2025 / 18TH MAGHA, 1946

OP (CAT) NO. 60 OF 2020

AGAINST THE ORDER/JUDGMENT DATED 30.10.2019 IN OA NO.346 OF
2018 OF CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH

PETITIONERS/APPLICANTS:

1 ALL INDIA BSNL PENSIONERS WELFARE ASSOCIATION
AH 189/61, 3RD STREET, AUROVILE FLATS,
ANNA NAGAR,CHENNAI-600040

REPRESENTED BY ITS PRESIDENT, P.S.RAMANKUTTY,
AGED 74 YEARS, S/O LATE R.SIVARAMAN NAIR,
RESIDING AT TC 55/1953,
CTO COLONY, PAPPANAMCODE, TRIVANDRUM-695018.

2 P..VADIVEL,
AGED 75 YEARS
S/O LATE V.PERUMAL, RETIRED CHIEF SECTION SUPERVISOR,
O/O PRINCIPAL GENRAL MANAGER,
BSNL BHAVAN, ERNAKULAM,
RESIDING AT 10/855, AMBADY,
S.S.KRISHNAN ROAD, FORT KOCHI, KOCHI-682001.

BY ADV

R.SREERAJ

RESPONDENTS/RESPONDENTS:

1 UNION OF INDIA
REPRESENTED BY THE SECRETARY,
DEPARTMENT OF TELECOM, SANCHAR BHAVAN,
20, ASOKA ROAD, NEW DELHI-110001.

2 BHARAT SANCHAR NIGAM LIMITED,
CORPORATE OFFICE, BHARAT SANCHAR BHAVAN,
HARISH CHANDRA MATHUR LANE, NEW DELHI-110001.

3 THE SECRETARY,
GOVERNMENT OF INDIA, MINISTRY OF HEAVY
INDUSTRIES AND PUBLIC ENTERPRISES,
DEPARTMENT OF PUBLIC ENTERPRISES,
PUBLIC ENTERPRISES BHAWAN, BLOCK NO.14,
CGO COMPLEX, LODHI ROAD, NEW DELHI-110001.

4 THE SECRETARY,
GOVERNMENT OF INDIA, MINISTRY OF PERSONNEL,
PUBLIC GRIEVANCES AND PENSIONS,
DEPARTMENT OF PENSIONS AND PENSIONERS'
WELFARE, NEW DELHI-110001.

5

THE CONTROLLER OF COMMUNICATION ACCOUNTS,
BSNKL BHAWAN, KERALA CIRCLE, TRIVANDRUM-695033.

BY ADVS.

SRI.T.C.KRISHNA (DSGI IN CHARGE)

SMT.K.R.KRISHNAKUMARI

THIS OP (CAT) HAVING BEEN FINALLY HEARD ON 07.02.2025, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT**AMIT RAWAL,J**

The present O.P.(CAT) is directed against the judgment of the Central Administrative Tribunal denying the following claim laid by the applicants:

"To direct the respondents to extend to the pre-2006 DoT absorbed BSNL IDA pensioners, the benefit of Annexure A-5 OM, revise their pension by applying the pension formula of 50% of the last pay drawn or 50% of the last ten months average pay which ever is advantageous to them and disburse all the consequential benefits to them with arrears and interest.

2) Such other relief as may be prayed for and this Hon'ble Tribunal may deem fit to grant.

3) Grant the cost of this Original Application."

2. Before we could dictate the judgment, we have seen that the O.A. was filed on behalf of the association and none of the persons. It is settled law that the association cannot espouse the grievance of the major persons. Therefore, the present O.P.(CAT) will be only confined to the relief viz-a-viz petitioner No.2.

3. Brief facts of the petitioners/applicants giving them a cause to claim the benefit aforementioned is enumerated hereinbelow:

There were two departments of the Government i.e., Department of Posts & Telegraph and Telecommunications. Department of Posts and Telegraph was bifurcated in 1987 into Department of Posts and Department of Telecommunications, thereafter Department of Telecommunications merged into BSNL on 01.10.2000. The Government, on acceptance of the recommendations of the 6th Central Pay Commission, issued orders granting pension at the rate of 50% of the average emoluments for the last of ten(10) months of 50% of the last pay drawn whichever is more beneficial to the pensioner. Accordingly, Rule 37A was also incorporated in the CCS (Pension) Rules, 1972, in 2002. Thereafter, 7th Central Pay Commission also came into force with effect from 01.01.2016. On merging, option was given to the employees to opt for combined service benefit i.e., consisting of government and the public undertaking or separately from the Government. Petitioner No.2 is a retiree opted for combined services benefits. On 12.05.2017, Ministry of Personnel, PG & Pensions, Department of Pension & Pensioners' Welfare came out with an Office Memorandum with the subject of implementation, the decision of the Government on

recommendations of the 7th Pay Commission that revision of pension of pre-2016 pensioners/family pensioners. Concededly, petitioner No.2 is a pre-2016 pensioner.

4. Paragraph Nos.4 and 12 of the aforementioned implementation letter reads as under:

".....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.

xxxxxxx

xxxxxxx

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."

On perusal of the above, it is evident that the aforementioned benefit has been given to the Government employee on permanent absorption in the public sector undertaking or

autonomous bodies and their monthly pension will be revised in accordance with the orders i.e., in terms of 50% of notional pay as on 01.01.2016 and 30% of family pension with effect from 01.01.2016 strictly as per the provisions of Condition No.4. A representation was submitted by the petitioner to accord the aforementioned benefit on recommendation of 7th Central Pay Commission as the similar benefit on the recommendation of 6th Central Pay Commission was granted to the other pensioners. However, there was no decision on the aforementioned representation giving cause to file the original application.

5. Learned tribunal, vide order under challenge, rejected the claim by observing as under:

"6. The short point to be considered in this OA is whether Annexure A5 OM dated 12.5.2017 is applicable to the applicants who are BSNL IDA pensioners? On formation of BSNL w.e.f. 1.10.2000 the Government employees in Department of Telecom Services and Department of Telecom Operations were transferred en-masse to BSNL on deemed deputation basis. Later they were given option to either continue to be in Government service or to seek permanent absorption in BSNL. The applicants opted for absorption in BSNL and presidential orders were issued in their favour laying down comprehensive terms and conditions of their absorption in BSNL w.e.f. 1.10.2000. The applicants were given higher IDA pay scales as compared to their counterparts in Government service receiving CDA pay scales. The applicants were eligible for pensionary benefits on the basis of combined service rendered by them with the Central Government and the BSNL in accordance with formula for calculation of pension and family pension under CCS (Pension) Rules, 1972 at the time of their retirement from BSNL. The IDA pension was made applicable to BSNL absorbed employees w.e.f. 1.10.2000 onwards and it was subsequently revised w.e.f. 1.1.2007. The applicants are getting their pension/family pension in IDA pattern from Government as per Rule 37-A of CCS (Pension) Rules, 1972. Sub-rule (4) of Rule 37-A clearly stipulates as under:

"(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." (emphasis supplied)

7. In the present case w.e.f. 1.10.2000 i.e. the date of the presidential order of absorption of the applicants in BSNL, they shall cease to be Government servants and shall be deemed to have retired from Government service. Therefore, w.e.f. 1.10.2000 the applicants are not Government servants after their absorption and shall be treated as employees of the public sector undertaking. Sub-rule (7) of Rule 37-A of CCS (Pension) Rules, 1972 clearly stipulates that employees opting for permanent absorption in the public sector undertaking shall on and from the date of absorption be governed by the rules and regulations or by-laws of the public sector undertaking. Sub-rule (8) of Rule 37-A and the explanation below it reads thus:

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 extraordinary 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."

The above quoted sub-rule 8 clearly stipulates that a permanent Government servant absorbed as an employee of a Public Sector Undertaking shall be eligible for pensionary benefits (including commutation of pension, gratuity, family pension or extraordinary 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 at his option, to receive benefits for the service rendered under

the Central Government in accordance with the orders issued by the Central Government. Here the applicants have given option for permanent absorption in BSNL and retired on superannuation from BSNL. The applicants have not given any option to receive benefits for the service rendered under the Central Government in accordance with the orders issued by the Central Government. Moreover, the explanation only makes it clear that the amount of pension in respect of the absorbed employee on retirement from public sector undertaking shall be calculated in the same way as calculated in case of a Central Government servant retiring or dying on the same day. The respondents in their reply statement submitted that Annexure A5 OM is meant for Central Government CDA pensioners and pro-rata pension optee of BSNL absorbees drawing pension on CDA pattern for Government service period only and not for combined service pension optee BSNL IDA pensioners like the applicants. This fact has not been denied by the applicants by filing any rejoinder."

6. The aforementioned findings in our considered view are not sustainable in the eyes of law for the reason that it failed to notice the condition Nos.4 and 12 of the Office Memorandum dated 12.05.2017. It is pertinent to mention here that the respondents had emphatically relied upon the Office Memorandum dated 04.08.2016 Annexure A4 regarding the implementation of Government decisions on the recommendations of the 7th Central Pay Commission ie., Revision of pension of pre-2016 pensioners/family pensioners etc. Clause 7 of the aforementioned Office Memorandum deals with the pension, the same reads as under:

"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."

(emphasis supplied)

It was urged that Ext.A5 was in continuation of the aforementioned guideline, i.e., to be read in conjunction and not disjointly.

7. Mr.R.Sreeraj, learned counsel appearing on behalf of the petitioners submitted that learned tribunal failed to address the issue raised particularly that similar benefits was being accorded to the pensioners on recommendation of the 6th Central Pay Commission in the manner of 50% of the pension by calculating the formula as they had also opted for combined services. None of the conditions in the letter Annexure A5 takes away the claim by the retirees who had opted for combined services benefits. Our attention has been drawn to each and every condition noted in the letter Annexure A5.

8. On the other hand, Sri.T.C.Krishna, learned Deputy Solicitor General (in charge) appearing on behalf of the Union of India and Smt.K.R.Krishnakumari, learned Standing Counsel appearing on behalf of the BSNL countered the aforementioned arguments and submitted that pension had already been defined in the letter Annexure A4 in paragraph No.7 therein. The applicant do not fall into that category as they have been drawing the IDA pay scale, whereas the benefit accorded was of the CDA pay scale.

9. We have heard learned counsel for the parties and appraised the paper book.

10. The contents of letter Annexure A5 is required to be extracted in complete. The same reads as under:

"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 recommendations of the 6th CPC, 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 order.

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:-

<u>Age of pensioner/family pensioner</u>	<u>Additional quantum of pension</u>
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.D. No. 30-1/33(c)/2016-IC dated 11.05.2017 and I.D. 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." (emphasis supplied)

11. On perusal of the above, it is evident that none of the conditions of the letter have excluded the applicability of the conditions to the IDA or applicability to the CDA pay scale. Concededly, the applicant is a pre-2016 pay scale retiree. Paragraph No.7 and the explanation of the sub-rule 8 of Rule 37-A are also worth extraction, the same reads as under:

"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."

"Sub-rule 8 of Rule 37-A:

(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 extraordinary 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."

12. On cumulative reading of the Rule as well as paragraph No.7 of Annexure A5 Office Memorandum, it is evident that the benefit of 50% of the notional pay on the basis of the recommendation of the 7th Central Pay Commission revising the pay scales including the pensions have not explicitly excluded the retirees, who were drawing the IDA pay scales.

13. From the tenor and mode of the finding, extracted above of the tribunal it is evident that none of the aforementioned conditions particularly condition Nos.4 and 12 (emphasis supplied) have been taken into consideration.

We are of the view that it is a fit case where interference is required. Accordingly, judgment of the Central Administrative Tribunal is set aside. O.A. is allowed. Consequently, O.P.(CAT) stands allowed. Respondents are directed to grant relief in terms of Annexure A5 to the petitioner No.2/applicant, who is a pre- 2016 pensioner, within a period of two months from the date of receipt of certified copy of the judgment.

Sd/-

AMIT RAWAL

JUDGE

Sd/-

K. V. JAYAKUMAR

JUDGE

APPENDIX OF OP (CAT) 60/2020

PETITIONER ANNEXURES

ANNEXURE A1	TRUE COPY OF THE DEPARTMENT OF PENSION AND PENSIONER'S WELFARE OM F.NO.38/37/08-P & PW(A) DATED 10.12.201
ANNEXURE A2	TRUE COPY OF THE DEPARTMENT OF TELECOM LETTER NO.40-31/2008-PEN(T) DATED 16.8.2010
ANNEXURE A3	TRUE COPY OF THE DEPARTMENT OF PENSION & PENSIONER'S WELFARE RESOLUTION NO.38/37/2016-P & #42 PW(A) DATED 4.8.2016
ANNEXURE A4	TRUE COPY OF THE DEPARTMENT OF PENSION & PENSIONER'S WELFARE OM NO.38/37/2016 P&PW(A)(ii) DATED 4.8.2016
ANNEXURE A5	TRUE COPY OF THE DEPARTMENT OF PENSION & PENSIONER'S WELFARE OM NO.38/37/2016-P&PW(A) DATED 12.5.2017
ANNEXURE A6	TRUE COPY OF THE REPRESENTATION DATED 23.6.2017 SUBMITTED BY THE 1ST APPLICANT ASSOCIATION TO THE 1ST RESPONDENT
ANNEXURE R1	TRUE COPY OF RULE 37-A OF CCS (PENSION) RULES, 1972
ANNEXURE R2	TRUE COPY OF THE OM NO.40-31/2008-PEN(T) DATED 16.3.2017
EXHIBIT P1	TRUE COPY OF THE FINAL ORDER DATED 30.10.2019 IN OA 346/2018 ON THE FILE OF THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH
EXHIBIT P2	TRUE COPY OF THE ORIGINAL APPLICATION NO.346/2018 ON THE FILE OF THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH
EXHIBIT P3	TRUE COPY OF THE REPLY STATEMENT FILED BY THE RESPONDENTS 1 & 3 TO 5 IN OA 356/2018 ON THE FILE OF THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

HIGH COURT OF KERALA

AT ERNAKULAM

Number and Year of the Case : OP (CAT) 60/2020
Name Of Applicant : SHRI.T.C.KRISHNA, SCGC
Number and Date of Application : A 11096/2025 , 14-02-2025
Date when the copy was delivered : 05-03-2025

Examiner

Digitally Signed by:

Seena K A

HIGH COURT OF KERALA ERNAKULAM

highcourt

Date: 2025-03-05T11:04:01.9062386+05:30

HIGH COURT OF KERALA

AT ERNAKULAM

Number and Year of the Case : OP (CAT) 60/2020

Name Of Applicant : SHRI.T.C.KRISHNA, SCGC

Number and Date of Application : A 11096/2025 , 14-02-2025

Date when the copy was delivered : 05-03-2025

Examiner

Digitally Signed by:

Seenaa K A

HIGH COURT OF KERALA ERNAKULAM

highcourt

Date: 2025-03-05T11:04:01.9062386+05:30

Most Immediate

Court Case

Time Bound

4/20/2018-P&PW(D)

Government of India

Ministry of Personnel, Public Grievances & Pensions

Department of Pension & Pensioners Welfare

3rd Floor, Lok Nayak Bhavan,

Khan Market, New Delhi

Dated: 17-07-2018

OFFICE MEMORANDUM

Subject: **O.A. No.180/00346/2018 filed by All India BSNL Pensioners' Welfare Association before CAT, Ernakulam Bench.**

The undersigned is directed to refer to Department of Telecommunications (DoT) letter no.38-49/2018-Pen(T) dated 2nd July, 2018 on the above subject and to say that in the case of BSNL absorbed employees, IDA pension was made applicable with effect from 01-10-2000 onwards and it was subsequently revised w.e.f. 01.01.2007 after implementation of the recommendations of the 2nd Pay Revision Committee. The applicants of the OAs are absorbee pensioners of BSNL and they are getting their pension/family pension in IDA pattern from Government as per Rule 37-A of CCS(Pension) Rules, 1972.

2. Central Government Civil Pensioners are entitled to revision of pension/family pension w.e.f. 01-01-2016 on CDA pattern on the basis of recommendations of 7th Central Pay Commission.

3. Among others, Department of Pension and Pensioners Welfare, Department of Telecommunications, and BSNL are the Respondents in the instant case.

4. The draft counter reply sent by DoT has been examined in this Department. In the draft reply the DoT has stated that the Orders issued by this Department vide OMs dated 04-08-2016 and 12-05-2017 are applicable only to the Central Government Civil Pensioners drawing pension under CDA pattern and these orders are not applicable to BSNL absorbee pensioners drawing pension under IDA pattern. DoT has, therefore, prayed for dismissal of the OA.

5. It is correct that the OMs dated 04-08-2016 and dated 12-05-2017 issued by this Department for revision of pension w.e.f. 01-01-2016 are applicable to Central

Government Civil Pensioners drawing pension on CDA pattern and are not applicable to the BSNL absorbee pensioners getting pension under IDA pattern. It may be stated that similar orders issued by this Department for revision of pension of Central Govt. Civil Pensioners based on the recommendations of 6th Central Pay Commission were also not applicable to the BSNL absorbee pensioners under IDA pattern. However, DoT had issued separate orders for revision of pension of the absorbee pensioners of BSNL w.e.f. 01-01-2007 based on the recommendations 2nd Pay Revision Committee. It is not clear whether similar orders for revision of pension of BSNL absorbees pensioners under IDA pattern are proposed to be issued for revision of pension on the basis of recommendations of 3rd Pay Revision Committee. DoT may consider including factual position in this regard in the draft reply.

6. Department of Telecommunication is requested to take necessary action accordingly.

(Sanjay Wadhawan)

Deputy Secretary to the Govt. of India

Tel. No. 24655523

To

Shri Sanjay Aggarwal,
Director (Estt-II)
Department of Telecommunication
Sanchar Bhawan, 20, Ashoka Road,
New Delhi-110 011

e-336188/Dir (Estt.2)/2018]

17/07

4/20/2025-P&PW(D) (10612) (10602)
 Government of India
 Personnel, Public Grievances and Pensions
 Department of Pension & Pensioners Welfare
 3rd Floor, Lok Nayak Bhawan, Khan Market
 New Delhi-110003
 27.03.2025

OFFICE MEMORANDUM

Sub: Order dated 07.02.2025 of High Court of Kerala at Ernakulam in OP(CAT) No.60/2020 filed by All India BSNL Pensioners Welfare Association to extend the benefits of DoP&PW OM No.38/37/2016-P&PW (A) dated 12.05.2017 to the pre-2006 DoT absorbed BSNL IDA pensioners. – reg.

The undersigned is directed to refer to Department of Telecommunications **File No.: 38-30/2020-Pen(T)** dated 19.03.2025 on the above subject.

2. The matter has been examined and it is stated that vide DoPPW O.M dated 17.07.2018, it has already been clarified that the *"OM dated 12.05.2017 issued by this Department for revision of pension w.e.f. 01.01.2016 are applicable to Central Government Civil Pensioners drawing pension on CDA pattern and are not applicable to the BSNL absorbee pensioners getting pension under IDA pattern"*. Further, it is also stated that for the pensioners under IDA pattern, Deptt. of Public Enterprises, Ministry of Finance issues orders related to fixation/revision, etc. of pensions. Therefore, OM issued by DoPPW regarding revision of pension is not be applicable to BSNL absorbee pensioners.

3. DOT may see the feasibility of filing an SLP in Hon'ble SC in consultation with DoLA.

4. This has approval of the competent authority.

Sd/

(Sonika Khattar)

Under Secretary to the Government of India

Ms. Roshni Sohni,
 DDG (Estt.),
 Ministry of Telecommunications,
 11th Floor, Sanchar Bhawan,
 New Delhi.
 S.No -2339
 27/03/25

ITEM NO.18

COURT NO.14

SECTION XI-A

S U P R E M E C O U R T O F I N D I A**R E C O R D O F P R O C E E D I N G S**

SPECIAL LEAVE PETITION (CIVIL) Diary No(s). 39478/2025

[Arising out of impugned final judgment and order dated 07-02-2025 in OPCAT No. 60/2020 passed by the High Court of Kerala at Ernakulam]

UNION OF INDIA & ORS.

Petitioner(s)

VERSUS

P. VADIVEL & ANR.

Respondent(s)

IA No. 180561/2025 - CONDONATION OF DELAY IN FILING

Date : 08-08-2025 This matter was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
HON'BLE MR. JUSTICE S.V.N. BHATTI

For Petitioner(s) Mr. Vikramjeet Banerjee, ASG

Mr. Nachiketa Joshi, Sr. Adv.

Ms. Pankhuri Shrivastava, Adv.

Mr. VVV Pattabhiram, Adv.

Mr. Abhishek Singh, Adv.

Mr. Amrish Kumar, AOR

For Respondent(s)

UPON hearing the counsel the Court made the following

O R D E R

At the outset, Mr. Vikramjeet Banerjee, learned Additional Solicitor General (ASG) appearing for the petitioners, fairly submits that one of the major points which goes in support of the contentions raised before this Court has come by way of a clarification letter issued by the concerned authorities.

2. However, he also fairly submits that the said issue could not be brought to the notice of the High Court at the time of passing of the impugned judgment.
3. Accordingly, he prays that the Court may permit him to withdraw the present petition with liberty to seek review of the impugned order before the High Court itself, with an observation that the case may be heard on merits and not dismissed at the threshold on the ground of limitation.
4. Having regard to the aforesaid, the Special Leave Petition stands disposed of as withdrawn with liberty aforesaid.
5. However, if such a review petition is filed within four weeks from today, the High Court shall not dismiss it on the ground of limitation and would decide the matter on merits, after issuing due notice to all parties concerned.
6. We further make it clear that we have not expressed any opinion on the merits of the case.
7. Additionally, we grant liberty to the parties to move this Court again, depending on the outcome of the review.
8. Pending application(s), if any, shall also stand disposed of.

(VARSHA MENDIRATTA)
COURT MASTER (SH)

(ANJALI PANWAR)
COURT MASTER (NSH)

\$~58 to 60

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
(58)+ 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,
 Mr.Maulik Khurana, Mr.Arjun
 Chopra & Ms.Khyaati Bansal,
 Advs.

versus

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

.....Respondents

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

(59) W.P.(C) 4955/2024 & CM APPL. 20291/2024
 UNION OF INDIA & ORS.

.....Petitioners

Through: Mr.Kirtiman Singh, Sr. Adv.
 with Ms.Laavanya Kaushik,
 Mr.Maulik Khurana, Mr.Arjun
 Chopra & Ms.Khyaati Bansal,
 Advs.

versus

ALL INDIA BSNL PENSIONERS WELFARE
 ASSOCIATION & ORS.

.....Respondents

Through: Mr Sanjay Ghosh, Sr. Adv; Ms.
 Asmita Singh, Mr. Rohan
 Mandal, Ms. Ankita Makan,
 Advocates

(60) W.P.(C) 4985/2024 & CM APPL. 20392/2024
 UNION OF INDIA & ORS.

.....Petitioners

Through: Mr.Kirtiman Singh, Sr. Adv.
 with Ms.Laavanya Kaushik,
 Mr.Maulik Khurana, Mr.Arjun

Chopra & Ms.Khyaati Bansal,
Adv.

versus
RETIRED TELECOM OFFICERS WELFARE
ASSOCIATION & ORS.Respondents

Through: Mr.Ankur Chhibber, Ms.Gauri
Puri & Mr.Kashish Bhardwaj,
Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

ORDER

% **19.11.2025**

1. Though the Impugned Order passed by the learned Tribunal, in parts, states that the respondents herein, in terms of Rule 37A of the CCS (Pension) Rules, 1972 (in short, 'Rules'), will continue to be governed by their existing terms and conditions of service while they were working for the Department of Telecommunication and, therefore, will continue to be treated as Government servants for all intents and purposes, including for the implementation of the recommendations of the Central Pay Commission as accepted and notified by the Government, the learned counsel(s) for the respondents, on instructions, submits that their only claim is that, in terms of Rule 37A(8) of the Rules, they are to be governed by the same formula for calculation of pensionary benefits as may be in force at the time of their retirement from the Public Sector Undertaking and to receive benefits for the services rendered under the Central Government in accordance with the orders issued by the Central Government.

2. They submit that, in terms of the explanation to Rule 37A(8) of the Rules, the amount of pension/family pension is to be calculated in the same way as calculated for a Central Government servant retiring or dying on the same day. Placing reliance on the OM No. F.No.38/37/2016-P&PW(A)(I) dated 04.08.2016, they submit that the pension is, therefore, to be calculated by multiplying the pension/family pension drawn by them at the time of the implementation of the recommendations of the 6th Central Pay Commission by 2.57. They expressly state that they do not want re-fixation of their pay in terms of the recommendations of the 3rd Pay Revision Committee.

3. The learned counsels for the petitioners pray for time to seek instructions on the same.

4. List on 27th November, 2025, to be shown in the 'supplementary list'.

NAVIN CHAWLA, J

MADHU JAIN, J

NOVEMBER 19, 2025/rv/VS

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R. P No. 1158/2025

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

&

THE HONOURABLE MR. JUSTICE K. V. JAYAKUMAR

TUESDAY, THE 24TH DAY OF MARCH 2026/3RD CHAITHRA, 1948RP NO. 1158 OF 2025

AGAINST THE JUDGMENT DATED 07.02.2025 IN OP (CAT)

NO.60 OF 2020 OF HIGH COURT OF KERALA

REVIEW PETITIONERS/RESPONDENT IN THE OP CAT 60 OF 2020:

- 1 UNION OF INDIA, REPRESENTED BY THE SECRETARY,
DEPARTMENT OF TELECOM, SANCHAR BHAVAN,
20, ASOKA ROAD, NEW DELHI, PIN - 110001
- 2 BHARAT SANCHAR NIGAM LIMITED
CORPORATE OFFICE,
BHARAT SANCHAR BHAWAN,
HARISH CHANDRA MATHUR LANE,
NEW DELHI, PIN - 110001
- 3 THE SECRETARY, GOVERNMENT OF INDIA,
MINISTRY OF HEAVY INDUSTRIES AND PUBLIC ENTERPRISES,
DEPARTMENT OF PUBLIC ENTERPRISES,
PUBLIC ENTERPRISES BHAWAN,
BLOCK NO.14, CGO COMPLEX, LODHI ROAD,
NEW DELHI, PIN - 110001
- 4 THE SECRETARY, GOVERNMENT OF INDIA,
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND
PENSIONS, DEPARTMENT OF PENSIONS AND PENSIONERS'
WELFARE, NEW DELHI, PIN - 110001



2026:KER:25600

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R. P No. 1158/2025

- 5 THE CONTROLLER OF COMMUNICATION ACCOUNTS
BSNKL BHAWAN, KERALA CIRCLE,
TRIVANDRUM, PIN - 695033

BY ADV SHRI.T.C.KRISHNA, SENIOR PANEL COUNSEL

RESPONDENTS/PETITIONERS IN OP CAT 60 OF 2020:

- 1 ALL INDIA BSNL PENSIONERS WELFARE ASSOCIATION
AH 189/61, 3RD STREET, AUROVILLE FLATS, ANNA NAGAR,
CHENNAI-600040 REPRESENTED BY ITS PRESIDENT,
P.S.RAMANKUTTY, AGED 74 YEARS, S/O LATE R.SIVARAMAN
NAIR, RESIDING AT TC 55/1953, CTO COLONY,
PAPPANAMCODE, TRIVANDRUM, PIN - 695018
- 2 P.VADIVEL, AGED 80 YEARS
S/O LATE V.PERUMAL, RETIRED CHIEF SECTION
SUPERVISOR, O/O PRINCIPAL GENRAL MANAGER,
BSNL BHAVAN, ERNAKULAM,
RESIDING AT 10/855, AMBADY,
S.S.KRISHNAN ROAD, FORT KOCHI,
KOCHI, PIN - 682001

ADV. MATHEWS K PHILIP, SC, BSNAL
ADV. R. SREERAJ

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON
24.03.2026, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

R. P No. 1158/2025

K. V. Jayakumar, J.

This Review Petition is filed by the Union of India under Order XLVII Rule 1 r/w Section 114 of the Code of Civil Procedure, 1908, impugning the judgment in OP(CAT) No.60/2020 dated 07.02.2025.

2. Earlier, before filing this Review Petition, the review petitioner approached the Honourable Apex Court and preferred SLP (Civil) Diary No.39478/2025. The Apex Court, by order dated 08.08.2025, disposed of the SLP as withdrawn with liberty to file a Review Petition before this Court within four weeks. The Apex Court further observed that if such a Review Petition is filed within the aforesaid four weeks, the High Court shall not dismiss it on the ground of limitation and would decide the matter on merits, after issuing notice to all the parties concerned.

3. The order of the Apex Court in SLP (Civil) Diary No.39478/2025 is extracted hereunder:

“At the outset, Mr. Vikramjeet Banerjee, learned Additional Solicitor General (ASG) appearing for the petitioners, fairly submits that one of the major points which goes in support of the come by way of contentions raised before this Court has clarification letter issued by the concerned authorities.

However, he also fairly submits that the said issue could not be brought to the notice of the High Court at the time of passing of the impugned judgment.

3. Accordingly, he prays that the Court may permit him to withdraw the present petition with liberty to seek review of the impugned order before the High Court itself, with an observation that the case may be heard on merits and not dismissed at the threshold on the ground of limitation.

R. P No. 1158/2025

4. Having regard to the aforesaid, the Special Leave Petition stands disposed of as withdrawn with liberty aforesaid.

5. However, if such a review petition is filed within four weeks from today, the High Court shall not dismiss it on the ground of limitation and would decide the matter on merits, after issuing due notice to all parties concernen COURT OF

6. We further make it clear that we have not expressed any opinion on the merits of the case.

7. Additionally, we grant liberty to the parties to move this Court again, depending on the outcome of the review.

8. Pending application(s), if any, shall also stand disposed of.”

4. Pursuant to the order of the Apex Court, the review petitioner has preferred the review petition before this Court within the timeline fixed by the Apex Court. This Court, on 04.12.2025, allowed the application filed under Section 5 of the Limitation Act. The review petitioner filed I.A. No.1/2025 seeking production of documents in view of the order passed by the Apex Court. The said interim application was also allowed and the documents were taken on record. In the Review Petition, notice was ordered to the respondents. Sri. R. Sreeraj appeared for the respondents.

5. The learned counsel for the review petitioners, Sri. T.C. Krishna submitted that the impugned judgment is illegal and vitiated by patent and apparent errors on the face of record.

6. The learned counsel for the petitioners further submitted that Annexure-A5 OM dated 12.05.2017 issued by DoP & PW for revision of pension with effect from 01.01.2016 was applicable to the Central Government Civil Pensioners drawing pension on CDA pattern and is not applicable to the BSNL absorbed Combined Service IDA pensioners getting pension based on the IDA pay scales at the time of their retirement. He further submitted that for the PSU employees under the IDA pattern, the Department of Public Enterprises (DPE), Ministry of Finance, issued orders related to IDA pay revision after the Pay Revision Committee (PRC). Therefore, according to the learned counsel, Annexure-A5 OM regarding revision of pension of retired Central Government Employees is not applicable to BSNL absorbed Combined Service IDA pensioners.

7. Annexure-A4 OM dated 04.08.2016, and Annexure-A5 order are applicable for the Central Government Pensioners who are drawing pension from the Central Government scales, i.e., on CDA pay scale.

8. The learned counsel would further submit that DoP & PW vide OM No. 4/20/2018-P & PW(D) dated 17.07.2018 clarified that OM dated 04.08.2016 and 12.05.2017 (Annexure-A5) for revision of pension with effect from 01.01.2016 are applicable for the Central Government Civil Pensioners drawing in CDA pattern and are not applicable to the BSNL absorbed Combined Service IDA pensioners. It is also mentioned in the OM dated 17.07.2018 that similar orders issued by DoP&PW for revision of pension of Central Government Civil Pensioners on the recommendation of

R. P No. 1158/2025

the 6th CPC were also not applicable to the BSNL absorbed combined service IDA pensioners.

9. The learned counsel pointed out that the Department of Telecommunications issued separate orders for revision of pension of BSNL absorbed combined service IDA pensioners with effect from 01.01.2007 based on the recommendation of the 2nd Pay Revision Committee (PRC) to remove the anomaly between the old and new IDA pensioners.

10. The learned counsel for the review petitioners submitted that in the impugned judgment, it is mentioned that Annexure-A5 OM dated 12.05.2017 has not explicitly excluded the retirees, who were drawing IDA pay scales from the benefit of 50% of the notional pay on the basis of the recommendations of the 7th CPC. The learned counsel further submitted that Annexure-A5 order was meant only for the Central Government Pensioners who follow the CDA Pay scales and whose pay revision is done through the Central Pay Commissions. The said aspect was already clarified by the Department of Pension and Pensioners Welfare vide OM dated 17.07.2018 which explicitly excludes the retirees who were drawing the IDA pay scales from the benefits of pension revision on the basis of 7th CPC recommendations. The learned counsel for the revision petitioners further submitted that in its subsequent clarification dated 27.03.2025, this point was reiterated.

11. On the other hand, the learned counsel for the respondents, Sri. R. Sreeraj, submitted that the review petition is not maintainable. The review

R. P No. 1158/2025

petitioners are trying to reagitate the matter already adjudicated by this Court. The learned counsel submitted that this review petition is an appeal in disguise. The learned counsel for the respondents would submit that there are apparent errors on the face of record which are required to be corrected.

12. The learned counsel for the respondents pointed out that the documents produced by the review petitioner herein are not at all relevant for consideration of this review application. Annexure-A2 document produced before the review court is an office memorandum issued by the Ministry of Personnel, Public Grievances & Pensions, Department of Pension & Pensioners Welfare, dated 17.07.2018 while the matter was pending before the Tribunal. Annexure-A3 document produced before the review court is another Office Memorandum dated 27.03.2025, after the disposal of the O.P.(CAT) No.60 of 2020.

13. Before we proceed with the discussion, it would be useful to extract Order XLVII Rule 1 and Section 114 of the Code of Civil Procedure.

“1. Application for review of judgment.-(1) Any person considering himself aggrieved,-

(a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed, or

(c) by a decision on a reference from a Court of Small Causes,

and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him

R. P No. 1158/2025

at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order.

(2) A party who is not appealing from a decree or order may apply for a review of judgment notwithstanding the pendency of an appeal by some other party except where the ground of such appeal is common to the applicant and the appellant, or when, being respondent, he can present to the Appellate Court the case on which he applies for the review.

Explanation. The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.”

“**114. Review-** Subject as aforesaid, any person considering himself aggrieved-

(a) by a decree or order from which an appeal is allowed by this Code, but from which no appeal has been preferred,

(b) by a decree or order from which no appeal is allowed by this Code, or

(c) by a decision on a reference from a Court of Small Causes,

may apply for a review of judgment to the Court which passed the decree or made the order, and the Court may make such order thereon as it thinks fit.”

R. P No. 1158/2025

14. It would be useful to refer the principles of law laid down by the Apex Court, before further discussion.

15. In **Parsion Devi v. Sumitri Devi**¹, the Apex Court held as under:

” 9. Under Order 47 Rule 1 CPC a judgment may be open to review inter alia if there is a mistake or an error apparent on the face of the record. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the court to exercise its power of review under Order 47 Rule 1 CPC. In exercise of the jurisdiction under Order 47 Rule 1 CPC it is not permissible for an erroneous decision to be ‘reheard and corrected’. A review petition, it must be remembered, has a limited purpose and cannot be allowed to be ‘an appeal in disguise’.”

16. In **S. Murali Sundaram v. Jothibai Kannan**², the Apex Court reiterated that review is not an appeal in disguise. The power of review can be exercised for the correction of a mistake, not to substitute a view; such powers can be exercised within the limits of the statute dealing with the exercise of power.

17. In **Malleeswari v. K. Suguna**³, the Apex Court observed that the power of review is different from appellate power and is subject to

¹ (1997) 8 SCC 715

² (2023) 13 SCC 515

³ 2025 KHC OnLine 6773

R. P No. 1158/2025

certain limitations. Review is not to be confused with appellate powers, which may enable an Appellate Court to correct all manner of errors committed by the Subordinate Court.

18. The principles laid down in **Malleeswari** (supra) and **S. Murali Sundaram** (supra) make the position abundantly clear: the power to review a judgment cannot be equated with appellate powers, and review jurisdiction is confined to correction of manifest errors and not to substitution of views or re-appreciation of the matter.

19. The principal submission of the learned counsel for the review petitioners is with respect to the applicability of Annexure-A5 OM dated 12.05.2017. This Court in the impugned judgment expressed the view that the said OM has not explicitly excluded the retirees, who were drawing IDA pay scales from the benefit of 50% of the notional pay on the basis of the recommendations of the 7th CPC. According to the learned counsel for the review petitioners, Annexure-A5 OM was meant only for the pensioners who follow CDA pay scales and whose pay revision is done through Central Pay Commissions. The learned counsel for the review petitioners pointed out that this aspect has already been clarified by the Department vide OM dated 17.07.2018 (Annexure-A2) with reference to OA No. 346 of 2018. The said OM explicitly excludes the retirees drawing the IDA pay scales from the benefits of pension revision on the basis of 7th CPC recommendations.

According to the learned counsel for the review petitioners, this aspect

R. P No. 1158/2025

20. Annexure A2, which is heavily relied upon by the learned counsel, is merely an internal office communication issued by the 3rd respondent in the Original Petition to his subordinate officers, after vetting the counter affidavit filed in the very same proceedings. Annexure A3 is of a similar nature—an internal memorandum directing the Department of Telecommunications (DoT) to examine the feasibility of challenging the judgment of this Court before the Apex Court. In our considered view, it would be wholly misplaced, if not far-fetched, for the review petitioner to rely on Annexures A2 and A3 as a basis to seek review of a judgment rendered by this Court on a full consideration of the merits of the case. These documents, being purely internal in nature, do not in any manner affect or undermine the reasoning adopted in the judgment under review. It must be borne in mind that this Court, after a careful and purposive interpretation of sub-rule (8) of Rule 37A, along with the explanation appended thereto, had come to the conclusion that the benefit of 50% of notional pay, as recommended by the 7th Central Pay Commission while revising pay scales and pensions, does not explicitly exclude retirees who were drawing IDA scales. The finding, therefore, rests on a clear statutory interpretation and cannot be reopened on the basis of such internal communications.

21. Furthermore, in the light of the authoritative pronouncements referred to above, it is evident that the Review Court cannot sit in appeal over its own judgment. This Court, by judgment dated 07.02.2025, has

already considered the various aspects of the matter in detail and arrived at its conclusions. The present review petition is nothing but an attempt to re-agitate the very same issues, which is legally impermissible.

22. On a careful examination of the record and upon hearing the submissions advanced, we do not find any error apparent on the face of the record warranting exercise of the review jurisdiction under Order XLVII Rule 1 of the Code of Civil Procedure.

Accordingly, the Review Petition is dismissed.

Sd/-
RAJA VIJAYARAGHAVAN V,
JUDGE

Sd/-
K.V. JAYAKUMAR,
JUDGE

Sbna/



2026:KER:25600

R. P No. 1158/2025

APPENDIX OF RP NO. 1158 OF 2025

PETITIONER ANNEXURES

Annexure 1	TRUE COPY OF THE ORDER OF THE SUPREME COURT DATED 08-08-2025 DIARY NO(S) . 39478/2025
Annexure 2	TRUE COPY OF THE SAID OM DATED 17-07-2018 NO. 4/20/2018-P&PW(D)
Annexure-A	Corrected Synopsis
Annexure 3	TRUE COPY OF THE OM DATED 27-03-2025 NO. 4/20/2018-P&PW(D) 10612(10602)

I.A. NO. _____ OF 2026

IN

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

APPLICATION SEEKING PERMISSION TO FILE LENGTHY SYNOPSIS AND LIST OF DATES

TO

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

THE HUMBLE APPLICATION OF
THE APPLICANT HEREIN.

1. That the Petitioners have filed the accompanying 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**”).

2. The contents of the accompanying Civil Appeal and List of Dates may kindly be read as part and parcel of the present Application and the same are not being repeated herein for the sake of brevity and to avoid prolixity. The Appellant crave liberty to refer to and rely upon the same as and when this Application is taken up for hearing.
3. That in view of the peculiar facts of the accompanying Petition and the various documents that have been referred to, the synopsis and list of dates accompanying the same is lengthy, despite the Petitioner’s best efforts at condensing the same.
4. Hence, the present application is being filed seeking permission to file a lengthy list of dates and synopsis along with the accompanying Petition.
5. It is submitted that grave and irreparable injury would be caused to the Petitioners if the present application is not allowed whereas no prejudice would be caused to the Respondent in the event that reliefs prayed for in the present application are granted.
6. The present application is *bona fide* and is being filed in the interest of justice.

PRAYER

In the aforesaid facts and circumstances, it is therefore most respectfully prayed that this Hon’ble Court may be graciously pleased to:

- a) Permit the Petitioner to file the captioned Special Leave Petition with the lengthy synopsis and list of dates.
- b) Pass such other and further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case

AND FOR THIS ACT OF KINDNESS THE APPLICANTS AS IN DUTY BOUND SHALL EVER PRAY.

Filed on: 20.09.2026
Place: New Delhi

FILED BY:

SONALI JAIN
ADVOCATE-ON-RECORD
FOR THE PETITIONER

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

I.A. NO. _____ OF 2026

IN

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

**APPLICATION SEEKING PERMISSION TO PLACE
ON RECORD SUBSEQUENT EVENT AND
ADDITIONAL DOCUMENT MARKED AS ANNEXURE P-32**

TO

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

THE HUMBLE APPLICATION OF
THE APPLICANT HEREIN.

1. That the Petitioners have filed the accompanying 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**”).

2. The contents of the accompanying Civil Appeal and List of Dates may kindly be read as part and parcel of the present Application and the same are not being repeated herein for the sake of brevity and to avoid prolixity. The Appellant crave liberty to refer to and rely upon the same as and when this Application is taken up for hearing.
3. That the Applicant, by way of the present Application, seeks permission of this Hon’ble Court to place on record subsequent event and additional document that pertains to the subject matter and is necessary for proper adjudication of the underlying special leave petition.
4. It is submitted that subsequent to the passing of the impugned order, on 31.08.2026, this Hon’ble Court issue notice in SLP (C) Dairy No. 47131/2026 filed by the Union of India assailing the Judgment dated 24.03.2026 passed by the Hon’ble High Court of Kerala at Ernakulam wherein the reliefs sought by the Petitioners for pension revision as per 7th CPC has been granted albeit, to one pre-2006 pensioner. A true copy of Order dated 31.08.2026 passed by this Hon’ble Court in SLP (C) Dairy No. 47131/2026 titled as “Union of India & Ors. vs. All India BSNL Pensioners Welfare Association & Anr.” is attached herewith as **Annexure P-32 [Pg. 495 to 496]**.
5. The present application is *bona fide* and is being filed in the interest of justice.

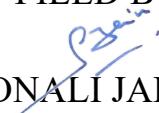
PRAYER

In the aforesaid facts and circumstances, it is therefore most respectfully prayed that this Hon'ble Court may be graciously pleased to:

- a) Allow the present Application;
- b) Permit the Applicant to file Additional Documents marked as **ANNEXURE P-32;**
- c) Pass such other and further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case

AND FOR THIS ACT OF KINDNESS THE APPLICANTS AS IN DUTY BOUND SHALL EVER PRAY.

Filed on: 20.09.2026
Place: New Delhi

FILED BY:

SONALI JAIN
ADVOCATE-ON-RECORD
FOR THE PETITIONERS

ITEM NO.8

COURT NO.8

SECTION XI-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSSPECIAL LEAVE PETITION (CIVIL) Diary No(s). 47131/2026

[Arising out of impugned final judgment and order dated 24-03-2026 in RP No. 1158/2025 07-02-2025 in OPCAT No. 60/2020 passed by the High Court of Kerala at Ernakulam]

UNION OF INDIA & ORS.

Petitioner(s)

VERSUS

ALL INDIA BSNL PENSIONERS WELFARE ASSOCIATION & ANR.Respondent(s)

IA No. 250129/2026 - CONDONATION OF DELAY IN FILING

Date : 31-08-2026 This matter was called for hearing today.

CORAM : HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH
HON'BLE MR. JUSTICE MANMOHANFor Petitioner(s) : Mr. R. Venkataramani, Attorney General for
India

Mr. Vikramjit Banerjee, A. S. G.
Mr. Chitvan Singhal, Adv.
Ms. Ameyavikrama Thanvi, Adv.
Mr. Kartikay Aggarwal, Adv.
Mr. Abhishek Kr.pandey, Adv.
Mr. Raman Yadav, Adv.
Mr. Shubhenendu Anand, Adv.
Mr. Rajan Kr.chaurasiya, Adv.
Mr. Anmol Chandan, Adv.
Mr. A Deb Kumar, Adv.
Mr. Amrish Kumar, AoR
Mr. Dr. Arun Kumar Yadav, Adv.

For Respondent(s) :

O R D E R

Heard Mr. R. Venkataramani, learned Attorney General for the petitioners.

2. Delay condoned.

3. Mr. R. Venkataramani, learned Attorney General submits that in the cross SLP (C) Diary No.26395 of 2026, notice has been issued.
4. Accordingly, issue notice.
5. Tag along with SLP (C) Diary No.26395 of 2026.

(SACHIN KUMAR SRIVASTAVA)
COURT MASTER (SH)

(ANJALI PANWAR)
ASSISTANT REGISTRAR

IN THE SUPREME COURT OF INDIA
CRIMINAL/CIVIL/ APPELLATE / ORIGINAL / JURISDICTION
SPECIAL LEAVE PETITION (C) NO. _____ OF 2026

IN THE MATTER OF:

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

...Petitioner(s)

Versus

Union of India & Ors.

...Respondent(s)

VAKALATNAMA

We/I, Prahlad Rai, the Authorised Representative of All India Retired Bharat Sanchar Nigam Limited Executive Welfare Association, the Petitioner No. 1 in the above petition / Reference / Appeal do hereby appoint and retain Ms. Sonali Jain, Advocate of the Supreme Court of India, to act and appear for me / us in the above matter and on my / our behalf to conduct and prosecute (or defend) the same and to appear in all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including proceedings in taxation and applications for Review, to file and obtain return of documents and to deposit and receive money on my / our behalf in the said matter and to represent me / us and to take all necessary steps on my / our behalf in the above matter. I / We agree to ratify all acts done by the aforesaid Advocate in pursuance of this authority.

Dated this the 12 day of September, 2026

Accepted

Identified and certified by:

SONALI JAIN

Advocate

B-6/2, Safdarjung Enclave,

New Delhi - 110029.

(+91) 9654090194

sonali.jain@outlook.com

Signature (s):


PRAHLAD RAI
GENERAL SECRETARY
AIR BSNL EWA(CHQ)
 Petitioner No. 1

MEMO OF APPEARANCE

To

The Registrar

Supreme Court of India

New Delhi

Sir,

Please enter an appearance for the abovenamed appellant (s) / petitioner (s) / Respondent (s) in the above-mentioned petition / case / appeal / matter.

Yours faithfully,


SONALI JAIN

Advocate

Supreme Court of India

Dated: 20.09.2026





**ALL INDIA
RETIRED
BHARAT SANCHAR NIGAM LIMITED EXECUTIVES' WELFARE
ASSOCIATION
CENTRAL HEAD QUARTERS, NEW DELHI**

Registration No. S/00108/NE-/2010

CHQ Address: C-8/230 Yamuna Vihar, Delhi-110053

www.aibsnlretd.org

President
Kishan Singh
Mob.9968270611

General Secretary
Prahlad Rai
Mob.9868278222

Financial Secretary
A K Jain
Mob.9868838466

NO.AIRBSNLEWA/GENL/2026/

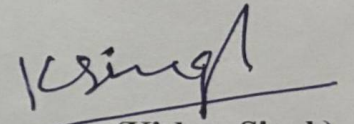
Dated 30th July, 2026

RESOLUTION

TO WHOM SO EVER IT MAY CONCERN

This is unanimously resolved in the Central Working Committee Meeting of All India Retired BSNL Executives' Welfare Association held on 15th July-2026 at New Delhi to authorize Shri Prahlad Rai, General Secretary, AIRBSNLEWA CHQ, New Delhi to file a clarificatory application in the case of Rule 206 of SDE Telecom seniority case as per the judgement of Hon'ble Supreme Court of India, New Delhi delivered in December 2017 for its true implementation by DoT/BSNL. He is authorized to deal the matter on behalf of AIRBSNLEWA, CHQ, New Delhi.

Dated 30.08.2026


 (Kishan Singh)
 President
 AIRBSNLEWA CHQ
 New Delhi

KISHAN SINGH
President
AIRBSNLEWA CHQ
NEW DELHI

IN THE SUPREME COURT OF INDIA
CRIMINAL/CIVIL/ APPELLATE / ORIGINAL / JURISDICTION
SPECIAL LEAVE PETITION (C) NO. _____ OF 2026

IN THE MATTER OF:

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

...Petitioner(s)

Versus

Union of India & Ors.

...Respondent(s)

G.L. Jogi VAKALATNAMA

We/I, ~~Pranab Rai~~, the Authorised Representative of Sanchar Nigam Pensioners Welfare Association, the Petitioner No. 2 in the above petition / Reference / Appeal do hereby appoint and retain Ms. Sonali Jain, Advocate of the Supreme Court of India, to act and appear for me / us in the above matter and on my / our behalf to conduct and prosecute (or defend) the same and to appear in all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including proceedings in taxation and applications for Review, to file and obtain return of documents and to deposit and receive money on my / our behalf in the said matter and to represent me / us and to take all necessary steps on my / our behalf in the above matter. I / We agree to ratify all acts done by the aforesaid Advocate in pursuance of this authority.

Dated this the _____ day of 12 AUG 2026

Accepted

Identified and certified by:

SONALI JAIN

Advocate

B-6/2, Safdarjung Enclave,

New Delhi - 110029.

(+91) 9654090194 -

sonali.jain@outlook.com

Signature (s)

G.L. Jogi
General Secretary
SNPWA

Petitioner No. 2

12/08/2026
Per. Cand no: AD/PT/9874B
DOB: 7-6-1957

MEMO OF APPEARANCE

To

The Registrar
Supreme Court of India
New Delhi

Sir,

Please enter an appearance for the abovenamed appellant (s) / petitioner (s) / Respondent (s) in the above-mentioned petition / case / appeal /matter.

Yours faithfully,

Dated:

SONALI JAIN

Advocate

Supreme Court of India

ATTESTED
NOTARY PUBLIC, DELHI NCR (INDIA)





Sanchar Nigam Pensioners' Welfare Association

Reg.No: SOCIETY/WEST/2021/8902564

CHQ: B-11/1, Ramesh Nagar, New Delhi-110015, India



snpwachq.com



snpwachq@gmail.com

K.D Sebastian
CHQ President
+91 9447144100

G.L.Jogi
General Secretary
+91 9868217799

S.S. Rajput
Treasurer
+91 9413394204

RESOLUTION

TO WHOMSOEVER IT MAY CONCERN

It is hereby unanimously resolved at the meeting of the Central Working Committee (CWC) of the Sanchar Nigam Pensioners' Welfare Association (SNPWA) held at New Delhi, to authorise Com. G. L. Jogi, General Secretary, SNPWA, Central Headquarters, New Delhi, to institute, file, pursue and conduct a Special Leave Petition (SLP) before the Hon'ble Supreme Court of India, New Delhi, challenging the judgment dated 01.07.2026 passed by the Hon'ble High Court of Delhi in W.P.(C) No. 4946/2024, in the matter relating to revision of pension of BSNL pensioners.

Sh. G. L. Jogi, General Secretary, is further authorised to take all necessary, consequential and incidental steps in connection with the said proceedings, including to engage and instruct legal counsel, sign and execute vakalatnama, petitions, affidavits, applications and other necessary documents, furnish instructions and records to the counsel, and to represent the Association before the Hon'ble Supreme Court of India and/or any other competent judicial or statutory authority in connection with the said matter.

He is also authorised to take all such further actions as may be necessary or expedient for effectively pursuing and safeguarding the interests of BSNL pensioners represented by the Association in the aforesaid matter.

This Resolution is passed unanimously and shall constitute the full and valid authorisation of the Sanchar Nigam Pensioners' Welfare Association, Central Headquarters, New Delhi, for the aforesaid purposes.

Dated: 02.09.2026

Place: New Delhi

G. L. Jogi
General Secretary
SNPWA

B-11/1, DOUBLE STOREY
RAMESH NAGAR,
NEW DELHI-110015

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRAORDINARY CIVIL JURISDICTION
W.P. (C). No⁴⁹⁴⁶ of 2024

MEMO OF PARTIES

1. **UNION OF INDIA,**
Through its Secretary,
Department of Telecommunications,
Sanchar Bhavan,
20, Ashok Road, New Delhi-110001
2. **BHARAT SANCHAR NIGAM LTD.**
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**
Through its Secretary
3rd Floor, LokNayakBhawan,
Khan market, New Delhi-110003
4. **DEPARTMENT OF PUBLIC ENTERPRISES**
Through its Secretary
Public Enterprises Bhawan
Block No.14, CGO Complex,
Lodhi Road, New Delhi-10003

...Petitioners

VERSUS

1. **ALL INDIA RETIRED BHARAT SANCHAR NIGAM LIMITED EXECUTIVE WELFARE ASSOCIATION**
Through its General Secretary
Shri Prahlad Rai Registration Number: S/00108/NE-12010
C-8/230, Having its registered office at: 8/230, Yamuna Vihar, Delhi-110053

SANCHAR NIGAM PENSIONERS WELFARE ASSOCIATION

Through its General Secretary

Shri Girdhari Lal Jogi

Having its office at: SNEA Bhawan, B-11/1&2,

Ground Floor, Opp. to Sanatan Dharma Mandir.

Ramesh Nagar, New Delhi-110015.

3. SHRI ASHIM KUMAR DEY

GROUP: B

Designation: Ex. Accounts officer, Calcutta Telephones,

BSNL Aged about 68 years

S/o Late Shri Ramendra Nath Dey

R/o Kingshuk Apartment, 3rd Floor,

Flat-7, 344 Parnashree Pally, Kolkata -700060

4. SHRI SUBHAS CHANDRA MITRA

GROUP: C

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- 700075

5. SHRI GOPAL CHANDRA NASKAR

GROUP: D

Designation: Ex Canteen Bearer, Calcutta Telephones,

BSNL Aged about 66 years

S/o Late Shri Bhusan Chandra Naskar

R/o 41/A Biren Roy Road (East), Kolkata-700008

6. SHRI RAJENDRA SINGH

GROUP: B

Designation: Ex SDE

Aged about 65 years

S/o Late Shri Sohan Singh

R/o 43, Shahbad Ext (Gail-2), Sector 17,

Rohini, Delhi-110081

7. **SHRI KIRAN KUMAR PRABHAKAR**

GROUP: B

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 121004

8. **SHRI S. SUNDARA MURTHY**

GROUP: C

Designation: Telecom Mezhanic

Aged about 66 years

S/o Shri Saminathan R/o 28,

Tirupatcheeswaran, Ayanavaram, Chennai-400023

.... Respondents

Filed on: 20.09.2026

Place: New Delhi

FILED BY:


SONALI JAIN

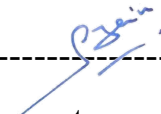
ADVOCATE-ON-RECORD

FOR THE PETITIONER

Dy. No. 58449/2026

DECLARATION

All defects have been duly cured. Whatever has been added / deleted / modified in the petition is the result of curing of defects and nothing else. Except curing the defects, nothing has been done. Paper books are complete in all respects.

Signature:-----

- Advocate-on-Record

Sonali Jain

Code: 3722

ADVOCATE'S CHECK LIST (TO BE CERIFIED BY ADVOCATE-ON-RECORD)

Indicate Yes or NA

1.	SLP has been filed in Form No. 28 with certificate.	Yes
2.	The Petition is as per the provisions of Order XV Rule 1.	Yes
3.	The papers of SLP have been arranged as per Order XXI, Rule (3)(1)(f).	Yes
4.	Brief list of dates/events has been filed.	Yes
5.	Paragraphs and pages of paper books have been numbered consecutively and correctly noted in Index.	Yes
6.	Proper and required number of paper books (1+1) have been filed.	Yes
7.	The particulars of the impugned judgment passed by the court(s) below are uniformly written in all the documents.	Yes
8.	In case of appeal by certificate the appeal is accompanied by judgment and decree appealed from and order granting certificate.	N.A.
9.	The Annexures referred to in the petition are true copies of the documents before the court(s) below and are filed in chronological order as per List of Dates.	Yes
10.	The annexures referred to in the petition are filed and indexed separately and not marked collectively.	Yes
11.	In SLP against the order passed in Second Appeal, copies of the orders passed by the Trial Court and First Appellate Court have been filed.	N.A.
12.	The complete listing proforma has been filled in, signed and included in the paper books.	Yes
13.	In a petition (PIL) filed under clause (d) of Rule 12(1) Order XXXVIII, the petitioner has disclosed:	N.A.
	(a) his full name, complete postal address, e-mail address, phone number, proof regarding personal identification, occupation and annual income, PAN number and National Unique Identity Card number, if any;	N.A.
	(b) the facts constituting the cause of action;	N.A.
	(c) the nature of injury caused or likely to be caused to the public;	N.A.
	(d) the nature and extent of personal interest, if any, of the petitioner(s);	N.A.

	(e) details regarding any civil, criminal or revenue litigation, involving the petitioner or any of the petitioners, which has or could have a legal nexus with the issu(s) involved in the Public Interest Litigation.	N.A.
14.	In case of appeals under Armed Forces Tribunal Act, 2007, the petitioner / appellant has moved before the Armed Forces Tribunal for granting certificate for leave to appeal to the Supreme Court.	N.A.
15.	All the paper books to be filed after curing the defects shall be in order.	Yes

I hereby declare that I have personally verified the petition and its contents and it is in conformity with the Supreme Court Rules 2013. I certify that the above requirements of this Check List have been complied with. I further certify that all the documents necessary for the purpose of hearing of the matter have been filed.

FILED BY

DATED: 23.09.2026


[Sonali Jain]
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