No Caveat Received
Respondents are served through their Counsel who represented them before CAT

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

INDEX

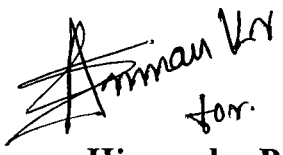
S.No.	Particulars	Page No.
1.	Urgent Application	1
2.	Notice of Motion	2
3.	Memo of Parties	3-5
4.	Consolidated Court Fee	6
5.	Synopsis with List of Dates	7-14
6.	Writ Petition along with affidavit	15-44
7.	**Annexure P-1** The certified copy of impugned order/judgment dated 20.09.2023	45-75
8.	**Annexure P-2** The certified copies of entire record of the Tribunal a. Original Application b. Counter Affidavit filed by the respondents c. Rejoinder on behalf of applicants d. Reply on behalf of applicant to MA No 76/2021 e. Convenience compilation on behalf of the parties	76-817 76-432 433-478 479-505 506-517 518-817
9.	Application on Behalf of the Petitioners under section 151 CPC for ad-interim ex-parte directions along with affidavit	818-822
10.	Application on behalf of the Petitioners under section 151 CPC for exemption along with affidavit	823-826
11.	Application on behalf of the Petitioners under	827-830

	section 151 CPC for filing of the certified copy of impugned order dated 20.09.2023	
12.	Certificate with respect to filing of complete records of Tribunal	831
13.	Vakalatnama	832
14.	Proof of Service	833

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

Versus

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

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 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 THECONSTITUTION 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 :	DLCT2101C2450O251
e-COURT FEE AMOUNT :	₹ 500
	(Rupees Five Hundred Only)

DLCT2101C2450O251

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 purpose of formula for calculation of pension under CCS(Pension) Rules, 1972, Sub-rule 2 of Rule 49 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.

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 onCentral 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 Pubic 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 6th Central Pay Commission (hereinafter referred as CPC) was made applicable to Government Pensioners who retired before 01.01.2006.
01.01.2007	Pursuant to 2nd Pay Revision Committee Report (hereinafter referred as PRC), the pay 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.

15.

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 respondentsin 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 deemeddeputation 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. Atthe 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 progressionwere 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 BSNLand 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.

d. 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.

e. 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.

f. 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 Governmentt Employeesthe 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.

g. 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.

h. 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.

i. 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.

j. 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.

k. 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.

l. 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.

n. 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.

o. 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.

p. 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 MTNLare continuously incurring losses and these PSUs are not fulfilling the affordability criteria as per the DPE OM dated 03.08.2017 for wage revision.

r. 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.

s. 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.

t. 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 we.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."

v. 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.

w. That it is matter of record that the retired absorbed BSNL and MTNL employees were always on the beneficial position as comparedto 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 employeesdemand 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:

Parameters	**Case : 1 Employee A who opted to remain in the Government in the year 2000**	**Case : 2 Employee B who opted to be absorbed in BSNL in year 2000**
Pay drawn before absorption process as on 30.09.2000.	Assume, employee A was getting the pay of Rs. 5000 in the Government (CDA) pay scale of 4500-125-7000.	Since, before the absorption process, employee B was also equivalent to employee A and was drawing Rs. 5000 in the Government (CDA) pay scale of 4500-125-7000.
Pay drawn just after the absorption process in BSNL as on 01.10.2000.	Since, employee A did not opt for absorption, he continued to draw Rs. 5000 in the CDA pay scale of 4500-125-7000	As, employee B opted for absorption in BSNL w.e.f. 01.10.2000. his CDA pay scale 4500-125-7000 was converted to IDA (PSU) pay scale of 6550-185-9325. And the pay of employee B was fixed to

		Rs. 7290 in the IDA(PSU) pay scale of 6550-185-9325.
Pay revision	After the absorption process in BSNL, the employee who remained in Government availed benefits of 6th Pay Commission w.e.f. 01.01.2006 and 7th Pay Commission w.e.f. 01.01.2016.	The employee B who opted for absorption in BSNL availed the benefit of 2nd Pay revision committee w.e.f. 01.01.2007.
Pay after respective pay revisions	Earlier pay (Rs. 5000) of employee A was revised to Rs. 12100 w.e.f. 01.01.2006 in 6th Central Pay Commission and Rs. 31900 w.e.f. 01.01.2016 in Level-5 in 7th 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 2nd Pay revision Committee
Assume both employees retired on 01.01.2017	Basic pension of Employee A = 31900/2 = Rs. 15950/-	Basic Pension of Employee B = 16890/2 = Rs. 8445/-
Gross Pension as on 01.01.2017	Gross Pension of Employee A with Central Dearness relief 4% = 15950*1.04 = 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.)
Conclusion	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 notfor employees of Central Public Sector Enterprises (CPSEs). The Tribunal failed to appreciate that the respondentswere 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 retiredbetween 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 thatthe 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 _____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.

42

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.

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

New Delhi
Date: 21/03/2024

Through

(HIMANSHU PATHAK)
Advocate
Counsel for the Petitioners

43

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 knowledgeand 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.

Ravi

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

20 MAR 2024

DEPONENT

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.

Identified the deponent who appeared before me

The seal of Oath Commissioner

Ravi

DEPONENT

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

CERTIFIED
Sh./Smt. ...
S/o, D/o, W/o ...
R/... ...
... ...
... ...
...

Annexure :- P.1

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

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,

49.

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)
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.
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,
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,
   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 we.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

59.

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 Oper4ations 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.

61

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 31.12.200S (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, lob 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 shar 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

68

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

69

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/

Free Copy U/R 22 of CAT (Procedure) Rules, 1987

05/12/2023

Annexure P-2

OA 1272/20

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
9.	Father's / Mother's/Husband's Name	Sh. Keshar Lal
10.	Res. Address	122/85, Vijaypath, Aggarwal Farms, Mansarovar, Jaipur-302020
11.	Office Address	8/230, Yamuna Vihar, Delhi-110053
12.	E-mail Address	airbsnlewa.gs@gmail.com
13.	Mobile No.	8094277328
14.	Phone No.	011-45094930
15.	Fax No.	---

Central Administrative Tribunal

Name of Advocate: - GAURI PURI & AMRITA SINGH

Address of Advocate:- A-22, Ground Floor, Defence Colony New Delhi - 110024

Phone No. 011-45094930 **Mobil No.** : 9899339554

Email id:- gauri@gpuri.in

2686

Annexure P2

74

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

INDEX

S.No	Particulars	Pages
	COMPILATION – I	**1-84**
1.	Index	**1**
2.	Postal Order	**2**
3.	Synopsis and List of Dates	**3-19**
4.	Memo of Parties	**20-22**
5.	**O.A. No. /2020**:Original Application under Section 19 of the Administrative Tribunal's Act, 1985 along with supporting Affidavit	**23-84**
	COMPILATION – II	**85-331**
6.	Index	**85-88**
7.	**Annexure A-1:** A true copy of the OM dated 05.07.1989 issued by the Department of Pension and Pensionary Welfare (DOP&PW)	**89-91**
8.	**Annexure A-2**: A true copy of the Note for the Cabinet dated 25.09.2000 prepared by the DOT	**92-95**
9.	**Annexure A-3:** A true copy of the OM dated 30.09.2000 issued by Department of Telecommunication Services	**96-119**
10.	**Annexure A-4**: A true copy of Rule 37A of the CCS (Pension) Rules, 1972, as amended	**120-123**
11.	**Annexure A-5**: A true copy of the circular dated 09.11.2000 issued by the DOT	**124**

Central Administrative Tribunal

3284

09 SEP

12.	**Annexure A-6**: A true copy of the Order dated 14.01.2002 issued by BSNL calling for options	**125-131**
13.	**Annexure A-7**: A true copy of the clarification dated 15.01.2003 issued by DOT	**132-133**
14.	**Annexure A-8:** A true copy of the order dated 28.07.2003 issued by DOT	**134-138**
15.	**Annexure A-9:** A true copy of the letter dated 29.08.2003 issued by the DOT to BSNL	**139-152**
16.	**Annexure A-10:** A true copy of the Order dated 02.09.2003 issued by BSNL	**153-162**
17.	**Annexure A-11**: A true copy of the Order dated 12.02.2004 issued by DOT	**163**
18.	**Annexure A-12**: A true copy of the 2nd PRC as notified *vide* OM No:2(70)/08-DPE(WC) dated 26.11.2008	**164-172**
19.	**Annexure A-13**: A true copy of the circular dated 04.05.2009 issued by DOP&PW	**173-177**
20.	**Annexure A-14**: A true copy of the cabinet note dated 29.12.2010 issued by the DOT	**178-215**
21.	**Annexure A-15:** 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.	**Annexure A-16:** A true copy of the Circular No. 09 being No. 40-06/2011-Pen (B) issued by BSNL dated 04.04.2011	**225**
23.	**Annexure A-17:** A true copy of the Gazette notification dated 21.12.2012	**226-235**
24.	**Annexure A-18:** A true copy of the order No: 4-12(11)/2012-PAT dated 20.02.2014 issued by DoT	**236**
25.	**Annexure A-19:** A true copy of the letter F-No. 47-63/2015-Pen(T) dated 13.12.2015	**237-238**
26.	**Annexure A-20:** A true copy of order No: 40-13/2013-Pen(T) dated 20.07.2016	**239-243**
27.	**Annexure A-21:** A true copy of the OM dated 04.08.2016 issued by the Ministry of Personnel, Public Grievance and Pensions	**244-248**
28.	**Annexure A-22:** A true copy of the RTI response by DOT dated 27.12.2016	**249-252**
29.	**Annexure A-23:** A true copy of the clarification dated 16.03.2017 issued by DOT	**253-254**

Central Administrative Tribunal

30.	**Annexure A-24:** A true copy of the order dated 21.03.2017 issued by BSNL for enhancement of gratuity	**255**
31.	**Annexure A-25:** A true copy of the OM dated 12.05.2017 issued by Department of Pension & Pensioners' Welfare	**256-261**
32.	**Annexure A-26:** 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	**262-264**
33.	**Annexure A-27:** 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	**265-285**
34.	**Annexure A-28(Colly.):** True copies of letters dated 23.10.2017 and 13.06.2018 issued by the Minister of State for Communications	**286-290**
35.	**Annexure A-29:** A true copy of the response dated 04.07.2018 by the Ministry of Personnel, Public Grievance and Pensions	**291-301**
36.	**Annexure A-30:** A true copy of the OM dated 10.07.2018 issued by Department of Public Enterprises	**302-303**
37.	**Annexure A-31:** A true copy of the response by DOT dated 13.07.2018	**304-307**
38.	**Annexure A-32:** A true copy of the representation dated 04.09.2018 made to the DOT by All India Retired BSNL Executives Welfare Association	**308**
39.	**Annexure A-33:** A true copy of the representation dated 17.09.2018 made to the Minister of Communications by All India Retired BSNL Executives Welfare Association	**309**
40.	**Annexure A-34:** A true copy of the OM dated 08.03.2019 issued by the DOPT&PW	**310**
41.	**Annexure A-35:** A true copy of the letter dated 31.01.2019 from AUAB addressed to the Secretary, Dept of Telecom	**311-313**
42.	**Annexure A-36:** A true copy of the notification dated 04.11.2019 for the Voluntary Retirement Scheme by BSNL	**314-324**

43.	**Annexure A-37:** A true copy of the representation dated 18.11.2019 issued by the All India Retired BSNL Executives Welfare Association	**325-327**
44.	**Annexure A-38:** A true copy of the representation dated 27.01.2020 issued by Sanchar Nigam Pensioners' Welfare Association	**328-330**
45.	**Annexure A-39:** A true copy of the response of the unstarred Question No. 2950 and the answer dated 11.03.2020	**331**
46.	**M.A. No. /2020:** Miscellaneous Application for Joinder of Parties under Rule 4(5) of The Central Administrative Tribunal (Procedure) Rules 1987	**332-337**
47.	**M.A. No. /2020:** Miscellaneous Application for exemption from filing notarized and attested copies of Affidavits	**338-341**
48.	Board Resolutions of Applicant No. 1 & 2	**342-343**
49.	Vakalatnama	**344-351**
50.	Proof of Service	**352**

APPLICANTS

Through

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
08.09.2020

81.

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

INDEX

S.No	Particulars	Pages
1.	Index	1
2.	Postal Order	2
3.	Synopsis and List of Dates	3-19
4.	Memo of Parties	20-22
5.	O.A. No. /2020:Original Application under Section 19 of the Administrative Tribunal's Act, 1985 along with supporting Affidavit	23-84

APPLICANTS

Through

Gauri Puri

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
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

Date	Particulars
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 *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 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

Central Administrative Tribunal

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.

30.09.2000 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.

30.09.2000 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.

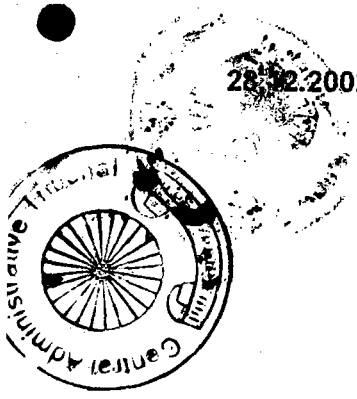
09.11.2000 Circular issued by the DOT stating that the employees getting absorbed in BSNL would continue to receive Government's scheme of pension/ family pension after their absorption and that the dismissal or removal from service of an employee after his absorption in the PSU for any subsequent misconduct 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.

Central Administrative Tribunal

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.

Central Administrative Tribunal

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.

Central Administrative Tribunal

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.

Central Administrative Tribunal

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

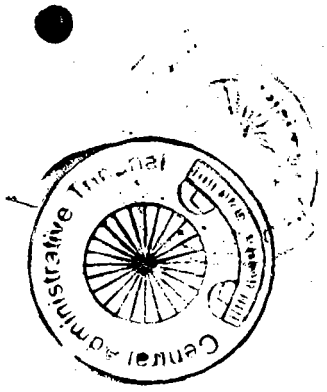
" (i) DoT has not clearly brought out as to what would be the formula for revision of pension pre 2017 absorbee pensioners and what would be the financial implications on revision of pension as per that formula.
(ii) It was stated by DoT that pay of the serving employees has not been revised in implementation 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



96

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 1979 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,
Having its registered office at:
8/230, Yamuna Vihar,
Delhi-110053
Applicant No. 1

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
Applicant No. 2

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
Applicant No. 3

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
Applicant No. 4

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

Central Administrative Tribunal

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 - 4000023 — Applicant No. 8

VERSUS

1. **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

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 — 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
E-mail: gauri@gpuri.in
Mobile: +91 9899339554;
Phone: 011-45094930

Central Administrative Tribunal

NEW DELHI
07.09.2020

99

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 1972 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

Central Administrative Tribunal

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 draw pensionary benefits at par with the 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.

1.10. 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 DOT to

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.

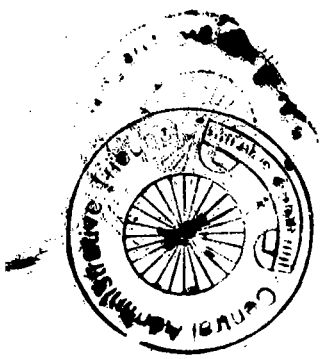
1.13. On 27.01.2020, the Applicant No. 2 *vide* a representation requested the DOT for pension revision as per the recommendations of the 7th Central Pay Commission in respect of BSNL Pensioners/Family Pensioners.

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 it 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 BNSL 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.

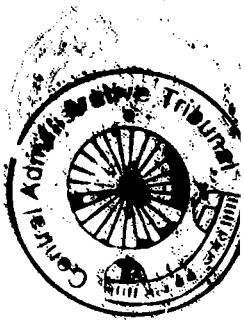
A true copy of the OM dated 30.09.2000 is attached herewith as **Annexure A-3.**

4.15. 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 herewith as **Annexure A-6**.

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 is attached herewith as **Annexure A-7.**

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*

Central Administrative Tribunal

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 **Annexure A-15.**

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.**

Central Administrative Tribunal

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 sevtor 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**.

4.47. 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 **Annexure A-25**.

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 **Annexure A-26.**

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 addition to the above, a separate

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.

Central Administrative Tribunal

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.).**

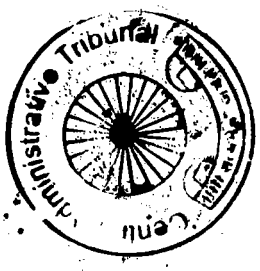
4.56. Thereafter, on 04.07.2018, Ministry of Personnel, Public Grievance and Pensions responded to an application under the Right to Information Act stating that action for revision of pension by BSNL/MTNL pursuant to 7th Central Pay Commission was required to be taken by DOT.

A true copy of the response dated 04.07.2018 by the Ministry of Personnel, Public Grievance and Pensions is attached herewith as **Annexure A-29**.

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 herewith as **Annexure A-31**.



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.**

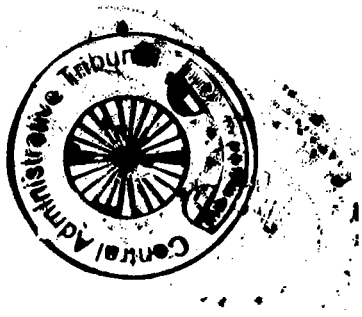
4.60. On 17.09.2018, All India Retired BSNL Executives Welfare Association made another representation to the Minister of Communications seeking pension revision consequent to the 7th Central Pay Commission recommendation. A true copy of the representation dated 17.09.2018 made to the Minister of Communications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

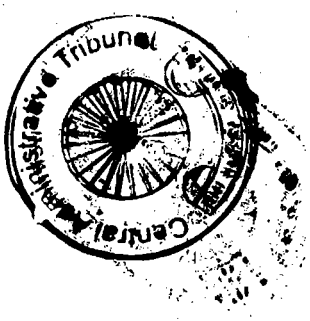
4.63. If at all any anomaly occurs between pre-2017 and post 2017 combined service pensioners of BSNL, it will be limited to few more years as almost all the employees absorbed in BSNL from DoT/DTS/DTO and eligible for combined service Pension under Rule 37-A of CCS(Pension) Rules 1972 will retire by 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 absorbees 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 absorbees 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 absorbees 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 **Annexure A-36**.

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 if 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, qualifying service for full pension, limit of DCRG,

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 and 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.

Central Administrative Tribunal

75

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 category.

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) 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.

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:**

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

12. ENCLOSURES:

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 7th day of September, 2020.

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

Central Administrative Tribunal

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.

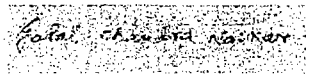


Applicant No. 4

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.

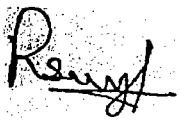


Applicant No. 5

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, Delhi110081, 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.

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.

Applicant No. 8

APPLICANTS

Through

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

153.

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 anddeclare 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

Central Administrative Tribunal

159.

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 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.

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

1855

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 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.

[redacted]

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.

[redacted]

DEPONENT

156.

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 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.

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.

Subhas Chandra Mitra

DEPONENT

157

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 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.

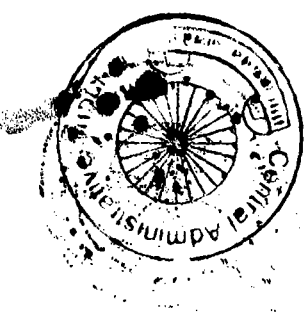
DEPONENT

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


Central Administrative

188

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 Rajendra Singh, aged about 65 years, S/o Late Sh. Sohan Singh, R/o 43, Shahbad Ext (Gail-2), Sector 17, Rohini, Delhi110081, 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.

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

159.

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 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.

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

160.

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 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.

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

Central Administrative Tribunal

18.	**Annexure A-12**: A true copy of the 2nd PRC as notified *vide* OM No:2(70)/08-DPE(WC) dated 26.11.2008	**164-172**
19.	**Annexure A-13**: A true copy of the circular dated 04.05.2009 issued by DOP&PW	**173-177**
20.	**Annexure A-14**: A true copy of the cabinet note dated 29.12.2010 issued by the DOT	**178-215**
21.	**Annexure A-15:** 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.	**Annexure A-16:** A true copy of the Circular No. 09 being No. 40-06/2011-Pen (B) issued by BSNL dated 04.04.2011	**225**
23.	**Annexure A-17:** A true copy of the Gazette notification dated 21.12.2012	**226-235**
24.	**Annexure A-18:** A true copy of the order No: 4-12(11)/2012-PAT dated 20.02.2014 issued by DoT	**236**
25.	**Annexure A-19:** A true copy of the letter F-No. 47-63/2015-Pen(T) dated 13.12.2015	**237-238**
26.	**Annexure A-20:** A true copy of order No: 40-13/2013-Pen(T) dated 20.07.2016	**239-243**
27.	**Annexure A-21:** A true copy of the OM dated 04.08.2016 issued by the Ministry of Personnel, Public Grievance and Pensions	**244-248**
28.	**Annexure A-22:** A true copy of the RTI response by DOT dated 27.12.2016	**249-252**
29.	**Annexure A-23:** A true copy of the clarification dated 16.03.2017 issued by DOT	**253-254**
30.	**Annexure A-24:** A true copy of the order dated 21.03.2017 issued by BSNL for enhancement of gratuity	**255**
31.	**Annexure A-25:** A true copy of the OM dated 12.05.2017 issued by Department of Pension & Pensioners' Welfare	**256-261**
32.	**Annexure A-26:** 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	**262-264**
33.	**Annexure A-27:** A true copy of the OM No: W-02/ 0028/ 2017- DPE (WC)- GL - XIII/ 17 dated	**265-285**

	03.08.2017 issued by Department of Public Enterprises	
34.	**Annexure A-28(Colly.):** True copies of letters dated 23.10.2017 and 13.06.2018 issued by the Minister of State for Communications	**286-290**
35.	**Annexure A-29:** A true copy of the response dated 04.07.2018 by the Ministry of Personnel, Public Grievance and Pensions	**291-301**
36.	**Annexure A-30:** A true copy of the OM dated 10.07.2018 issued by Department of Public Enterprises	**302-303**
37.	**Annexure A-31:** A true copy of the response by DOT dated 13.07.2018	**304-307**
38.	**Annexure A-32:** A true copy of the representation dated 04.09.2018 made to the DOT by All India Retired BSNL Executives Welfare Association	**308**
39.	**Annexure A-33:** A true copy of the representation dated 17.09.2018 made to the Minister of Communications by All India Retired BSNL Executives Welfare Association	**309**
40.	**Annexure A-34:** A true copy of the OM dated 08.03.2019 issued by the DOPT&PW	**310**
41.	**Annexure A-35:** A true copy of the letter dated 31.01.2019 from AUAB addressed to the Secretary, Dept of Telecom	**311-313**
42.	**Annexure A-36:** A true copy of the notification dated 04.11.2019 for the Voluntary Retirement Scheme by BSNL	**314-324**
43.	**Annexure A-37:** A true copy of the representation dated 18.11.2019 issued by the All India Retired BSNL Executives Welfare Association	**325-327**
44.	**Annexure A-38:** A true copy of the representation dated 27.01.2020 issued by Sanchar Nigam Pensioners' Welfare Association	**328-330**
45.	**Annexure A-39:** A true copy of the response of the unstarred Question No. 2950 and the answer dated 11.03.2020	**331**
46.	**M.A. No. /2020:** Miscellaneous Application for Joinder of Parties under Rule	**332-337**

Central Administrative Tribunal

	4(5) of The Central Administrative Tribunal (Procedure) Rules 1987	
47.	**M.A. No. /2020:** Miscellaneous Application for exemption from filing notarized and attested copies of Affidavits	**338-341**
48.	Board Resolutions of Applicant No. 1 & 2	**342-343**
49.	Vakalatnama	**344-351**
50.	Proof of Service	**352**

APPLICANTS

Through

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

No.4/18/87-P&PW (D) ANNEXURE-A-1
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Pension & Pensioners' Welfare)

6th Floor, Nirvachan Sadan
New Delhi, dated the 5th July, 1989

OFFICE MEMORANDUM

Subject:- Settlement of pensionary terms etc., in respect of Government employees transferred en masse to Central Public Sector Undertakings/Central Autonomous bodies.

The undersigned is directed to refer to this Department's Office Memorandum No. 4(8)/85-P&PW dated 13th January 1986 and Office Memorandum of even number dated 30th October, 1986 on the above subject. The question of settlement of pensionary terms on conversion of a Government Department or a segment thereof or a Government office into a Central Public Sector Undertaking/autonomous body has been reviewed in the light of the recommendations of the Committee of the National Council (JCM). The President is now please to decide that, in a partial modification of above mentioned Office Memoranda, the following terms and conditions will be applicable in the case of en masse transfer of employees:

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

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

c) The permanent Government servants with less than 10 years service, quasi permanent employees and temporary employees who opt for the rules of the PSU/Autonomous Body shall be entitled to an amount equal to Provident Fund contribution for the period of their service under the Government upto the date of permanent absorption in the PSU/Autonomous Body with simple interest at 6% per annum as opening balance in their CPF account with the Public Sector Undertaking/Autonomous Body.

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

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

ii) Where the employees opt in favor of monthly payment of pro-rata pension, the same shall be allowed to be drawn with effect from the date of permanent absorption in a

Central Administrative Tribunal

TRUE COPY

PSU/Autonomous Body. No part of pro-rata pension will be allowed to be commuted either at the time of permanent absorption or any time thereafter.

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

iv) In the case of employees covered by clause (ii), the retirement gratuity and for those covered by clause (iii) above, both retirement gratuity as well as lumpsum commuted value shall be paid on the expiry of a period of 7 years from the date of permanent absorption. The amounts, however, can be paid earlier in the event of death/retirement/resignation/discharge from service.

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

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

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

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

5. Dismissal/removal from the service of a PSU/Autonomous Body after absorption for any subsequent misconduct shall not amount to forfeiture of his retirement benefits for the service rendered in the Central Government. Also in the event of dismissal/removal of a transferred employees from the PSU/autonomous body, the employee concerned will be allowed protection to the extent that the administrative Ministry/Department will review order before taking a final decision.

6. The other terms and conditions stipulated in Department's Office Memoranda dated 13th January 986 and 30th October, 1986 referred above, which have not been specifically modified, will continue to remain operative.

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

8. In their application to the employees serving in the Indian Audit & Accounts Department, these orders issue in consultation with the Comptroller & Auditor General of India.

TRUE COPY

9. Hindi version will follow.

Sd/-
(Ashish Kumar)
Dy. Secretary to the Government of India

To

All Ministries/Departments of the Government of India

TRUE COPY

167

92

ANEXURE-A-2

To CM 29-10-2014

SECRET
Copy No.

No.2-2/99-Restg.(Vol.I)
Government of India
Ministry of Communications
Department of Telecom Services

New Delhi, the 25th September 2000

NOTE FOR THE CABINET

Subject: Approval for HRD and financial issues arising out of the corporatisation of the Department of Telecom Services and of the Department of Telecom Operations.

****

1. Introduction

1.1 Commencement of business with effect from 1st October, 2000 is to take place by the corporate entity Bharat Sanchar Nigam Ltd. - BSNL (being set up by corporatisation of the Department of Telecom Services and Department of Telecom Operations).

1.2 This Note is being submitted to seek approval of the Cabinet to the HRD and financial issues related to corporatisation.

2. Present structure of DTS/DTO

2.1 The Department of Telecom Operations (DTO) operates telegraph/telecom services throughout the length and breadth of the country, except telecom services in the metropolitan areas of Mumbai and Delhi.

2.2 As on 31st August 2000, about 23.8 million lines are operational, with about 20% of them working in rural/remote areas of the country. To support this network, 29.3 million lines switching capacity, 2 million lines of Trunk Automatic Exchange capacity, 1,85,000 route kilometers of optical fibre cable systems, 1,60,000 route kilometers of microwave system, and about 416 satellite stations are operational. In addition, about 3.78 lakh villages out of a total of over 6 lakh villages have been covered with village public telephones.

SECRET

Central Administrative Tribunal

TRUE COPY

N. 16-4/2002-B
Department of Telecom

168.

SECRET
File No.2-2/99-Restg.(Vol.I)
Department of Telecom Services

2.3 This vast network is managed and operated through 20 territorial circles, two metro districts, four project circles, four maintenance regions, and supported by specialized telecom units (Telecommunications Engineering Centre, Quality Assurance etc.), over forty training institutions, and other units such as Telecom Factories, Telecom Stores etc. There are about 3.63 lakh employees in the three Departments of DoT/DTS/DTO of which about 2.66 lakh belong to Group 'C', 0.73 lakh to Group 'D', 18,000 to Group 'B' and about 5,440 to Group 'A'.

2.4 The corporatisation of DTS/DTO involves transfer of officers and staff engaged in service providing functions initially on deemed deputation basis without deputation allowance, and the transfer of complex operations spread throughout the country, evolved over the years and encompassing a spectrum of technologies, to the new corporate entity Bharat Sanchar Nigam Ltd (BSNL). BSNL would also be the successor organisation to DTS/DTO, and accordingly all contracts, legal issues etc. would need to be transferred from DTS/DTO to BSNL through appropriate measures. The assets and liabilities are proposed to be transferred at a provisional value, and through appropriate Government orders. The staff are proposed to be transferred on as is where is basis on deemed deputation without deputation allowance. This will necessarily involve decisions on a number of HRD, financial and operational issues, as given in the succeeding paras.

3. Background and Cabinet approval to certain issues related to legal status etc.

3.1 In connection with the launching of BSNL on 1st October 2000, the Cabinet in its meeting on 31st August 2000 had approved the following proposals (as contained in DoT's Cabinet Note dated 17th August):-

(i) The corporate entity be incorporated as a public limited company under the Companies Act 1956. The name of the corporate entity will be "Bharat Sanchar Nigam Limited" as already announced by the Prime Minister.

(ii) The registered and corporate offices of the corporate entity be in New Delhi.

(iii) The authorised share capital of the corporate entity be Rs.10,000 crores (Rupees Ten Thousand crores), and its paid up share capital be Rs.5,000 crores (Rupees Five Thousand crores). The value of each share be kept at Rs.10/- (Rupees Ten).

TRUE COPY

Central Administrative Tribunal

SECRET
File No.2-2/99-Restg.(Vol.I)
Department of Telecom Services

No. 16-4/2002-B
Department of Telecommunications

(iv) Keeping in view the time limit of 1.10.2000, the Telecom Commission may be authorised to approve the Memorandum of Association and Articles of Association and take the requisite procedural steps to get the corporate entity incorporated well before 1.10.2000.

3.2 Further action had accordingly been taken in pursuance of the above Cabinet approval. BSNL has since been incorporated, and has also obtained from the Registrar of Companies the certificate for commencement of business.

3.3 It had also been mentioned in para 9.1 of DoT's Cabinet Note dated 17th August that in connection with corporatisation, a number of financial and personnel related issues would also need to be finalised, and that it was proposed to seek Cabinet approval on these issues around mid September, based on examination of Vol.I of the Final Report of the Consultants.

3.4 The said report has since been received and examined, particularly with reference to the financial analysis of the corporate entity done by the consultants, and their recommendations thereon. Accordingly, this Cabinet Note is being submitted to seek approval on the HRD and financial issues.

4. HRD Issues

4.1 With over 3.63 lakh employees working in the three Departments having a large number of unions and associations representing various segments of employees and officers, the HRD dimension assumed significant importance. In connection with corporatisation concern was expressed by the unions/associations representing various segments of employees and officers that their interests will be adversely affected on corporatisation, and also that the corporate entity will not be financially viable.

4.2 The decision of the Government in June 2000 to achieve the corporatisation by 1.10.2000 activated all federations, staff unions of Group 'C' & 'D' and associations of Group 'A' & 'B' to put forth demands pertaining to their respective cadres/categories to be settled before corporatisation. A large number of these required interaction with, and approval of, other Ministries such as DoP&T, Department of Expenditure, Ministry of Finance, Ministry of Labour etc. For examining and settling these issues, the Government constituted in pursuance of a Cabinet meeting held on 24.6.2000 a Group of Ministers under the chairmanship of Minister of Communications with Finance Minister, Minister of HRD, Minister of Commerce and Industries, Minister of Labour and Minister of State for Personnel and Training as its Members. The GOM has already met six times.

Central Administrative

TRUE COPY

170

No. 16-4/2002-B
Department of Telecommunications

SECRET
No.2-2/99-Restg.(Vol.I)
Department of Telecom Services

4.3 The concerns expressed by the employees and officers can broadly be categorized into three. The first category relates to those issues which various categories of employees wanted to be settled before corporatisation. The second category broadly covers issues relating to their terms and conditions of service on corporatisation including their retirement benefits, and the third concern related to the viability of the corporate entity.

4.4 The main issues raised by the representatives of the Employees Federations representing Group 'C' & 'D' related to pension and retirement benefits, job security and financial viability of the corporate entity. A large number of other grievances/demands had also been raised, many of which were internal to the Department. Most of these have been resolved.

In relation to pension and retirement benefits, a framework has been approved on the basis of decisions taken by the GOM which is at Annexure-I. The salient features are given below:-

Pension and Retirement benefits

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

(ii) Technical resignation will not be required.

(iii) Payment of pension would be made by Government.

(iv) Arrangements would be worked out for obtaining pension contribution from the PSU to be deposited with the Government.

(v) Facility to carry over Earned Leave and Half Pay Leave would be provided.

(vi) The pension framework has been made part of the CCS Pension Rules by amending Rule 37 using powers under Article 309 of the Constitution of India.

Job Security

4.5 Any order of removal/dismissal from the PSU would be reviewed by the Administrative Ministry.

AKD

SECRET

TRUE COPY

Central Administrative Tribunal

ANNEXURE-A-3

No.2-29/2000-Restg.
Government of India
Ministry of Communications
Department of Telecommunication Services

New Delhi, the 30th September, 2000

OFFICE MEMORANDUM

Subject:- Setting up of Bharat Sanchar Nigam Limited – transfer of staff – orders issued – regarding

In pursuance of New Telecom Policy 1999, the Government of India has decided to corporatise the service provision functions of Department of Telecommunications (DoT). Accordingly, the undersigned is directed to state that the Government of India has decided to transfer the business of providing telecom services in the country currently run and entrusted with the Department of Telecom Services(DTS) and the Department of Telecom Operations(DTO) as was provided earlier by the Department of Telecommunications to the newly formed Company viz., Bharat Sanchar Nigam Limited (the Company) with effect from 1st October 2000. The Company has been incorporated as a company with limited liability by shares under the Companies Act, 1956 with its registered and corporate office in New Delhi.

2. The Department of Telecom. Services and Department of Telecom. Operations concerned with providing telecom services in the country and maintaining the telecom network/telecom factories were separated and carved out of the Department of Telecommunications as a precursor to corporatisation. It is proposed to transfer the business of providing telecom. services and running the telecom factories to the newly set up Company, viz. , Bharat Sanchar Nigam Limited w.e.f. 1st October 2000. The Government has decided to retain the functions of policy formulation, licencing, wireless spectrum management, administrative control of PSUs, standardisation & valication of equipment and R & D etc. These would be responsibility of Department of Telecommunications (DoT) and Telecom Commission. As such, administrative department for Bharat Sanchar Nigam Limited would be the Department of Telecommunications(DoT).

3. The assets and liabilities of the present Department of Telecom. Services and Department of Telecom. Operations which earlier formed part of DoT will be transferred for this purpose by a separate order.

4. Since it will take some time for the new Company to finalise the terms and conditions for staff and to give an opportunity to Officers, staff, employes and industrial workers working in various circles/offices /units for exercising their options to join the newly created Company, it has been decided

Central Administrative

TRUE COPY

172.

... following interim arrangements for smooth transition of ... and operations to the new company:-

(i) The establishment (officers, staff, employees and industrial workers) sanctioned for exchanges/offices, in various telecom circles, metro districts of Calcutta and Chennai, project circles, civil, electrical and architectural wings, maintenance regions, specialised telecom. units namely Data Networks, National Center for Electronic Switching, Technical and Development circle, Quality Assurance circle (except TEC), training institutions, other units like telecom factories, stores and electrification projects of DoT/DTS/DTO (belonging to various organized services and cadres given in Annexure A to this letter) and posted in these circles/offices/units will stand transferred to Bharat Sanchar Nigam Limited alongwith their posts on existing terms and conditions, on as is where is basis, on deemed deputation, without deputation allowance, with effect from 1st October 2000, i.e., the date of taking over of telecom. operations by the Company from DTS & DTO. Bharat Sanchar Nigam Ltd. will exercise control and supervision of staff working against these posts.

(ii) The organisational structure of restructured Department of Telecommunications (DoT) is given at Annexure 'B'(Tables I to IV giving posts/units to be retained in DoT and to be transferred to BSNL). Consequent to residual work of DTS and DTO being transferred to DoT, it will continue to do the work allocated under Allocation of Business Rules. The officers and staff presently working in these posts will continue to work, until further orders, in their existing posts under DoT and all other officers and staff will stand transferred alongwith their posts on existing terms and conditions, on as is where is basis, on deemed deputation, without deputation allowance, w.e.f. 1.10.2000 to the Company.

(iii) The Telecom Engineering Centre(TEC), Centre for Development of Telematics(C-DOT), Wireless Planning and Coordination(WPC) and Wireless Monitoring Organisation(WMO) will remain with the Government under the control of the Department of Telecommunications. An expert committee will be constituted for distribution of work of TEC between DoT and the Company. Subsequently, as per the report of the expert committee, allocation of staff will be done accordingly.

(iv) Officers and staff belonging to various Central Secretariat Services (mentioned in Annexure A) providing services to offices/units being transferred to the Company will stand transferred alongwith their posts, on as where is basis, on deemed deputation, without ...

Central Administrative Tribunal

TRUE COPY

deputation allowance, w.e.f. 1.10.2000 to the Company on existing terms and conditions of service. Further orders in the matter, would be decided by DoT in consultation with DoPT which is the cadre controlling authority of CSS.

(v) Officers and staff shall continue to be subject to all rules and regulations as are applicable to Government servants, including the CCS (CCA) Rules till such time as they are absorbed finally by the Company after they exercise their options. Their pay scales, salaries and allowances will continue to be governed by existing rules, regulations and orders.

(vi) The management of Bharat Sanchar Nigam Limited shall have full powers and authority to effect transfers of all the staff at all levels working under it.

(vii) Bharat Sanchar Nigam Limited will be competent to create posts as per norms adopted by it, however, it will seek prior approval of the Government for appointments to higher level posts as per provisions of Article 144(1) of its Articles of Association.

(viii) Instructions regarding appointing and disciplinary authorities for employees working on deemed deputation and disposal of pending disciplinary and vigilance cases will be issued separately.

(ix) Regarding pension, gratuity and retiral benefits separate guidelines and order will be issued.

5. These orders will come into effect from 1st October 2000.

(VINOD VAISH)
Secretary to the Government of India

To

1. The Secretary DoT and Chairman Telecom Commission.
2. The Secretary, DTS.
3. The Secretary, DTO and Member(Prodn.) Telecom Commission.
4. Member(Finance) Telecom Commission.
5. Member(Services) Telecom Commission.
6. Member(Technology),Telecom Commission.
7. Additional Secretary(T) and Secretary Telecom Commission
8. Joint Secretary(T), DoT.
9. Joint Secretary(A), DoT.

Tribunal
TRUE COPY

174

OSD Corporatisation (DoT) with request to bring it to the notice of the Board of Directors of Bharat Sanchar Nigam Limited.

11. All Chief General Managers of Telecom Circles, Metro Districts, Project Circles, Maintenance Regions, Telecom Stores, Railway Electrification Projects with request to communicate these orders to all units working under their administrative control.
12. All Principal Chief Engineers / Chief Engineers – Civil and Electrical Wings, with request to communicate these orders to all units working under their administrative control.
13. Chief Architects – Chennai, Calcutta and Mumbai, with request to communicate these orders to all units working under their administrative control.
14. All Chief General Managers – Telecom Factories, with request to communicate these orders to all units working under their administrative control.
15. Sr.DDG(TEC)
16. Sr.DDsG- (BW)/(ARCH.)/(ELECT.)
17. Sr.DDG(ML) - with request to communicate these orders to all PSUs working under their administrative control.
18. Sr.DDG(IC & A)
19. Executive Director, C-DOT.
20. Sr.DDG(Vigilance), DoT
20. DDG(Pers.)

Copy to:-

1. PS to Minister of Communications
2. PS to Minister of State for Communications
3. All Advisers, DoT.

Copy also to:-

1. Bharat Sanchar Nigam Limited.

TRUE COPY

Central Administrative Tribunal

Organisational Structure of Department of Telecommunications
(w.e.f. 1st October 2000)

TABLE-1

Table I	Posts being retained in DoT					
			Directors			
Designation	Unit	I	III	III	IV	V
Secretary(DOT)	DOT	OSD				
Member (F)	DOT					
Member (P)	DOT					
Member (T)	DOT					
Member (S)	DOT					
Addl. Secretary(T)	DOT					
Joint Secretary(T)	DOT	OS(R)				
Joint Secretary(A)	DOT	CP&PR	MVT	OS(T)	OL	OS(A)
Legal Advisor	DOT	DLA				
Advisor(O)	DOT					
Advisor(P)	DOT					
Advisor(F)	DOT	FC				
Advisor(T)	DOT					
Advisor(HRD)	DOT					
Sr. DDG(LTF)	DOT	CP	SAT/RN	Comp. II		
Sr. DDG(ML)	DOT	SU	SU-I	SU-II		
Sr. DDG(KS)	DOT	RS				
Sr. DDG(TCF)	DOT		F-IV			
Sr. DDG(VIC)	DOT	VM	V Tech	V&T	VF	
DDG(BS)	DOT	BS-I	BS-II	BS-III		
DDG(CMR)	DOT					
DDG(EAP)	DOT		SEA-I			
DDG(ERU)	DOT	ERU				
DDG(Estt.)	DOT	MPP	ST			
DDG(IR)	DOT	LP	TP			
DDG(LF)	DOT	LF				
DDG(LR)	DOT	LR-I	LR-II			
DDG (PIP)	DOT	PIP	OS			
DDG(PG)	DOT	PG				
DDG(SR)	DOT	SR				
DDG(VAS)	DOT	VAS-I	VAS-II	VAS-III		
DDG)WPF	DOT					

TRUE COPY

A. List of cadres in the various entities of the Field Units of DTS/DTO.

1. Indian Telecommunication Service Group 'A'
2. Indian P & T AFS Group 'A'
3. P & T Building Works Service (Civil, Architectural and Electrical Disciplines] – Group 'A'
4. Group 'A' GCS of Telecom Factories Organisation
5. Telegraph Traffic Service Group 'A'
6. GCS Group 'A' Gazetted Ministerial
7. GCS Group 'A' Gazetted Non-Ministerial
8. GCS Group 'B' Gazetted Ministerial
9. GCS Group 'B' Gazetted Non-Ministerial
10. Telecom Engineering Services Group 'B'
11. Telegraph Traffic Service Group 'B'
12. GCS Group 'B' Gazetted of Telecom Factories Organisation [AEs, Metallurgists ,Chemists, Personnel Officers, Sr.Security Officers etc.]
13. P & T Civil Wing Group 'B' – This also includes Civil, Electrical and Architectural Wings.
14. P & T AFS Group 'B' (Telecom Wing) (Sr.AO, AO, AAG & JAO)
15. Official Language Cadre (Gazetted) of field units of DTS/DTO
16. Stenographers Cadre(Gazetted) of field units of DTS/DTO
17. GCS Group 'C' Non-Gazetted Ministerial
18. GCS Group 'C' Non-Gazetted Non-Ministerial
19. Other Group 'C' operative/technical cadres of DTS/DTO
20. Other Group 'C' non-operative cadres of DTS/DTO.
21. Other Group 'D' operative cadres of DTS/DTO
22. Other Group 'D' non-operative cadres of DTS/DTO.
23. Any other grade/cadre/service which is not covered above.

B. In addition to the various cadres/grades of above cited list working at the headquarters of the DTS/DTO, following various cadres/grades controlled by Administration Branch, according to the placement in the entities will also stand transferred to the Company, alongwith their posts, on as is where is basis, on deemed deputation basis, without deputation allowance as per such posts/units given in Annexure 'E'.

1. Central Secretariat Service
2. Central Secretariat Stenographers Service
3. Central Secretariat Clerical Service
4. General Central Service Group 'A' Gazetted Ministerial and Non-Ministerial, Group 'B' Gazetted and Non-Gazetted Ministerial and Non-Ministerial and Group 'C' and Group 'D' - Ministerial and Non-Ministerial

TRUE COPY

Administrative Tribunal

1:2

TABLE – II

Table II	Posts being transferred to BSNL					
			Directors			
Designation	Unit	I	II	III	IV	V
Sr. DDG(Arch.)	CE	Arch.				
Sr. DDG(BW)	CE	BW	DS(cwg)	Civil		
Sr. DDG(CS)	CE	CS-I	CS-II	PHE		
Sr. DDG(Elec.)	CE	EW	E&MSOC			
Sr. DDG(IMS)	CE	MSE	MSS	MST	ML	
Sr. DDG(NW/WS)	CE	NW-II	WSE			
Sr. DDG(P)	CE	PD				
Sr. DDG(TRF)	CE	TR-I	TR-II			
Sr. DDG(SW)	CE	Eqp.	ES-I	ES-II	SW	TF
Sr. DDG(TX)	CE	L	OF	TAX	SBP	LTP
Sr. DDG(IA&P)	CE	IC-I	IC-II	Trg. F	SEA-II	
DDG(Accts.)	CE	TA-I	TA-II			
DDG(BLF)	CE	PFR	PFC			
DDG(IT)	CE	Comp. I				
DDG(EFC)	CE	FA-II	Costing	T&C	FA-I	
DDG(MM-I)	CE	MMC	MMD			
DDG(MM-II)	CE	MMS	MMT			
DDG(NM)	CE	MIS	NM			
DDG(NS)	CE	NS				
DDG(PER)	CE	TE	ST-II	WL &Sports		
DDG(PF)	CE	F-III	F-V			
DDG(REG)	CE	REG-I	REG-II			
DDG(RN)	CE	GP	RDTF			
DDG(SAT)	CE	SAT*	NOCC			
DDG(TRG)	CE	DE&VP	TDTF	TRG		
DDG(TS)	CE	TSO	TSP			

TRUE COPY

178.

ANNEXURE

TABLE - III

Table III		LIST OF ADsG AND SECTIONS BEING RETAINED UNDER DOT				
Unit	No. ADsG	S-I	S-II	S-III	S-IV	S-V
Admn.	3	A-I	A-III	A-IV	SCT	
BS	2	BS-I	BS-II	BS-III		
Computer	5	COMPUTER	IT			
ADG-CMR	1					
(EB)	1	EB&I				
ERU(ENGG)	1					
ERU(FIN)	1	ERU				
(IR)	5	IR				
(LEGAL)	2	LEGAL				
LF	2	LF				
LR	3	LR				
NTC	1	NCG				
STN	2	STN-I				
DC		DC				
PEN	1	PEN	PFP			
PAT	1	PAT				
RESTG	2	RESTG				
PARL	2	PARL	TCO			
PP		PP	Library			
SAT	5					
SEA	1	SEA-I				
SGT	1		STG II	STG III		
TIM	1					
VAS	3	VAS				
VIG	6	VIG.I	VIG.II	VT	VIG III	
VMI	4	VM				
(OL)	1	HINDI TR	OL			
TA	1		CASH	PAO		
US(T)	2	GA I	GA.II	CR	Protocol	OBMREC
(MVT)		MVT				
(TFS)		TFS				
(OC)	6	OC	Factory			
(LTP)	7	CP	LTP			
(F-IV)	1	FA-IV				
Total	76					

TRUE COPY

Central Administrative Tribunal

104

ANNEXURE B

TABLE – IV

IV	POSTS OF ACCOUNTS OFFICERS RETAINED IN DOT	
	POST	NUMBER
IV	AO	2
-I	AO	1
	AO	4
	AO	1
IID	PAO	1
	PFP	1
	GPF	1
R STUDY	AO	1
	AO	2
ANCE	AO	1
GER(F)	AO	1
	AO	1

	POST BEING TRANSFERRRED TO BSNL	
	AO	3
	AO	2
II	AO	2
FINANCE	AO	2
	AO	3
	AO	3
	AO	1
	AO	4
	AO	3
GET-CDN	AO	2
	AO	2
II	AO	2
	AO	3
	AO	2
	AO	3
II	AO	3
	AO	2
PUTER	AO	1
	AO	1
	AO	2
ING	AO	1
TING	AO	2

TRUE COPY

180

True Typed Copy

ANNEXURE-A-3

No.2-29/2000-Restg.
Government of India
Ministry of Communications
Department of telecommunication Services

New Delhi, the 30th September, 2000

OFFICE MEMORANDUM

Subject:- Setting up of Bharat Sanchar Nigam Limited – transfer of staff- orders issued – regarding

In pursuance of new Telecom Policy 1999, the Government of India has decided to corporatize the service provision functions of Department of Telecommunications (DoT). Accordingly, the undersigned is directed to state that the Government of India has decided to transfer the business of providing telecom services in the country currently run and entrusted with the department of Telecom Services (DTS) and the Department of Telecom Operations (DTO) as was provided earlier by the Department of Telecommunications to the newly formed Company viz., Bharat Sanchar Nigam Limited (the Company) with effect from 1st October, 2000. The Company has been incorporated as a company with limited liability by shares under the Companies Act, 1956 with its registered and corporate office in New Delhi.

2. The Department of Telecom. Services and Department of Telecom., Operations concerned with providing telecom services

TRUE COPY

Central Administrative Tribunal

in the country and maintaining the telecom network / telecom factories were separated and cared out of the Department of Telecommunications as a precursor to corporatization. It is proposed to transfer the business of providing telecom. Services and running the telecom factories to the newly set up Company, viz., Bharat Sanchar Nigam Limited w.e.f. 1st October 2000. The Government has decided to retain functions of policy formulation, licencing, wireless spectrum management, administrative control of PSUs, standarisation & validation of equipment and R & D etc. These would be responsibility of Department of Telecommunications (DoT) and Telecom Commission. As such, administrative department for Bharat Sanchar Nigam Limited would be the Department of Telecommunications (DoT).

3. The assets and liabilities of the present Department of Telecom. Services and Department of Telecom. Operations which earlier formed part of DoT will be transferred for this purpose by a separate order.

4. Since it will take some time for the new company to finalise the terms and conditions for staff and to give an opportunity to Officers, staff, employees, and industrial workers working in various circles / offices / units for exercising their options to join the newly created Company, it has been decided to make the following interim arrangements for smooth transition of administration and operations to the new company:-

TRUE COPY

i) The establishment (officers, staff, employees and industrial workers) sanctioned for exchanges / offices, in various telecom circles, metro districts of Calcutta and Chennai, project circles, civil, electrical and architectural wings, maintenance regions, specialized telecom. Units namely Data Networks, national Center for electronic Switching, Technical and Development circle, Quality Assurance circle (except TEC) training institutions, other units like telecoms factories, stores and electrification projects of DoT/DTS/DTO (belonging to various organized services and cadres given in Annexure A to this letter) and posted in these circles / offices/ units will stand transferred to Bharat Sanchar Nigam Limited along with their posts on existing terms and conditions, on as is where is basis, on deemed deputation, without deputation allowance with effect from 1st October 2000, i.e. the date of taking over of telecom. Operations by the Company from DTS & DTO Bharat Sanchar Nigam Ltd. will exercise control and supervision of staff working against these posts.

ii) The organisational structure of restructured Department of Telecommunications (DoT) is given at Annexure 'B (Tables I to IV giving posts / units to be retained in Dot and to be transferred to BSNL). Consequent to residual work of DTS and DTO being transferred to DoT, it will continue to do the

TRUE COPY

work allocated under Allocation of Business Rules. The officers and staff presently working in these posts will continue to work, until further orders, in their existing posts under DoT and all other officers and staff will stand transferred along with their posts on existing terms and conditions, on as is where is basis, on deemed deputation, without deputation allowance, w.e.f. 1.10.2000 to the Company.

iii) The Telecom Engineering Centre (TEC) Centre for Development of Telematics (C-DOT), Wireless Planning and Coordination (WPC) and Wireless Monitoring Organisation (WMO) will remain with the government under the control of the Department of Telecommunications. An expert committee will be constituted for distribution of work of TEC between DoT and the Company. Subsequently, as per the report of the expert committee, allocation of staff will be done accordingly.

iv) Officers and staff belonging to various Central Secretariat Services (mentioned in Annexure A) providing services to offices / units being transferred to the Company will stand transferred along with their posts on as is where is basis, on deemed deputation, without deputation allowance, w.e.f. 1.10.2000 to the Company on existing terms and conditions of service. Further orders in the matter would be decided by

COPY

DoT in consultation with DoPT which is the cadre controlling authority of CSS.

v) Officers and staff shall continue to be subject to all rules and regulations as are applicable to Government servants, including the CCS (CCA) Rules till such time as they are absorbed finally by the Company after they exercise their options. Their pay scales, salaries and allowances will continue to be governed by existing rules, regulations and orders.

vi) The management of Bharat Sanchar Nigam Limited shall have full powers and authority to effect transfers of all the staff at all levels working under it.

vii) Bharat Sanchar Nigam Limited will be competent to create posts as per norm adopted by it, however, it will seek prior approval of the Government for appointments to higher level posts as per provisions of Article 144(1) of its Articles of Association.

viii) Instructions regarding appointing and disciplinary authorities for employees working on deemed deputation and disposal of pending disciplinary and vigilance cases will be issued separately.

E COPY

185.

11 e

ix) Regarding pension, gratuity and retiral benefits separate guidelines and order will be issued.

5. These orders will come into effect from 1st October 2000.

Sd/-
(VINOD VAISH)
Secretary to the Government of India

To

1. The Secretary DoT and Chairman Telecom Commission
2. The Secretary, DTS
3. The secretary, DTO and Member (Prodn.) Telecom Commission
4. Member (Finance) Telecom Commission
5. Member (Services) telecom Commission
6. Member (Technology), Telecom Commission
7. Additional secretary (T) and Secretary Telecom Commission
8. Joint secretary (T) DoT
9. Joint Secretary (A), DoT
10. OSD Corporatisation (DoT) with request to bring it to the notice of the Board of Directors of Bharat Sanchar Nigam Limited
11. All Chief General Manager of Telecom Circles, Metro Districts, Project Circles, Maintenance regions, Telecom Stores, Railway Electrification Projects with request to communicate these orders to all units working under their administrative control.
12. All Principal Chief Engineers / Chief Engineers – Civil and Electrical Wings, with request to communicate these orders to all units working under their administrative control.

Central Administrative Tribunal

COPY

13. Chief Architects –Chennai, Calcutta and Mumbai with request to communicate these orders to all units working under their administrative control.
14. All Chief General Managers –Telecom Factories, with request to communicate these orders to all units working under their administrative control
15. Sr. DDG (TEC)
16. Sr. DDsG – (BW) / ARCH.)/ ELECT.)_
17. Sr. DDG (ML – with request to communicate these orders to all PSUs working under their administrative control.
18. Sr. DDG (IC & A)
19. Executive Director, C-DOT
20. Sr. DG (Vigilance) DoT
21. DDG (Pers.)

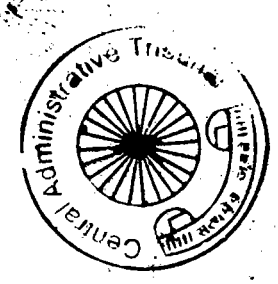
Copy to:-

1. PS to Minister of Communications
2. PS to minister of State for Communications
3. All Advisors, DOT

Copy also to:-

1. Bharat Sanchar Nigam Limited

TRUE COPY



ANNEXURE

Organisational Structure of Department of Telecommunications

(w.e.f. 1st October 2000)

TABLE – I

Table	Posts being retained in DoT					
			Directors			
Designation	Unit	I	II	III	IV	V
Secretary (DOT)	DOT	OSD				
Member (F)	DOT					
Member (P)	DOT					
Member (T)	DOT					
Member (S)	DOT					
Addl. Secretary (T)	DOT					
Joint Secretary (T)	DOT	DS®				
Joint Secretary (A)	DOT	CP&PR	MVT	D(T)	OL	DS(A)
Legal Advisor	DOT	DLA				
Advisor (O)	DOT					
Advisor (P)	DOT					
Advisor (F)	DOT	FC				
Advisor (T)	DOT					
Advisor (HRD)	DOT					
Sr. DDG (LTP)	DOT	CP	SAT/RN	Comp. II		
SDr. DDG(ML)	DOT	SU	SU-I	SU-II		
Sr. DDG (RS)	DOT	RS				
Sr. DDG (TCF)	DOT		F-IV			
Sr. DDG (VIG)	DOT	VM	V Tech	V&T	VF	

TRUE COPY

DDG (BS)	DOT	BS-I	BS-II	BS-III		
DDG (CMR)	DOT					
DDG (EAF)	DOT		SEA-I			
DDG (ERU)	DOT	ERU				
DDG (Estt.)	DOT	MPP	ST			
DDG (IR)	DOT	LP	TP			
DDG (LF)	DOT	LF				
DDG (LR)	DOT	LR-I	LR-II			
DDG (PIP)	DOT	PIP	OS			
DDG (PG)	DOT	PG				
DDG (SR)	DOT	SR				
DDG (VAS)	DOT	VAS-I	VAS_II	VAS-III		
DDG (WPF)	DOT					

TRUE COPY

Central Administrative Tribunal

ANNEXURE 'A'

A. List of cadres in the various entities of the Field Units of DTS/DTO

1. Indian Telecommunication Service group 'A'
2. Indian P & T AFS Group 'A'
3. P & T Building Works Service [Civil, Architectural and Electrical Disciplines] – Group 'A'
4. Group 'A' GCS of Telecom Factories Organisation
5. Telegraph Traffic Service Group 'A'
6. GCS Group 'A' Gazetted Ministerial
7. GCS Group 'A' Gazetted Ministerial
8. GCS Group 'B' Gazetted Ministerial
9. GCS Group 'B' Gazetted Non-Ministerial
10. Telecom Engineering Services Group 'B'
11. Telegraph Traffice Service Group 'B'
12. GCS Group 'B' Gazetted of Telecom Factories Orgainsation [AEs, Metallurgists, Chemists, personnel Officers, Sr. Security Officers etc.]
13. P & T Civil Wing Group 'B' – This also includes Civil, Electrical and Architectural Wings
14. P & T AFS Group 'B' (Telecom Wing) (Sr. AO, AO, AAO & JAO)
15. Official Language Cadre (Gazetted) of filed units of DTS/ DTO
16. Steniographers Cadre (Gazetted) of field units of DTS /DTO
17. CGS Group 'C' Non-Gazetted Ministerial
18. GCS Group 'C' Non-Gazetted Non-Ministerial
19. Other Group 'C' operative / technical cadres of DTS/DTO

TRUE COPY

20. Other Group 'C' non-operative cadres of DTS / DTO
21. Other Group 'D' operative cadres of DTS / DTO
22. Other group 'D' non-operative cadres of DTS/DTO
23. Any other grade/cadre/service which is nont covered above

B. In addition to the various cadres /grades of above cited lsit working at the headquarters of the DTS/DTO, following various cadres /grades controlled by Administration branch, according to the placement in the entities will also stand transferred to the Company, along with their posts, on as is where is basis, on deemed deputation basis, without deputation allowance as per their posts / units given in Annexure 'E'.

1. Central Secretariat Service
2. Central Secretariat Stenographers Service
3. Central Secretariat Clerical Service
4. General central Service Group 'A' Gazetted Ministerial and Non-Ministerial, Group 'B' Gazetted and Non-Gazetted Ministerial and Non-Ministerial and Group 'C' and group 'D' – Ministerial and Non-Ministerial

Central Administrative Tribunal

TRUE COPY

ANNEXURE I

TABLE – II

Table II	Posts being transferred to BSNL					
			Directors			
Designation	Unit	I	II	III	IV	V
Sr. DDG (Arch.)	CE	Arch.				
Sr. DDG (BW)	CE	BW	OS(cwg)	Civil		
Sr. DDG (CS)	CE	CS-I	CS-II	PHE		
Sr. DDG (Elec.0	CE	EW	EW&OC			
Sr. DDG (MS)	CE	MSS	MST	ML		
Sr. DDG (NW/WS)	CE	NW-II	WSE			
Sr. DDG(P)	CE	PD				
Sr DDG (TRF)	CE	TR-I	TR-II			
Sr. DDG (SW)	CE	Eqp.	ES-I	ES-II	SW	TF
Sr. DDG (TX)	CE	L	OF	TAX	SBP	LTP
Sr. DDG (IA&P)	CE	IC-I	IC-II	Trg. F	SEA-II	
DDG (Accis.)	CE	TA-I	TA-II			
DDG (BLF)	CE PFR	PFC				
DDG (T)	CE	Comp. I				
DDG (EFC)	CE	FA-II	Costing	T&C	FA-I	
DDG(MM-I)	CE	MMC	MMD			
DDG(MM-II)	CE	MMS	MMT			
DDG (NM)	CE	MIS	NM			
DDG (NS)	CE	NS				
DDG (PER)	CE	TE	ST-II	WL & Sports		
DDG (PF)	CE	F-III	F-V			
DDG (REG)	CE	REG-I	rEG-II			
DDG(RN)	CE	GP	RDTF			
DDG (SAT)	CE	SAT	NOCC			
DDG (TRG)	CE	DE&VP	TDTF	TRG		

TRUE COPY

192

DDG(TS)	CE	TSO	TSP			

TRUE COPY

Central Administrative Tribunal

ANNEXURE

TABLE- III

Table III		LIST OF ADsG AND SECTIONS BEING RETAINED UDNER DOT				
Unit	No ADsG	S-I	S-II	S-III	S-IV	S-V
Admn.	E	A-I	A-III	A-IV	SCT	
BS	2	BS-I	BS-II	BS-III		
Computer	5	Computer	IT			
ADG-CMR	1					
(EB)	1	EB&I				
ERU (ENGG)	1					
ERU (FIN)	1	ERU				
(IR)	5	IR				
(LEGAL)	2	LEGAL				
LF	2	LF				
LR	3	LR				
STC	1	NCG				
STN	2	STN-I				
DC		DC				
PEN	1	PEN PFP				
PAT	1	PAT				
RESTG	2	RESTG				
PARL	2	PARL	TCO			
PP		PP	Library			
SAT	5					
	SEA	1	SEA-I			
SGT	1		STG II	STG III		
TIM	1					
VAS	3	VAS				
VIG	6	VIG.I	VIG.II	VT	VIG III	
VMI	4	VM				
(OL)	1	HINDI TR	OL			
TA	1		CASH	PAO		
US(T)	2	GA.I	GA.II	CR	Protocol	O&M/REC
(MVT)		MVT				
(TFS)		TFS				
(OC)	6	OC	Factory			
(LTP)	7	CP	LTP			
(F-IV)	1	FA-IV				
Total	76					

TRUE COPY

ANNEXURE B

TABLE – IV

TABLE	PSOTS OF ACCOUNTS OFFICERS RETAINED IN DOT	
Illegible/-	POST	NUMBER
Illegible/-	AO	2
Illegible/-	AO	1
Illegible/-	AO	4
Illegible/-	AO	1
Illegible/-	PAO	1
Illegible/-	PFP	1
Illegible/-	GPF	1
Illegible/-	AO	1
Illegible/-	AO	1
Illegible/-	AO	2
Illegible/-	AO	1
Illegible/-	AO	1
Illegible/-	AO	1
	POST BEING TRANSFERRED TO BSNL	
Illegible/-	AO	3
Illegible/-	AO	2
Illegible/-	AO	2
Illegible/-	AO	2
Illegible/-	AO	3
Illegible/-	AO	3
Illegible/-	AO	1
Illegible/-	AO	4
Illegible/-	AO	2
Illegible/-	AO	2
Illegible/-	AO	2
Illegible/-	AO	2
Illegible/-	AO	3
Illegible/-	AO	2
Illegible/-	AO	3
Illegible/-	AO	3
Illegible/-	AO	2
Illegible/-	AO	1
Illegible/-	AO	1
Illegible/-	AO	2
Illegible/-	AO	1
Illegible/-	AO	2

// TRUE TYPED COPY //

Central Administrative Tribunal

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

ANNEXURE-A-4

195.

Pension Related Circulars/ Orders

DOT No. 36-15/2000-Pen(T) dated 09.11.2000

Subject: Entitlement for Pension, other Retirement Benefits, Job Security and Carry Over of Leave in respect of Employees to be Absorbed in BSNL.

It has been decided by the Government that the employees of DOT who will be absorbed in Bharat Sanchar Nigam Limited (BSNL) will be entitled to the Government's scheme of pension/family pension even after their absorption in BSNL. Payment of pension will be made by the Government and for this, arrangements, are being worked out for obtaining pension contribution from BSNL to be deposited with the Government. It has also been decided that dismissal or removal from service of an employee after his absorption in the PSU for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his dismissal, removal or retrenchment the decisions of BSNL shall be subject to review by the Administrative Ministry. The Government has already issued Notification dated 30.9.2000 to this effect wherein the pension framework has been made part of the CCS (Pension) Rules, amending Rule 37 using powers under Article 309 of the Constitution of India. (Copy enclosed).

It has further been decided that the Earned Leave and the Half Pay Leave at the credit of the employees on the date of absorption shall stand transferred to the PSU.

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

Enclosure

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Pension and Pensioners' Welfare)

NOTIFICATION

New Delhi, the 30th September, 2000

S.O.904(E) – In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Pension) Rules, 1972, namely:

1. (1) These rules may be called the Central Civil Services (Pension) Amendment Rules, 2000.
   (2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Central Civil Services (Pension) Rules, 1972, after rule 37, the following rule shall be inserted, namely:
"37A. Conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Central autonomous body or a Public Sector Undertaking.

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

TRUE COPY

(2) The Central Government shall allow the transferred Government servants an option to revert back to the Government or to seek permanent absorption in the public sector undertaking or autonomous body, as the case may be.

(3) The option referred to in sub-rule (2) shall be exercised by every transferred Government servant in such manner and within such period as may be specified by the Government.

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

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

(6) The employees who opt to revert to Government service shall be re-deployed through the surplus cell of the Government.

(7) The employees including quasi-permanent and temporary employees but excluding casual labourers, who opt for permanent absorption in the public sector undertaking or autonomous body, shall on and from the date of absorption, be governed by the rule and regulations or bye-laws of the public sector undertaking or autonomous body, as the case may be.

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

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

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

(11) The benefits of pension and family pension shall be available to quasi-permanent and temporary Transferred Government servants after they have been confirmed in the public sector undertaking or autonomous body.

(12) The Central Government shall create a Pension Fund in the form of a trust and the pensionary benefits of Absorbed employees shall be paid out of such Pension Fund.

(13) The Secretary of the administrative Ministry of the public sector undertaking or autonomous body shall be the Chairperson of the Board of Trustees which shall include representatives of the Ministries of Finance, Personnel, Public Grievances and Pensions, Labour, concerned the public sector undertaking or autonomous body and their employees and experts in the relevant field to be nominated by the Central Government.

TRUE COPY

(14) The procedure and the manner in which pensionary benefits are to be sanctioned and disbursed from the Pension Fund shall be determined by the Government on the recommendation of the Board of Trustees.

(15) The Government shall discharge its pensionary liability by paying in lump sum as a one time payment to the Pension Fund the pro rata pension or service gratuity and retirement gratuity for the service rendered till the date of absorption of the Government servant in the public sector undertaking or autonomous body.

(16) The manner of sharing the financial liability on account of payment of pensionary benefits by the public sector undertaking or autonomous body shall be determined by the Government.

(17) Lump sum amount of the pro rata pension shall be determined with reference to Commutation Table laid down in Central Service (Commutation of Pension) Rules, 1981.

(18) The public sector undertaking or autonomous body shall make pensionary contribution to the Pension Fund for the period of service to be rendered by the concerned employees under that undertaking or body at the rates as may be determined by the Board of Trustees so that the Pension Fund shall be self-supporting.

(19) If, for any financial or operational reason, the Trust is unable to discharge its liabilities fully from the Pension Fund and the public sector undertaking or autonomous body is also not in a position to meet the shortfall, the Government shall be liable to meet such expenditure and such expenditure shall be debited to either the Fund or to the public sector undertaking or autonomous body, as the case may be.

(20) Payments of Pensionary benefits of the Pensioners of a Government Department on the date of conversion of it into a the public sector undertaking or autonomous body shall continue to be the responsibility of the Government and the mechanism for sharing its liabilities on this account shall be determined by the Government.

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

(22) For the purpose of payment of pensionary benefits including family pension referred to in sub-rule (21), the Government shall specify the arrangements and manner including the rate of pensionary contributions to be made by Bharat Sanchar Nigam Limited to the Government and the manner in which financial liabilities on this account shall be met.

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

(24) Upon conversion of a Government department into a the public sector undertaking or autonomous body–

(a) the balance of provident fund standing at the credit of the absorbed employees on the date of their absorption in thepublic sector undertaking or autonomous body shall, with the consent of such undertaking or

Central Administrative

TRUE COPY

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;

(c) the dismissal or removal from service of the public sector undertaking or autonomous body of any employee after his absorption in such undertaking or body for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his dismissal or removal or retrenchment the decision of the undertaking or body shall be subject to review by the Ministry administratively concerned with the undertaking or body.

(25) In case of Government disinvests its equity in any public sector undertaking or autonomous body to the extent of fifty-one per cent or more, it shall specify adequate safeguards for protecting the interests of the absorbed employees of such public sector undertaking or autonomous body.

(26) The safeguards specified under sub-rule (25) shall include option for voluntary retirement or continued service in the undertaking or body, as the case may be, voluntary retirement benefits on terms applicable to Government employees, employees of the public sector undertaking or autonomous body as per option of employees, assured payment of earned pensionary benefits with relaxation in pension of qualifying service, as may be decided by the Government."

DOT No. 40-13/2002/Pen (T) dated 15.01.2003

Subject: **Payment of Pension/ Family pension to the Employees Absorbed from DoT/ DTS/ DTO in Bharat Sanchar Nigam Limited with effect from 1.10.2000 – reg.**

On introduction of the IDA pay scale by the BSNL by the Office Order no. BSNL/26/SR/2002 dated 07.08.2002 with effect from 1.10.2000 in replacement of existing CDA pay scale for non executive staff (Gr. 'C' and 'D') absorbed from DoT/ DTS/ DTO in Bharat Sanchar Nigam Limited with effect from 1.10.2000, references have been received from various DoT units seeking clarifications for the payment of Pension and Family pension either on CDA pay scale or IDA pay scale. As such doubts raised by various DoT units are clarified as under:

Doubts	Clarifications
1. When pay during last 10 months falls partly in CDA pay scales and partly in IDA pay scales how average emoluments are to be taken for calculating the pension. Nothing is mentioned whether non- practice allowance granted to medical officer in lieu of private practice will also be treated as pay. In addition nothing is mentioned about the stagnation increment whether the same will be treated as pay for the calculation of retirement benefits.	Sub rule 9 of Rule 37 A of CCS (Pension) rules provides that pension of an employee shall be calculated on the basis of his last 10 months average pay. It is implied that for the purpose of calculation of pension, average of last 10 months pay is to be taken irrespective of whether the pay in all 10 months or part thereof is in IDA/ CDA pay scale. Non practicing allowance and the stagnation increment are to be treated as emoluments for calculation of retirement benefits as per Rule 33 of CCS (Pension) Rules and the explanation below Rule 33.

TRUE COPY

Central Administrative Tribunal

ANNEXURE-A-5

Pension Related Circulars/ Orders

DOT No. 36-15/2000-Pen(T) dated 09.11.2000

Subject: Entitlement for Pension, other Retirement Benefits, Job Security and Carry Over of Leave in respect of Employees to be Absorbed in BSNL.

It has been decided by the Government that the employees of DOT who will be absorbed in Bharat Sanchar Nigam Limited (BSNL) will be entitled to the Government's scheme of pension/family pension even after their absorption in BSNL. Payment of pension will be made by the Government and for this, arrangements, are being worked out for obtaining pension contribution from BSNL to be deposited with the Government. It has also been decided that dismissal or removal from service of an employee after his absorption in the PSU for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his dismissal, removal or retrenchment the decisions of BSNL shall be subject to review by the Administrative Ministry. The Government has already issued Notification dated 30.9.2000 to this effect wherein the pension framework has been made part of the CCS (Pension) Rules, amending Rule 37 using powers under Article 309 of the Constitution of India. (Copy enclosed).

It has further been decided that the Earned Leave and the Half Pay Leave at the credit of the employees on the date of absorption shall stand transferred to the PSU.

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

Enclosure

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Pension and Pensioners' Welfare)

NOTIFICATION

New Delhi, the 30th September, 2000

S.O.904(E) – In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Pension) Rules, 1972, namely:

1. (1) These rules may be called the Central Civil Services (Pension) Amendment Rules, 2000.
   (2) They shall come into force on the date of their publication in the Official Gazette.

.n the Central Civil Services (Pension) Rules, 1972, after rule 37, the following rule shall be inserted, namely:

"37A. Conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Central autonomous body or a Public Sector Undertaking.

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

TRUE COPY

200

ANNEXURE-A-6

BHARAT SANCHAR NIGAM LIMITED
213, INDRAPRASTHA HOTEL,
ASHOK ROAD, NEW DELHI – 110 001
(SR CELL)

No. BSNL/11/SR – 2001 Dated January 14, 2002

Sub: Calling of option for absorption of Group 'B' officers in BSNL.

Please find enclosed, a copy of the option form along with the general terms and conditions for exercising option for absorption in BSNL/retention of Government status for Group 'B' officers (4 pages).

1(a) This option for absorption in BSNL will be called from all serving Group 'B' officers who were transferred to BSNL on deemed deputation basis with effect from 01.10.2000 as well as from those who remained in DoT and/or who were on the rolls of DoT/DTS/DTO as on 30.09.2000.

1(b) The effective date of absorption will be 01.10.2000.

2. The exercise of giving option and acknowledgement of the option form shall be at the SSA level for Group 'B' officers in the field and at the office of CGM/JS(A), DOT/Sr.DDG (Pers.), BSNL for officers of circle office/CSS Group 'B'/DOT and BSNL Corporate Office respectively. For other units like MTNL Delhi and Mumbai, Metro districts of Kolkata and Chennai, Projects Circles, Civil, Electrical and Architectural, Maintenance Regions, specialized telecom units namely Data Network, NCES, T&D, QA, TEC, Training Institutions, other units like Telecom Factories, Stores, Electrification etc, the concerned CGM will decide the level and nominate the concerned officer.

3. Four copies of the option form numbered 1 to 4 with one set of general terms and conditions will be sent to each Group 'B' officer latest by 15th January, 2002 and the process of exercising option should be completed not later than 28th February, 2002. All the four copies of the option form will be got filled by each officer and dealt as follows:

- 1st copy (original copy) to go to the service book of the officer.
- 2nd copy to be kept by the authority acknowledging the option form.
- 3rd copy to be sent to the circle office for record and
- 4th copy to be acknowledged by a Group 'A' officer as indicated in para 4 below and returned to the optees.

4. The option exercised by the officers shall be final and should be acknowledged by an officer not below the rank of Sr.Time Scale as designated by the SSA head/CGM as the case may be.

COPY

5. As per the classification of posts, a grade whose maximum is Rs.9000 and above but less than Rs.13500 is considered Group 'B'. However, those officials who are placed in the grade of Rs.5500-9000 or higher due to OTBP/BCR/Grade IV/ACP/Ad-hoc promotion/time bound advancement schemes etc. are not considered Group 'B'.

6. Options can be exercised by officials covered in para 5 above as on the date of exercise of the option. In case, these officers have earlier exercised their option for absorption in BSNL/retention of Government status, as the case may be, along with Group 'C' & 'D' employees, the earlier option shall be treated as null and void. Further, this option shall also be exercised by all Group 'B' officers borne on the regular establishment of DOT/erstwhile DTS, DTO (including those on deputation/deemed deputation to other organizations), presently officiating in Group 'A' or equivalent posts on ad-hoc/local officiating basis.

7. BSNL would absorb optees subject to the availability of posts from 01.10.2000. In case the number of optees is more than the number of posts the senior most optees in their cadre/grade would be given preference for absorption. Therefore, for circle cadres CGM will decide and finalize the list of optees based upon the seniority criteria. For all India cadres, CGMs will forward the list of optees and the number of available posts in the cadre/grade to the respective cadre controlling authorities.

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

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

9. Circle cadre officers presently working in MTNL Mumbai and Delhi, Department of Posts, DOT Units like TEC etc. and opting for BSNL, may be deployed in these cities subject to the availability of posts in these cities. In case, sufficient posts are not available in these cities, these optees will be deployed in other circles depending on the availability of posts in the other circles. A list of such officers shall be sent to Sr.DDG (Pers.), BSNL.

10. Officers not exercising any option as prescribed will be deemed to have opted for Government service.

...UE COPY

202.

11. Information giving details of total Group 'B' staff, number of optees to BSNL, number of optees to DOT and number of officers giving no option in case of each cadre must reach the undersigned latest by 15.03.2002.

14/11/2002

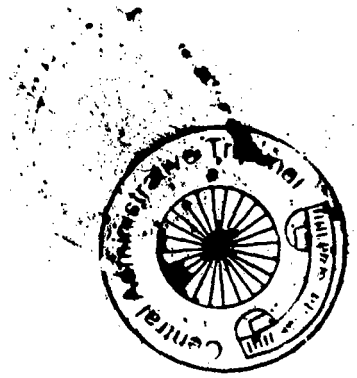
Encl: As above

(A.K. PATHAK)
DDG (SR), BSNL HQrs.

To
All CGMs, BSNL,
CGM, MTNL Mumbai and Delhi
Sr.DDG (TEC)/Sr.DDG(Finance Pers.)
JS (A), DOT/Sr.DDG (Pers.), BSNL

Copy for information to :

Member (Services)
CMD, BSNL/MTNL
All Directors, BSNL Board
All Sr.DDsG/DDsG in BSNL/DOT



203

The Secretary to the Government of India
Ministry of Communications
Department of Telecom
New Delhi.

(THROUGH PROPER CHANNEL)

Sub: Option Form for Absorption in BSNL/Retention of Government Status for Group B officers

(To be filled in quadruplicate)
(For DOT/BSNL/MTNL/CSS Group B Officers)

In accordance with the Government decision to convert the DTS /DTO in BSNL w.e.f. 01.10.2000, as communicated under DTS Memo No. 2-29/2000-Restg. Dated 30.09.2000, I give my declaration as under:

1. **I hereby agree to be absorbed in BSNL w.e.f. 01.10.2000**
   OR
   I do not agree for absorption in BSNL and want to continue in Government service.
   (Strike out whichever is not applicable)

2. I understand that the option exercised by me is final.

3. I understand that on absorption in BSNL, I shall be governed by the Rules and Regulations of BSNL.

4. In case of my option for Government service, I understand that I may be redeployed as per Government rules.

SIGNATURE----------
NAME OF THE EMPLOYEE----------
(In block letters)
Staff No.----------
Place of Posting----------

For Office Use

Acknowledged by (Signature)----------
Name & Designation----------

OPTEE
NON-OPTEE

(Strike out whichever is not applicable)

TRUE COPY

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

1. Service Rules

Till new Service Rules are finalized by the Company, the existing Govt. Rules/ Regulations would be applicable.

2. Option of officers for absorption in (Bharat Sanchar Nigam Limited) BSNL

(a) This option for absorption in BSNL will be called from all serving officers holding Group 'B' posts on substantive basis, who were transferred to BSNL on deemed deputation basis with effect from 01.10.2000 as well as from those who remained in DoT and who were on the rolls of DOT/DTS/DTO as on 30.09.2000. For this purpose, as per the classification of posts, a grade whose maximum is Rs.9000 and above but less than Rs.13500 is considered Group 'B'. However, those officials who are placed in the grade Rs.5500-9000 or higher due to OTBP/BCR/Grade IV/ACP/Ad-hoc/time bound advancement schemes etc. are not considered Group 'B'. Further, this option shall also be exercised by all Group 'B' officers borne on the regular establishment of the DOT/DTS/DTO who are presently officiating in Group 'A' or equivalent posts on ad-hoc/local officiating basis.

(b) BSNL would absorb optees subject to the availability of posts in respective cadre/grade. In case, the number of optees is more than the number of posts available, the senior most optees in their cadre/grade would be given preference.

(c) The effective date of absorption will be 01.10.2000.

(d) The option once exercised would be final.

3. Option of officers facing Disciplinary Cases

The officers with on-going disciplinary cases can also opt for absorption in BSNL but their absorption will be subject to the outcome of the vigilance case. The appeal/petition cases for these officers will also be decided by DOT authorities.

4. Change over to IDA Pay Scales

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

TRUE COPY

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

5. Payment of Pension

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

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

6. Inter-se Seniority

The inter-se seniority of officers in various grades in BSNL will be same as the seniority being maintained in DOT. However, the names of the officers who do not opt for BSNL will be deleted.

7. Promotion

a. The existing rule of promotion to higher grades of parent departments shall continue till BSNL formulates its own rules and regulations.

b. The officers officiating in higher grades on ad-hoc/local officiating basis will be absorbed in BSNL in the substantive grade only. However, they shall continue to get the higher officiating pay so long as the BSNL management continues the officiating arrangements.

8. GPF

The amount of subscription together with interest thereon at credit with the employee in the General Provident Fund account will be transferred to his/her new Provident Fund account under the BSNL as provided for under Sub-rule 24 (a) of Rule 37 A of the CCS (Pension) Rules, as amended from time to time.

9. CGEIS

The CGEIS will continue till 31.12.2001. Meanwhile, BSNL is making efforts to formulate a similar insurance scheme for absorbed employees through LIC.

Central Administrative Tribunal

TRUE COPY

10. Residential Quarters

The DOT officers, who are allottees of BSNL quarters, will continue to occupy the same on "as is where is basis" even after permanent absorption in BSNL. However, the officers, who opt for BSNL and are occupying quarters from the Estate pool, would be allowed to retain the same up to 30.09.2005 on payment of standard license Fee. Similarly, those officers who do not opt of BSNL and are occupying BSNL quarter would also be allowed to retain BSNL quarters up to 30.09.2005 on payment of standard License Fee.

11. Age of Superannuation

Age of superannuation for all the non-Board level officers in BSNL will be regulated in accordance with Government Rules applicable to PSUs.

12. Leave

BSNL has decided to adopt the Government Leave Rules till such time it finalizes its own rules. However, the Earned Leave and Half-pay leave at the credit of the employee shall stand transferred to BSNL on the date of absorption, as provided for under Sub-rule 24 (b) of Rule 37 A of the CCS (Pension) Rules.

13. Para 38 Transfers

BSNL has decided that the para 38 transfers would continue to be applicable to the BSNL officers in the DOT after absorption till BSNL finalizes its own rules.

14. Compassionate Appointment

BSNL has decided that the DOT policy regarding compassionate appointment would continue in BSNL till BSNL finalizes its own rules.

15. Pending HRD Issues

The HRD issues referred to BSNL by DOT would be settled by BSNL.

16. Medical Benefits

It has been decided to extend CGHS facilities to those serving employees of BSNL who were availing CGHS facilities prior to their transfer to BSNL as agreed by Ministry of Health vide their letter No. 4 – 81/2000 – C&P/CGHS-CGHS (P) dated 20.04.2001. The existing medical benefits as admissible in DOT would continue in BSNL till alternative arrangements are made in BSNL.

17. Timeframe for absorption

Group 'B' officers shall exercise their option for permanent absorption in BSNL by 28.02.2002.

TRUE COPY

ANNEXURE-A-7

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;

(c) the dismissal or removal from service of the public sector undertaking or autonomous body of any employee after his absorption in such undertaking or body for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his dismissal or removal or retrenchment the decision of the undertaking or body shall be subject to review by the Ministry administratively concerned with the undertaking or body.

(25) In case of Government disinvests its equity in any public sector undertaking or autonomous body to the extent of fifty-one per cent or more, it shall specify adequate safeguards for protecting the interests of the absorbed employees of such public sector undertaking or autonomous body.

(26) The safeguards specified under sub-rule (25) shall include option for voluntary retirement or continued service in the undertaking or body, as the case may be, voluntary retirement benefits on terms applicable to Government employees, employees of the public sector undertaking or autonomous body as per option of employees, assured payment of earned pensionary benefits with relaxation in pension of qualifying service, as may be decided by the Government."

DOT No. 40-13/2002/Pen (T) dated 15.01.2003

Subject: **Payment of Pension/ Family pension to the Employees Absorbed from DoT/ DTS/ DTO in Bharat Sanchar Nigam Limited with effect from 1.10.2000 – reg.**

On introduction of the IDA pay scale by the BSNL by the Office Order no. BSNL/26/SR/2002 dated 07.08.2002 with effect from 1.10.2000 in replacement of existing CDA pay scale for non executive staff (Gr. 'C' and 'D') absorbed from DoT/ DTS/ DTO in Bharat Sanchar Nigam Limited with effect from 1.10.2000, references have been received from various DoT units seeking clarifications for the payment of Pension and Family pension either on CDA pay scale or IDA pay scale. As such doubts raised by various DoT units are clarified as under:

Doubts	Clarifications
1. When pay during last 10 months falls partly in CDA pay scales and partly in IDA pay scales how average emoluments are to be taken for calculating the pension. Nothing is mentioned whether non- practice allowance granted to medical officer in lieu of private practice will also be treated as pay. In addition nothing is mentioned about the stagnation increment whether the same will be treated as pay for the calculation of retirement benefits.	Sub rule 9 of Rule 37 of CCS (Pension) rules provides that pension of an employee shall be calculated on the basis of his last 10 months average pay. It is implied that for the purpose of calculation of pension, average of last 10 months pay is to be taken irrespective of whether the pay in all 10 months or part thereof is in IDA/ CDA pay scale. Non practicing allowance and the stagnation increment are to be treated as emoluments for calculation of retirement benefits as per Rule 33 of CCS (Pension) Rules and the explanation below Rule 33.

Central Administrative Tribunal

TRUE COPY

2. In case of absorbed employee retired between 01.10.2000 to 30.6.2001 the pay falls in both the CDA and IDA within 10 months. What will be the relief admissible whether part of CDA and part IDA or industrial relief on the pension calculated?	Once pension/ family pension is determined in accordance with Sub rule 9 of Rule 37 A of CCS (Pension) rules, the employee shall also be eligible to Dearness Relief as per Industrial Dearness Allowance pattern as provided in Sub rule 10 of Rule 37 A.
3. What will be the emoluments for determining the retirement gratuity/ death gratuity on IDA pay- scale?	As per Rule 50 (5) of CCS (Pension) Rules, the emoluments for the purpose of Gratuity admissible shall be reckoned in accordance with Rule 33 provided that if the emoluments of the Government servant have been reduced during the last 10 months of his service otherwise than as a penalty, average emoluments as referred to in Rule 34 shall be treated as emolument.
4. Whether the minimum pension of Rs.1275/- p.m. as well as maximum pension of Rs.15000/- p.m. (i.e., 50% of average emoluments in all cases) as applicable in the CDA pay scale is also to be applied in the IDA pay scales.	The ceiling of minimum and maximum pension as existing in CCS (Pension) Rules shall continue unless specifically approved otherwise by the Government.
5. Whether commutation of pension as applicable at 40% (maximum) on CDA pay scale is also to be a- 'lied in IDA pay scale?	Yes
There may be cases where the employee(s) expired on or after 1.10.2000 but before the issue of instructions for opting for BSNL and could not exercise his/her option. How these cases are to be settled?	This is not a pension related issue. BSNL management with the approval of the competent authority has to decide about the admissibility of IDA pay scales to such employees. Calculation of pension follows accordingly.

While determining the pensionary benefits and retirement benefits on IDA pay scales, CCS (Pension) Rules, 1972 (as amended from time to time) should invariably be consulted and if still there is any doubt, only then the reference may be made by quoting the problem and correct rule number of the CCS (Pension) Rules and the need for clarification.

This issues with the approval of Member (Services) & Member (Finance), Telecom Commission.

DOT No. 6-138/90-TA-I/Vol. VI dated 21.02.2003

Subject: **Authorisation of Pension Payment on IDA Payscale of BSNL**

As per clarification given by DoT (Hq) vide O.M. No. 40-13/2002-Pen(T) dated 15.01.2003, PPOs of the absorbed Group 'C' and 'D' employees are to be issued on IDA pay scales. It has thus been decided that to distinguish the PPO on the IDA pay scale of BSNL from the PPO on the CDA pay scale of DoT, the following rubber stamp may be arranged for affixing on the PPO on the IDA pay scale clearly (both Disburser's portion and Pensioner's portion), on first page at the right hand corner, and on the page for "Section 2 - Detail of pension" (Right hand corner):

"PENSION PAYMENT ON IDA PAY SCALE-BSNL"

2. In addition to this, while forwarding the PPO to the concerned CCA/ Jt.CCA/ Dy. CCA or Director/ Dy. Director of Postal Accounts for countersignature and embossing the special seal, the same stamp may be

TRUE COPY

Administrative Tribunal

ANNEXURE-A-8

No. 6T-6/2002-SU

GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS & INFORMATION TECHNOLOGY
DEPARTMENT OF TELECOMMUNICATIONS
SANCHAR BHAVAN, 20 ASHOKA ROAD
NEW DELHI – 110 001
(SU SECTION)

Dated, the 28th July, 2003

In exercise of the powers conferred by the Article 145 of Articles of Association of the Bharat Sanchar Nigam Limited (BSNL), the President is pleased to direct the BSNL that the pay scales, fitment formula, DA guidelines and ceiling on perquisites as below, for the executives may be implemented w.e.f. 1/10/2000.

1.1 Pay scales

S.No.	Existing CDA Scale	Corresponding IDA Scale
1	6500-200-10500	9850-250-14600
2	7500-250-12000	11875-300-17275
3	8000-275-13500	13000-350-18250
4	10000-325-15200	14500-350-18700
5	12000-375-16500	16000-400-20800

1.2 Fitment method: In respect of executives appointed by BSNL in CDA pay scales on or after 01/10/2000, the executives will be deemed to have been appointed in the corresponding IDA pay scale and accordingly their pay will be fixed at the minimum of the IDA pay scale corresponding to the CDA scale in which they were appointed. In respect of the DoT/DTS/DTO Group 'B' and '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 pay scales would be fixed at the stage corresponding to the stage which they had reached under CDA pay scale on 30/09/2000 i.e. pay fixation will be on point to point basis. In case of E5 level (CDA scale Rs. 12000 – 375 – 16500), pay is to be initially fixed at 2 stages above the minimum. In cases where the minimum benefit (pay + D.A. taken together) on absorption in BSNL on 01/10/2000 falls short of Rs. 2500/- per month, it will be enhanced to Rs 2500/- p.m.

-15-

TRUE COPY

Scanned by CamScanner

210

(192)

1.3 The HRA, CCA, DA and other perquisites will be governed as per DPE guidelines contained in OM No. 2(49)/96-DPE(WC) dated 25th June 1998 (copy enclosed).

2. The scales of pay indicated above are only a ceiling and actual fixation and payments would depend on the capacity of the Enterprise to pay. The resources for meeting the increase obligation of salaries and wages must be internally generated and must come from improved performance in terms of productivity and profitability.

3. This issues with the concurrence of Advisor (F) vide Dy. No: 1332 dated 09/07/2003.

(Madhu Arora)
Director (SUD

Sri Prithipal Singh
The Chairman and Managing Director,
Bharat Sanchar Nigam Ltd.(BSNL),
Statesman House
New Delhi.

Issued
28-1-

Copy to:-
Chairman (T.C).
Member (S)/Member (F).
DDG (Estt.), DoT.
DDG (SR), DoT.
FA – IV Section, DoT.

Administrative Tribunal

TRUE COPY

Scanned by CamScanner

Time typed copy

No.616/2002-SU

GOVERNMENT OF INDIA

MNISTRY OF COMMUNCIATIONS & INFORMATION TECHNOLOGY,

DEPARTMENT OF TELECOMMUNICATIONS

SANCHAR BHAVAN, 20 ASHOKA ROAD

NEW DELHI-1100001

(SU SECTION)

Dated the 28th July, 2003

In exercise of the powers conferred by the Article 145 of Articles of Association of the Bharat Sanchar Nigam Limited (BSNL), the President is pleased to direct the BSNL that the pay scales, fitment formula, DA guidelines and ceiling on perquisites for below, for executives may be implemented w.e.f. 1/10/2000.

1.1 Pay scales

S. No.	Existing CDA Scale	Corresponding IDA Scale
1.	6500-200-10500	9850-250-14600
2.	7500-250-12000	11875-300-17275
3.	8000-275-13500	13000-350-18250
4.	10000-325-15200	14500-350-18700
5.	12000-375-16500	10000-400-20800

1.2 **Fitment method:** In respect of executives appointed by BSNL in CDA pay scales on or after 01/10/2000, the executives will be deemed to have

TRUE COPY

been appointed in the corresponding IDA pay scale and accordingly their pay will be fixed at the minimum of the IDA pay scale corresponding in the CDA scale in which they were appointed. In respect of DoT/DTS/DTO Group 'B' and 'A' officers (including CCS / 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 pay scales would be fixed at the stage corresponding to the stage which they had reached under CDA pay scale on 30/09/2000 i.e. pay fixation will be on point to point basis. In case of E5 level (CDA scale Rs.12000 – 375 – 16500), pay is to be initially fixed at 2 stages above the minimum. In cases where the minimum benefit (Pay + D.A. taken together) on absorption in BSNL on 01/10/2000 falls short of Rs.2500/- per month, it will be enhanced to Rs.25000/- p.m.

1.3 The HRA, CCA, DA and other perquisites will be governed as per DPE guidelines contained in OM No.2(49)/96-DPE(WC) dated 25th June 1999 (copy enclosed).



TRUE COPY

2. The scales of pay indicated above are only a ceiling and actual fixation and payments would depend on the capacity of the Enterprise to pay. The resources for meeting the increase obligation of salaries and wages must be internally generated and must come from improved performance in terms of productivity and profitability.

3. This issues with the concurrence of Advisor (F) vide Dy. No.1332 dated 09/01/2003.

Sd/-
(Madhu Arora)
Director (SUI)

Shri Prithipal Singh
The Chairman and Managing Director
Bharat Sanchar Nigam Ltd (BSNL)
Statesman House
New Delhi

Copy to:
Chairman (T.O.)
Member (S)/Member (F)
DDG (Estt.), DoT
DDG (SR), DoT
FA – IV Section, DoT

// TRUE TYPED COPY //

214

ANNEXURE-A-9

Immediate

No. 400-23/2003-STG-III
Government of India
Ministry of Communications & IT
Department of Telecommunications
Sanchar Bhawan, 20, Ashoka Road, New Delhi - 1
(STG-III Section)

New Delhi, the 29th August, 2003

To,

1. The Chairman & Managing Director,
Bharat Sanhar Nigam Limited,
New Delhi.

2. The Chairman & Managing Director,
Mahanagar Telephones Nigam Limited,
New Delhi.

Subject: Absorption of Group 'B' officers in BSNL/MTNL.

Sir,

I have been directed to say that in pursuance of the directions of Hon'ble CAT Principal Bench dated 06.08.2003 in OA No. 298/2002 the absorption of Group 'B' officers in BSNL/MTNL is to be completed expeditiously. For this purpose following actions may be taken by the BSNL/MTNL urgently.

1. IDA Pay-scale, Fitment formula already intimated to BSNL and Promotional policy of the BSNL should be circulated immediately.
2. The number of vacancies existing in the BSNL/MTNL as on 30.09.2000 in various grades/services may be intimated. The number of officers to be absorbed in MTNL & BSNL will be up to the number of vacancies existing in the respective PSUs as on 30.09.2000.
3. A single option form has been devised requiring the officials to indicate their order of preference (i.e. providing multiple option) of absorption in MTNL/BSNL or retention of Government status. A copy of the option form is enclosed. The BSNL/MTNL may circulate this option form to all the circles under them and allow 45 days time with effect from 05.09.2003 to exercise the option by the officers. The details of optees/ option forms may be furnished to the DoT in 15 days thereafter. This time schedule is to be adhered to very strictly.
4. While calling for the option it may be made clear to the officers that they should not give any conditional option. Conditional options, if any given by the officer, shall be treated as having opted for retention of Government status. CSS staff can exercise option only for BSNL. Circle cadres of MTNL and BSNL can exercise options for the respective PSUs only. Options received from circle cadre officers may be retained at the circle itself. The modalities of issue of Presidential Orders in respect of such officers will be communicated later.

Action in the matter may be taken accordingly

TRUE COPY

215

140

5. For the present options from available Group B officers only will be called. The absorption will take place in the substantive grade as of 1.10.2000. Options from Group 'A' will be called for in next phase. However, Group B officers promoted after 1.10.2000 as Group A, if desire to get absorbed in their substantive Grade of Group B, will be allowed to exercise their option, leaving their seniority issue open till absorption of Group A is completed.
6. The options from officers retired after 01.10.2000 will be considered, if they so desire.
7. The options already received after 28.12.2001 will be displayed/ put on internet. In regard to list of optees of absorption in MTNL this will be done by DOT on its website. And for list of optees of absorption in BSNL, this will be done by BSNL CO on BSNL website, on behalf of DoT. Those desirous to revise their option will be allowed to do so.
8. IDA Pay Scales corresponding to certain CDA pay scales are yet to be received from DPE. Such Group 'B' Officers will be allowed to exercise their options and their fitment will be done in appropriate IDA pay scale subsequently. DPE will be requested to expedite the clearance of IDA Scale proposal.

It is requested that immediate necessary action may be taken.

Enclosure: As above

Yours faithfully,

(Dr. Vincent Barla)
Under Secretary to the Govt. of India
Tel - 23036876

Copy to:

1. PS to Hon'ble MOC&IT / MOS (C&IT)
2. Sr. PPS to Chairman, TC
3. PPS to M (S) / M (P) / M (T)/ M (Finance)
4. All Advisers
5. AS (T) / JS (T) / JS (A)
6. Sr. DDG (TEC) / Sr. DDG (SU)/ DDG (SR)
7. CMD (TCIL)
8. All Sr. DDsG / DDsG / Directors / ADsG / US / Sections, DoT
9. US (SEA) / US (TFS) / US (CWG) / US (SNG) / US (SGT) / SO (A&E)
10. Guard File

Central Administrative Tribunal

TRUE COPY

216

91 11 3310026

FORM SHOWING THE SERVICE PARTICULARS OF OPTEES

1. NAME IN FULL :
2. MALE / FEMALE :
3. FATHER'S NAME :
4. STAFF NO. :
5. DATE OF BIRTH :
6. DATE OF SUPPERANNUATION :
7. EDUCATION QUALIFICATION :
8. DATE OF FIRST APPOINTMENT & NAME OF THE POST / GRADE :
9. NAME OF POST / GRADE PRESENTLY HELD
   A) ON ADHOC OR LOCAL OFFICIATING BASIS :
   B) ON REGULAR BASIS :
10. NAME / GRADE OF POST HELD AS ON 30.9.2000 :
    A) ON REGULAR BASIS
    B) ON ADHOC / LOCAL OFFICIATING

Signature :
Name :
Staff No. :
Designation :
Circle/SSA/Place :

Countersigned by controlling Officer :
Signature :
Name :
Designation :
Date :

Verified by AO (Pay)

Certified that the particulars given by the employees concerned have been verified from the Service Book and found correct.

Signature :
Name :

Central Administrative Tribunal

TRUE COPY

11 2 217

OPTION FORM

Option for absorption in MTNL / BSNL by Group 'B' officers of DOT

To,

The Secretary,
Department of Telecommunications, Sanchar Bhawan,
New Delhi-1

Reference: DOT Office Memorandum No. 400-41/98-STG-II dated 8.5.2000 and BSNL HQ OM No. BSNL / 31 / SR-2001 dated 14.01.2002 and subsequent clarifications.

Sir,

With reference to aforesaid O.Ms. I am to state that:-

1. I have carefully gone through the terms and conditions of permanent absorption in the regular services of MTNL / BSNL and have understood them.
2. My particulars given in the attached proforma are correct to the best of my knowledge.
3. I hereby opt for permanent absorption in BSNL / MTNL in the following order of preference:-

A. I) _____
II) _____

OR

B. I want to continue in Government Service

4. I understand that if I could not be absorbed according to my first choice, I shall be absorbed according to second choice in that order. I also understand that optees for Government Service are liable to be placed at the disposal of Redeployment & Training Division, DOT&T, as per rules.

Yours faithfully,

Date_____

Signature _____
Name and Designation _____
Staff No. _____
Present Office _____
Unit of Posting _____
Circle _____

Note:-

i) This Option form is to be filled in quadruplicate
-- One copy for employee concerned.
-- One copy to be kept in the Service Book of employee concerned in the Unit.
-- One copy to be sent to DOT, Sanchar Bhawan, New Delhi.
-- One copy to be retained by the CGM concerned.

ii) Conditional options shall not be accepted.

(TO BE FILLED BY THE CONTROLLING OFFICER)

No._____ dated _____

The above Option Form, duly completed and signed by the above named employee is forwarded for onward transmission to concerned Staff Branch, DOT, Sanchar Bhawan, New Delhi for further needful. Acknowledgement receipt has been given to the above employee.

Date:- _____

Signature _____
Name _____
Designation _____
Office / Unit _____

To,

**

Department of Telecommunications,
Sanchar Bhawan, New Delhi.

** To be addressed / sent to the concerned cadre controlling authority.

Central Administrative Tribunal

TRUE COPY

218.

OPTION FORM Annexure V

Option for absorption in MTNL / BSNL by Group 'B' officers of DOT

To

The Secretary,
Department of Telecommunications, Sanchar Bhawan,
New Delhi-1

Reference: DOT Office Memorandum No. 400-41/98-STG-III dated 8.5.2000 and BSNL HQ OM No. BSNL/11/SR-2001 dated 14-01-2002 and subsequent clarifications.

Sir,

With reference to aforesaid OMs, I am to state that:-

1. I have carefully gone through the terms and conditions of permanent absorption in the regular service of MTNL / BSNL and have understood them.
2. My particulars given in the attached performa are correct to the best of my knowledge.
3. I hereby opt for permanent absorption in BSNL /MTNL in the following order of preference:-

A. i) .....
ii) .....

OR

B. I want to continue in Government Service.

4. I understand that if I could not be absorbed according to my choice, I shall be absorbed according to second choice in that order. I also understand that optees for Government Service are liable to be placed at the disposal of Redeployment & Training Division, DOP&T, as per rules.

Date.....

Yours faithfully,

Signature :
Name & Designation
Staff No. :
Present Office :
Unit of posting
Circle

Note:-

i) This option form is to be filled in quadruplicate
...One copy for employee concerned.
...One copy to be kept in the Service Book of employee concerned in the Unit
...One copy to be sent to DOT, Sanchar Bhawan, New Delhi
...One copy to be retained by the CGM concerned

ii) Conditional option shall not be accepted.

(TO BE FILLED BY THE COTROLLING OFFICER)

No..... dated.....

The above Option Form, duly signed by the above named employee is forwarded for onward transmission to concerned Staff Branch, DOT, Sanchar Bhawan, New Delhi for further needful. Acknowledgement receipt has been given to the above employee.

Date:-..... Signature .....
Name

.....
Designation

.....
Office / Unit

.....

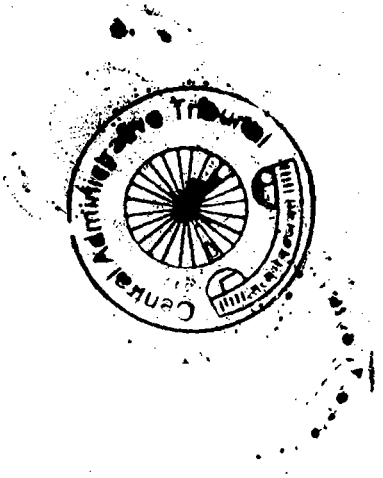
To

**

Department of Telecommunications,
Sanchar Bhawan, New Delhi

** To be addressed / sent to the concerned cadre controlling authority

TRUE COPY



FORM SHOWING THE SERVICE PARTICULARS OF OPTEES

1. NAME IN FULL :
2. MALE / FEMALE :
3. FATHER'S NAME :
4. STAFF NO. :
5. DATE OF BIRTH :
6. DATE OF SUPERANNUATION :
7. EDUCATIONAL QUALIFICATION :
8. DATE OF FIRST APPOINTMENT & NAME OF THE POST /GRADE :
9. NAME OF THE POST / GRADE PRESENTLY HELD :
   A) ON AFDHOC OR LOCAL OFFICIATING BASIS :
   B) ON REGULAR BASIS :
10. NAME/GRADE OF POST HELD AS ON 30.09.2000 :
    A) ON REGULAR BASIS :
    B) ON ADHOC/LOCAL OFFICIATING :

Signature :
Name :
Staff No. :
Designation :
Circle/SSA/Place :

Countersigned by controlling Officer :
Signature :
Name :
Designation :
Date :

Verified by AO (Pay)

Certified that the particulars given by the employees concerned have been verified from the service Book and found correct.

Signature :
Name :

TRUE COPY

220

True typed copy

ANNEXURE-A-9

Immediate

No.400-23/2003-STG-III
Government of India
Ministry of Communications & IT
Department of Telecommunications
Sanchar Bhawan, 20, Ashoka Road, New Delhi – 1
(STG-III Section)

New Delhi, the 29th August, 2003

To

1. The Chairman & Managing Director,
   Bharat Sanchar Nigam Limited,
   New Delhi

2. The Chairman & Managing Director,
   Mahanagar Telephones Nigam Limited,
   New Delhi

Subject:- Absorption of Group 'B' officers in BSNL / MTNL

Sir,

I have been directed to say that in pursuance of the directions of Hon'ble CAT Principal Bench dated 06.08.2003 in OA No.298/2002 the absorption of Group 'B' officers in BSNL/MTNL is to be completed expeditiously. For this purpose following actions may be taken by the BSNL / MTNL urgently.

1. IDA Pay-scale, Fitment formula already intimated to BSNL and Promotional policy of the BSNL should be circulated immediately.

2. The number of vacancies existing in the BSNL/MTNL as on 30.09.2000 in various grades/ services may be intimated. The

TRUE COPY

number of officers to be absorbed in MTNL & BSNL will be up to the number of vacancies existing in the respective PSUs as on 30.09.2000.

3. A single option form has been devised requiring the officials to indicate their order of preference (i.e. providing multiple option) of absorption in MTNL/BSNL or retention of government status. A copy of the option form is enclosed. The BSNL/MTNL may circulate this option form to all the circles under them and allow 45 days time with effect from 05.09.2003 to exercise the option by the officers. The details of optees / option forms may be furnished to the DoT in 15 days thereafter. This time schedule is to be adhered to very strictly.

4. While calling for the option it may be made clear to the officers that they should not give any conditional option. Conditional options, if any given by the officer, shall be treated as having opted for retention of government status. CSS staff can exercise option only for BSNL. Circle cadres of MTNL and BSNL can exercise options for the respective PSUs only. Options received from circle cadre officers may be retained at the circle itself. The modalities of issue of Presidential Orders in respect of such officers will be communicated later.

Action in the matter may be taken accordingly.

TRUE COPY

5. For the present options from available Group B officers only will be called. The absorption will take place in the substantive grade as of 01.10.2000. Option from Group 'A' will be called for in next phase. However, Group B officers promoted after 01.10.2000 as Group A, if desire to get absorbed in their substantive Grade of Group B, will be allowed to exercise their option, leaving their seniority issue open till absorption of Group A is completed.

6. The options from officers retired after 01.10.2000 will be considered, if they so desire.

7. The options already received after 28.12.2001 will be displayed/put on internet. In regard to list of optees of absorption in MTNL, this will be done by DOT on its website. And for list of optees of absorption in BSNL, this will be done by BSNL OO on BSNL website, on behalf of DoT. Those desirous to revise their option will be allowed to do so.

8. IDA Pay Scales corresponding to certain CDA pay scales are yet to be received from DPE. Such group 'B' Officers will be allowed to exercise their options and their filment will be done in appropriate Ida pay scale subsequently. DPE will be requested to expedite the clearance of IDA Scale proposal.

It is requested that immediate necessary action may be taken.

TRUE COPY

223

148

Enclosure: As above

Yours faithfully,
Sd/-
(Dr. Vincent Barla)
Under Secretary to the Govt. of India
Tel – 23036876

Copy to:

1. PS to Hon'ble MOC&IT / MOS (C&IT)
2. Pr. PPS to Chairman, TC
3. PPS to M (S) / M (P) / M (T) / M (Finance)
4. All Advisers
5. AS (T) / JS (T) / JS (A)
6. Sr. DDG (TEC) / Sr. DDG (SU) / DDG (SR)
7. CMD (TCIL)
8. All Sr. DDsG / DDsG / Directors / ADsG / US / Sections, DoT
9. US (SEA) / US (TFS) / US (CWG) / US (SNG) / US (SGT) / SO (A&E)
10. Guard File

Central Administrative Tribunal

TRUE COPY

224.

91 113310028

FORM SHOWING THE SERVICE PARTICULARS OF OPTEES

1.	NAME IN FULL	:
2.	MALE / FEMALE	:
3.	FATHER'S NAME	:
4.	STAFF NO.	:
5.	DATE OF BIRTH	:
6.	DATE OF SUPERANNUATION	:
7.	EDUCATION QUALIFICATION	:
8.	DATE OF FIRST APPOINTMENT & NAME OF THE POST / GRADE	:
9.	NAME OF POST / GRADE PRESENTLY HELD	:
	A) ON ADHOC OR LOCAL OFFICIATING BASIS	:
	B) ON REGULAR BASIS	:
10.	NAME / GRADE OF POST HELD AS ON 30.09.2000	:
	A) ON REGULAR BASIS	:
	B) ON ADHOC / LOCAL OFFICIATING	:

Signature :
Name :
Staff No. :
Designation :
Circle / SSA / Place :

Countersigned by controlling Officer:
Signature :
Name :
Designation :
Date :

Verified by AO (Pay)Certified that the particulars given by the employees concerned have been verified from the Service Book and found correct.

Signature :
Name :

TRUE COPY

Central Administrative Tribunal

225

150

OPTION FORM

Option for absorption in MTN / BSNL by Group 'B' officers of DOT

To

The Secretary,

Department of Telecommunications, Sanchar Bhawan,

New Delhi

Reference: DOT Office Memorandum No.4400-41/98/STG-III dated 8,.5.20000 and BSNL, HQ OM No. BSNL/11/SR-2001 dated 14.01.2002 and subsequent clarifications

Sir,

With reference to aforesaid O.Ms. I am to state that:-

1. I have carefully gone through the terms and conditions of permanent absorption in the regular services of MTNL / BSNL and have understood them.
2. My particulars given in the attached proforma are correct to the best of my knowledge.
3. I hereby opt for permanent absorption in BSNL / MTNL in the following order of Preference:-

A. I) _____

II) _____

OR

B. I want to continue in Government Service

4. I understood that if I could not be absorbed according to my first choice, I shall be absorbed according to second choice in their order. I also understand that optees for Government Service are liable to be placed at the disposal of Redeployment & Training Division, DOP&&T, as per rules.

TRUE COPY

Yours faithfully,

Date: _____

Signature _____
Name and Designation _____
Staff _____
Present Office _____
Unit of Posting _____
Circle _____

Note:-

i) This Option form is to be filled in quadruplicate

-- One copy for employee concerned

-- One copy to be kept in the Service book of employee concerned in the Unit

-- One copy to be sent to DOT, Sanchar Bhawan, new Delhi

-- One copy to be retained by the CGM concerned.

ii) Conditional options shall not be accepted.

(TO BE FILLED BY THE CONTROLLING OFFICER)

No. _____ dated _____

The above Option Form, duly completed and signed by the above named employee is forwarded for onward transmission to concerned Staff Branch, DOT, Sanchar Bhawan, New Delhi for further needful. Acknowledgement receipt has been given to the above employee.

Date: _____

Signature _____
Name _____
Designation _____
Office / Unit _____

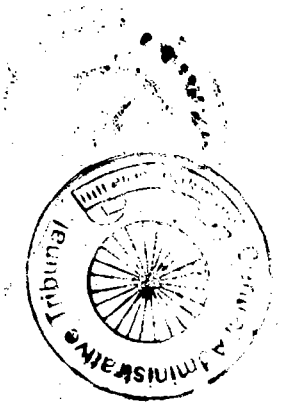
To,

**
Department of Telecommunications,
Sanchar Bhawan, New Delhi

TRUE COPY

Administrative Tribunal

** To be addressed / sent to the concerned cadre controlling authority.



TRUE COPY

ANNEXURE-A-10

BHARAT SANCHAR NIGAM LTD.

BHARAT SANCHAR NIGAM LIMITED
(A GOVERNMENT OF INDIA ENTERPRISES)
5TH FLOOR, 'A' WING, STATESMAN HOUSE
BARAKHAMBA ROAD, NEW DELHI – 110001
(SR CELL)

No.BSNL/11/SR/2003 Dated the 2nd September, 2003

Subject: Calling of option for absorption from Group B officers in BSNL.

Reference: This office letter No.BSNL/11/SR-2001 dated the14th January, 2002
And letter No. BSNL/9-5/SR-2002 date the 1st Feb. 2002

In continuation of the two letters referred to above and in accordance with the directions/judgment of the Hon'ble Principle Bench of CAT New Delhi dated 6th August 2002 & subsequent instructions issued by DOT vide their letter No, 400-23/2003-STG-III dated the 29th August 2003, it has been decided to revive the process of calling of options for absorption in BSNL from all the Group B officers who were transferred to BSNL on deemed deputation basis w.e.f. 01-10-2000 as well as from those who remained in DOT and/or who were on the roles of DOT/DTS/DTO as on 30-9-2000.

2. After calling of the options vide this office letter No.BSNL/11/SR/2001 dated 14th January, 2002, certain clarifications were asked by the field units on certain issues. The issues raised & their clarifications are given in enclosure attached as Annexure-I.

3. As directed by the Principal Bench of CAT New Delhi in its judgment dated 6th August 2002, the IDA pay scales, fitment formula and the promotional avenues are given in enclosures attached as Annexure- II, III & IV respectively.

4. This office letter No.BSNL/11/SR/2001 dated 14th January 2002 regarding calling of options of Group B officers in BSNL, may be read with following changes:

4.1 Para 3(Page 1) :

The options already exercised by the officers against this office letter referred to above (even no. dated 14-1-2002) shall remain valid. However, those desirous of changing their earlier exercised options can submit their option afresh in the revised proforma attached as Annexure-V. The details of options already exercised will be displayed on the BSNL web site.

TRUE COPY

Administrative Tribunal

Four copies of the revised option form numbered 1 to 4 with one set of general terms and conditions will be sent to each Group B officer latest by 05-09-2003 and the process of exercising option should be completed in 45 days i.e. by 20-10-2003. All the four copies of the option form will be got filled by each officer and dealt as follows:

- 1st copy to be acknowledged by a Group 'A' officer as indicated in para 4 of the option letter dated 14-1-2002 and returned to the optees.
- 2nd copy (original copy) to go to the service book of the concerned officer in the unit.
- 3rd copy to be sent to DOT, Sanchar Bhawan, New Delhi and
- 4th copy to be sent to the concerned circle office (Concerned CGM office).

4.2 **Para 7 (Page 2)**

BSNL would absorb optees subject to the number of vacancies existing in the BSNL as on 30-9-2000 in various Grades/Services. In case, the number of optees is more than the number of vacancies existing on 30-9-2000, the senior most optees in the various Grades/Services would be given preference for absorption.

4.3 Para 8 (Page 2)

The IDA pay scales and the fitment formula that will be applicable on absorption in BSNL is given in enclosure attached as Annexure-II & III respectively. The IDA pay scales will be effective from 01.10.2000. After the absorption is finalized by BSNL and the absorbed employees are fixed in IDA pay scales, the ad-hoc sum of Rs.2000/-p.m. being received by the employees w.e.f. 01.10.2000, shall be adjusted against their IDA emoluments, perks and benefits on fixation of their pay in IDA pay scales. In case of optees accepted for absorption in BSNL and presently working in MTNL, any ad-hoc amount paid to them by MTNL & which is required to be adjusted from the IDA Pay scale arrears after their absorption, would also be adjusted against their IDA emoluments, perks and benefits on fixation of their pay in IDA pay scales.

4.4 Para 9 (page 2)

Circle cadres of BSNL & MTNL can exercise options for respective PSUs only. Therefore, for circle cadres, CGM will decide and finalize the list of optees based upon the seniority criterion. For all India cadres, CGMs will forward the list of optees and the number of available posts in the cadre to the respective cadre controlling authorities. CSS staff can exercise option only for BSNL.

4.5 Para 10(Page 2)

No officer shall give any conditional option. Conditional option, if any, given by the officer shall be treated as having opted for retention of Government status. Officers not exercising any option as prescribed will be deemed to have opted for Government service.

TRUE COPY

4.6 Para 11(Page 3)

Information giving details of total Group B staff, number of optees to BSNL, number of optees to DOT and number of officers giving no option in case of each cadre must reach the undersigned latest by 30-10-2003.

5. The General Terms & Conditions attached with this office letter No.BSNL/11/SR/2001 dated 14th January 2002 regarding calling of options of Group B officers in BSNL, may be read with following changes:

5.1 Para 4 (Page 2) – Change over to IDA pay sales.

The IDA pay scales and the fitment formula that will be applicable on absorption in BSNL is given in enclosure attached as Annexure-II & III respectively. The IDA pay scales will be effective from 01.10.2000. After fixation of the IDA pay sales of the absorbed employees in IDA pay scales they will be paid arrears . However, the ad-hoc sum of Rs.2000/-p.m. being received by the employees w.e.f. 01.10.2000, shall be adjusted against their IDA emoluments, perks and benefits on fixation of their pay in IDA pay scales. In case of optees accepted for absorption in BSNL and presently working in MTNL, any ad-hoc amount paid to them by MTNL & which was required to be adjusted from the IDA Pay scales arrears after their absorption , would also be adjusted against their IDA emoluments, perks and benefits on fixation of their pay in IDA pay scales.

5.2 Para 7(Page 3) - Promotion

(a) Promotional avenues that will be applicable after absorption in BSNL shall be as indicated in enclosure attached as Annexure-IV.

(b) The officers officiating in higher grades on ad-hoc/local officiating basis will be absorbed in BSNL in the substantive grade only. However, they shall continue to get the higher officiating pay so long as the BSNL Management continues the officiating arrangements.

5.3 Para 9(Page3) – CGEIS

Ministry of Finance, Government of India has discontinued the CGEGIS scheme for the BSNL employees w.e.f. 1.07.2003. However, BSNL is making efforts to formulate a similar insurance scheme for the absorbed employees.

5.4 Para 16 (page4) - Medical benefits.

Medical scheme as announced vide BSNL's letter No.BSNL/ADMN/1 dated 22.04.2003 shall be applicable.

TRUE COPY

Tribunal

~~155~~

5.5 Para 17 (page 4) – Timeframe for absorption

Group 'B' officers shall exercise their option for permanent absorption in BSNL by 20-10-2003.

The other guidelines and terms and conditions give in this office letter No.BSNL/11/SR-2001 dated 14th January, 2002 remain unchanged.

2.9.03
(S.K. GUPTA)
DDG(SR), BSNL CO

Encls: As above.

To

All CGM, BSNL
CGM, MTNL Mumbai and Delhi.
Sr.DDG(TEC)/ JS(A), DOT
Sr.DDG(Pers.)/Sr.DDG(Finance Pers)/
Sr.DDG(BW)/Sr.DDG(Elect.)/Sr.DDG(Arch.),BSNL C.O.

Copy for information to:

Member (Services)
CMD, BSNL/MTNL
All Director, BSNL Board
All Sr.DDGsDDGs in BSNL/DOT

Central Administrative

TRUE COPY

Clarifications had been sought by the field units on the various issues related to the guidelines and terms and conditions given in this office letter No.BSNL/11/SR/2001 dated the 14th January, 2002 regarding calling of option for absorption from Group B officers in BSNL. The issues were examined and issues along with clarifications are as follows:

Issue 1: Whether options from officers who have retired on or after 01.10.2000 have to be called, as done in case of Group C & D.

Clarification: Yes.

Issue 2: Whether options from JEs (Civil/Elect.) etc. are to be called afresh in view of the fact that they have now been designated as Group B and their earlier options be treated as null and void.

Clarification: No. Instructions on the above issue have already been issued vide this office letter No. BSNL/4/SR/2001 dated 24.01.2002.

Issue 3: Whether options are to be called from STS of ITS Group A and Class I Accounts and Finance Service promoted on ad hoc service having pay scale of Rs.10,000-15,200.

Clarification: It has already been clarified in para 6 of this office letter of even no. dated 14.01.2002 that ad hoc promotees in Group A are to be treated as Group B officers.

Issue 4: Whether the options are to be called for Sr.SDEs/ Sr.AOs in the pay scale of Rs.8000-13500.

Clarification: Yes. It has already been clarified in para 6 of this office letter of even no. dated 14.01.2002.

Issue 5: Whether the options are to be called from Group C officials who have already filled option forms for absorption in BSNL as Group C on 01.10.2000 and thereafter have become Group B officers such as JTOs of Civil, Elect. , Architect & Telecom. Factories / Sr.PAs etc.

Clarification: No.

Issue 6: Whether options are to be taken from JAOs.

Clarification: Yes, JAOs are covered under the definition of Group B officers as explained in para 5 of this office letter of even dated 14.01.2002.

Issue 7: Whether options form Steno Gr. I/Arch. Asst. Gr. I whose pay scale is Rs.5500-9000 and not falling under OTBT/BCR/Grade IV/ACP/ad hoc promotion/Time Bounds Advancement Schemes are to be called for absorption in BSNL.
Clarification: Yes.

TRUE COPY

233

Details of corresponding IDA pay scales that will be given on absorption in BSNL.

Sl.No.	Existing CDA Pay scales	Corresponding IDA pay scales
1	5500-175-9000	7800-225-11175 *
2	6500-200-10500	9850-250-14600
3	7500-250-12000	11875-300-17275
4	8000-275-13500	13000-350-18250
5	10000-325-15200	14500-350-18700
6	12000-375-16500	16000-400-20800

* This scale is under revision. Subject to approval of DOT / DPE, the revised IDA pay scale of 7830-230-12430 will be given.

TRUE COPY

FITMENT METHOD

In respect of executives appointed by BSNL in CDA pay scales on or after 01.10.2000, the executives will be deemed to have been appointed in the corresponding IDA pay scale and accordingly their pay will be fixed at the minimum of the IDA pay scale corresponding to the CDA scales in which they were appointed. In respect of the DOT/DTS/DTO Group B and 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 pay 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. In case of CDA scale Rs.12000-375-16500, pay is to be initially fixed at 2 stages above the minimum. In cases where the minimum benefit (Pay + DA taken together) on absorption in BSNL on 01.10.2000, falls short of Rs.2500/-per month, it will be enhanced to Rs.2500/- p.m.

TRUE COPY

Administrative Tribunal

PROMOTIONAL AVENUES

With a view to motivate Executives in BSNL for achieving excellence in performance and higher productivity, resulting into improved quality of service, customer satisfaction and greater revenues for the Company, Executives in BSNL will be allowed upgradation to the next higher DA pay scale on a time bound basis, varying between 4 to 6 years, as may be prescribed for each Scale and other attendant conditions, up to the DA pay scale of JAG Selection Grade, beyond which it will be depend upon availability of post and their suitability and selection for promotion, which will be uniformally evaluated in the various streams of discipline.

TRUE COPY

Revised Option Form for absorption in BSNL / MTNL by Group 'B' officers of DOT

To

The Secretary ,
Department of Telecommunications, Sanchar Bhawan,
New Delhi-1.

Reference: **DOT Office Memorandum No. 400-41/98-STG-III dated 8-5-2000 and BSNL HQ OM No. BSNL/11/SR-2001 dated 14-1-2002 & subsequent clarifications.**

Sir,

With reference to aforesaid O.M.s, I am to state that :-

1. I have carefully gone through the terms and conditions of permanent absorption in the regular services of MTNL/BSNL and have understood them.
2. My particulars given in the attached proforma are correct to the best of my knowledge.
3. I hereby opt for permanent absorption in BSNL/MTNL in the following order of preference:-

A. I) .....
II) .....

OR

B. I want to continue in Government service.

4. I understand that if I could not be absorbed according to my first choice, I shall be absorbed according to second choice in that order. I also understand that optees for Government service are liable to be placed at the disposal of Redeployment & Training Division, DOP&T, as per rules.

Date.....

Yours faithfully.
Signature.....
Name & Designation.....
Staff No.....
Present Office.....
Unit of Posting.....
Circle.....

Note:
i) This option form is to be filled in quadruplicate
--One copy for employee concerned.
--One copy to be kept in the Service Book of employee concerned in the unit.
--One copy to be sent to DOT, Sanchar Bhawan, New Delhi
--One copy to be retained by the CGM concerned.
ii) Conditional options shall not be accepted.

(TO BE FILLED BY THE CONTROLLING OFFICER)

No.----------dated----------

The above Option Form, duly completed and signed by the above named employee is forwarded for onward transmission to concerned Staff Branch, DOT, Sanchar Bhawan, New Delhi for further needful. Acknowledgement receipt has been given to the above employee.

Date:.....

Signature .....
Name .....
Designation.....
Office/Unit.....

To

**
Department of Telecommunications,
Sanchar Bhawan, New Delhi.

**To be addressed/sent to the concerned cadre controlling authority.

TRUE COPY

237

182

FORM SHOWING THE SERVICE PARTICULAR OF OPTEES

1. NAME IN FULL :
2. MALE/FEMALE :
3. FATHER'S NAME :
4. STAFF NO. :
5. DATE OF BIRTH :
6. DATE OF SUPERANNUATION :
7. EDUCATIONAL QUALIFICATION :
8. DATE OF FIRST APPOINTMENT & NAME OF THE POST/GRADE :
9. NAME OF POST/GRADE PRESENTLY HELD :
   A) ON ADHOC OR LOCAL OFFICIATING BASIS :
   B) ON REGULAR BASIS :
10. NAME/GRADE OF POST HELD AS ON 30.9.2000 :
    A) ON REGULAR BASIS
    B) ON ADHOC/LOCAL OFFICIATING

Signature.....
Name.....
Staff No.....
Designation.....
Circle/SSA/Place.....

Countersigned by controlling Officer.....
Signature.....
Name.....
Designation.....
Date.....

Verfied by AO(Pay)

Certified that the particulars given by the employees concerned have been verified from the Service Book and found correct.

Signature.....
Name.....

Central Administrative Tribunal

TRUE COPY

238

ANNEXURE-A-11

No.20-9/2003-STG.II
Government of India
Ministry of Communication & IT
Department of Telecommunications

421, Sanchar Bhawan,
20-Ashoka Road,
New Delhi-110 001
Dated: 12.02.2004.

No. 20-9/CTD/KOLKATA/2004/0161

ORDER

Subject: Permanent absorption of Sh/Smt **AMIT KUMAR GUPTA,**TES Gr.B,Staff No. 13280 (as per list BSNL/CTD/List No. 1/ Sl No.163) in Bharat Sanchar Nigam Limited.

Pursuance to letter no. BSNL /11/ SR / 2003 dated 02.09.2003 on the above subject and in accordance with the provisions of Rule 37-A of CCS (Pension) Rules, as amended from time to time. sanction of the President is hereby conveyed to the permanent absorption of Shri / Smt / Kumari **AMIT KUMAR GUPTA,** a permanent /temporary employee of the Department of Telecommunications, in BSNL, with effect from the date and under the terms and conditions as indicated below.

2. **Date of effect:-**The permanent absorption shall take effect from 01.10.2000 forenoon.

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

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

5. **Regulation of Pay on absorption:-** To be regulated in terms of Para 4 of DoP & PW O.M. No. 4/18/87-P&PW(D) dated 05.07.1989.

6. **Leave:-** The Earned Leave and Half Pay Leave at the credit of Shri / Smt / Kumari **AMIT KUMAR GUPTA** stands transferred to BSNL on the date of absorption as provided for under Sub-rule 24(b) of Rule 37-A of the CCS(Pension) Rules.

7. **Provident Fund:-** The amount of subscription together with interest thereon standing to the credit of Shri/ Smt / Kumari **AMIT KUMAR GUPTA** in the General Provident Fund account will be transferred to his / her new Provident Fund account under the BSNL as provided for under Sub-rule 24(a) of Rule 37-A of the CCS(Pension) Rules as amended from time to time.

(S. K. KAYAL)
DIRECTOR(Estt)
DOT

To
Chairman and Managing Director,Bharat Sanchar Nigam Limited.

Copy to:1. A.O. of the concerned area for pasting in Service Book alongwith suitable entries.

2.Officer Concerned .3. Cadre Controlling Authority, DoT, New Delhi. 4.Office copy.

TRUE COPY

Central Administrative Tribunal

ANNEXURE-A-12

239

164

No.2 (70)/08-DPE (WC)
Government of India
Ministry of Heavy Industries & Public Enterprises
Department of Public Enterprises

Public Enterprises Bhawan
Block No.14, CGO Complex, Lodi Road
New Delhi, the 26th November, 2008.

OFFICE MEMORANDUM

Sub: Board level and below Board level executives and Non Unionised Supervisors in Central Public Sector Enterprises (CPSEs) -revision of scales of pay w.e.f. 01.01.2007.

The last revision of the scale of pay of below Board level and Board level executives and non-unionised supervisors, in Central Public Sector Enterprises was made effective from 1.1.1997 for a period of ten years. As the next pay revision fell due from 1.1.2007, the Government had set up a Pay Revision Committee (2nd PRC) under the chairmanship of Justice M. Jagannadha Rao, Retd. Judge of Supreme Court of India, to recommend revision of pay and allowances for above categories of employees following IDA pattern of pay scales. The Government after due consideration of the recommendations of 2nd Pay Revision Committee, have decided as follows:-

1. **Revised Pay Scales**:- The revised Pay scales for Board and below Board level executives would be as indicated in Annex.-I.

2. **Fitment Benefit:**

(i) A uniform fitment benefit @ 30%, on basic pay plus DA @ 68.8% as on 01.01.2007 would be provided to all executives. The aggregate amount would be rounded off to the next ten rupees and pay fixed in the revised pay scale.

(ii) If any extra ordinary increment (s) and / or increase in the pay in respect of executives/ non unionized supervisors have been granted with retrospective effect, which affects the revision of pay as on 1.1.2007, such increment and / or increase in pay will be ignored for the purpose of fitment/ pay revision.

(iii) Where executives drawing pay at two or more consecutive stages in an existing scale get bunched, then, for every two stages so bunched, benefit of one increment shall be given.

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

Central Administrative Tribunal

TRUE COPY

may pay the full package subsequently, provided the dip in the profit (PBT) is fully recouped to the original level.

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

5. **Increment:** Annual increment will be at the rate of 3% of the revised basic pay. Stagnation increment and increment for pay fixation on promotion will be as per Annex.-II (A).

6. **Dearness Allowance:** 100% DA neutralization will be adopted for all the executives and non-unionised supervisors, who are on IDA pattern of scales of pay, w.e.f. 01.01.2007. Thus, DA as on 01.01.2007 will become zero with link point of All India Consumer Price Index (AICPI) 2001=100, which is 126.33 as on 01.01.2007. The periodicity of adjustment will be once in three months, as per the existing practice for these categories. The quarterly DA payable from 01.01.2007 will be as per new DA scheme as given in Annex.-II (B).

7. **House Rent Allowance:** The House Rent Allowance to the employees of CPSEs will be at the following rates.

Cities with population	Rates of HRA
50 lakhs and above	30% of Basic Pay
5 to 50 lakh	20% of Basic Pay
Less than 5 lakh	10% of Basic Pay

8. **Leased Accommodation:** The Board of Directors may decide the level of executives, who will be provided company leased accommodation and the size, type and locality of such accommodation. For purposes of CTC, 30% of basic pay may be considered as expenditure on Housing.

9. **City Compensatory Allowance:** The City Compensatory Allowance stands dispensed with.

10. **Other Allowances/ Perks:** The Board of Directors will decide on the allowances and perks admissible to the different categories of the executives subject to a maximum ceiling of 50% of the Basic Pay. Instead of having a fixed set of allowances, the CPSEs may follow "Cafeteria Approach" allowing the executives to choose from a set of perks and allowances. In places, where CPSEs have created infrastructure such as hospitals, colleges, schools, clubs, etc., these facilities should be monetized at replacement cost for the purpose of computing the perks and allowances. The following allowances will, however, be outside the purview of ceiling of 50% of the Basic Pay:

i) North-East Allowance limited to 12.5% of Basic Pay.
ii) Allowance for Underground Mines limited to 15% of Basic pay.

TRUE COPY

Central Administrative Tribunal

iii) Special Allowance upto 10% of Basic Pay for serving in the difficult and far flung areas as approved by concerned Ministries in consultation with the Department of Public Enterprises from time to time.

iv) Non Practicing Allowance limited to 25% of Basic Pay for Medical Officers.

11. **The admissibility, quantum and procedure for determination of Variable Pay/Performance Related Pay** has been given in Annex.-III.

12. **Long Term incentives, introduction of cost to the company (CTC) concept in CPSEs, Pay of Executives on deputation / transfer to CPSEs, Pay of Government officers on deputation to CPSEs and Superannuation Benefits** will be as per Annex.-IV.

13. **Gratuity**: The ceiling of gratuity of the executives and non-unionised supervisors of the CPSEs would be raised to Rs. 10 lakhs with effect from 1.1.2007.

14. **Company Car**: The company car would be provided to the Directors and CMDs. The Executive Directors/ General Managers heading the projects of CPSEs may also be provided with the company car. For purposes of CTC, the expenditure on car provided should be excluded.

15. **Pay Revision in respect of non-unionised supervisory staff:** The revision of scales of pay for non-unionised supervisory staff may be decided by the respective Board of Directors of the CPSEs.

16. **Financial Implications:** The CPSE concerned has to bear the additional financial implications on account of pay revision from their own resources and no budgetary support will be provided.

17. **Issue of Presidential Directive, effective date of implementation and payment of allowances etc.:** The revised pay scales would be implemented by issue of Presidential Directive in respect of each CPSE separately by the concerned Administrative Ministry/Department. The revised pay scales will be effective from 1.1.2007. The payment of HRA, perks and allowances based on the revised scales will, however, be from the date of issue of Presidential Directive. The Board of Directors of each CPSE would be required to consider the proposal of pay revision 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 will issue the Presidential Directive. A Copy of the Presidential Directive issued to the CPSEs concerned may be endorsed to the Department of Public Enterprises.

18. **Issue of Instructions/clarifications and provision of Anomalies Committee:** The Department of Public Enterprises will issue necessary instructions /clarifications wherever required, in implementation of the above decisions. An Anomalies Committee consisting of the Secretaries of Department of Public Enterprises, Department of Expenditure and Department of Personnel & Training has been constituted to look into further specific issues / problems that may arise in implementation of Government's decision on the recommendations of 2nd PRC. Any

TRUE COPY

anomaly should be forwarded with the approval of Board of Directors to the administrative Ministry/ Department, who will examine the same and dispose off the issue. However, if it is not possible for the Administrative Ministry to sort out the issue, the matter may be referred to DPE, with their views, for consideration of the Anomalies Committee.

Tripathi.

(K.D. Tripathi)
Joint Secretary to the Government of India

Administrative Ministries/ Departments (Secretary by name) of the Government of India.

1. Copy to:

   Chief Executives of CPSEs.

2. Copy also to:

i) Financial Advisors in the Administrative Ministry/Department.
ii) C & AG of India, 10, Bahadur Shah Zafar Marg, New Delhi.
iii) Department of Expenditure, E-2 Branch, North Block, New Delhi.
iv) Department of Personnel & Training, North Block, New Delhi.
v) Chairman, PESB/Member(s), PESB/Secretary, PESB, CGO Complex, New Delhi.

3. Copy also to:

   Prime Minister Office, (Shri Kamal Dayani, Director)

4. Copy also to:

i) Cabinet Secretariat (Shri C.S. Kedar, Joint Secretary)
ii) Cabinet Secretariat (Shri K. L. Sharma, Director)

5. Copy also to:

i) PS to Minister (HI&PE).
ii) PS to MoS (HI&PE).
iii) PS to Secretary(PE).
iv) AS & FA (PE).
v) All officers of DPE.
vi) NIC Cell, DPE with the request to upload the O.M. on the DPE website.

(P.J. Michael)
Under Secretary

4

TRUE COPY

243

168

Annex. I
(Para 1)

REVISED SCALES OF PAY OF BOARD AND BELOW BOARD LEVEL EXECUTIVES IN CPSEs

1	2	3
Grade	**Existing**	**Revised**
E0	6550-200-11350	12,600-32,500
E1	8600-250-14600	16,400-40,500
E2	10750-300-16750	20,600-46,500
E3	13000-350-18250	24,900-50,500
E4	14500-350-18700	29,100-54,500
E5	16000-400-20800	32,900-58,000
E6	17500-400-22300	36,600-62,000
E7*	18500-450-23900	43,200-66,000
E8*	20500-500-26500	51,300-73,000
E9*	23750-600-28550	62,000-80,000
Grade	**Existing**	**Revised**
Director (D)	18500-450-23900	43200-66,000
CMD (D)	20500-500-25000	51300-73,000
Director (C)	20500-500-25000	51300-73,000
CMD (C)	22500-600-27300	65,000-75,000
Director (B)	22500-600-27300	65,000-75,000
CMD (B)	25750-650-30950	75,000-90,000
Director (A)	25750-650-30950	75,000-1,00,000
CMD (A)	27750-750-31500	80,000-1,25,000

***E7 only in CPSEs of Schedule A, B & C.**
***E8 only in CPSEs of Schedule A & B.**
***E9 only in CPSEs of Schedule A.**



TRUE COPY

Annex II(A)
(Para 5)

i) **Stagnation Increment:** The rate of stagnation increment will be 3% of the revised basic pay and executives will be allowed to draw maximum three stagnation increments, one after every two years, upon reaching the maximum of the revised pay scale provided the executive gets a performance rating of "Good" or above.

ii) **Pay Fixation on Promotion**: One notional increment equal to the increment being drawn by the executive in the pay scale, before such promotion would be granted and pay fixed in the promoted pay scale and rounded off to the next multiple of Rs. 10.

Annex II(B)
(Para 6)

Rates of Dearness Allowance for the employees of CPSEs following IDA pattern

Date of Dearness Allowance	Rate of Dearness Allowance (in percentage)
01.01.2007	0
01.04.2007	0.8
01.07.2007	1.3
01.10.2007	4.2
01.01.2008	5.8
01.04.2008	6.3
01.07.2008	9.2
01.10.2008	12.9

TRUE COPY

Central Administrative Tribunal

Annex III
(Para 11)

i) **Variable Pay/Performance Related Pay:**

The PRP has been directly linked to the profits of the CPSEs/units and performance of the executives. The percentage ceiling of PRP progressively increasing from junior level to senior level executives, expressed as percentage of pay are indicated below.

Grade	Percentage of Basic Pay
E-0 to E-1	40
E-2 to E-3	40
E-4 to E-5	50
E-6 to E-7	60
E-8 to E-9	70
Director (C&D)	100
Director (A & B)	150
CMD(C&D)	150
CMD(A & B)	200

For Non Unionised Supervisors, PRP as percentage of Basic Pay will be decided by the respective Board of Directors in a CPSE.

The above PRP will, however, be on the following conditions:

a) The PRP would be payable at 100% eligibility levels in case the CPSE achieves the Memorandum of Understanding (MoU) rating as "Excellent". If the CPSE's MoU is rated as "Very Good", the eligibility of PRP would be 80% of the Basic Pay. In respect of "Good" and "Fair" ratings, the eligibility levels would be 60% and 40% respectively. However, there will be no PRP irrespective of the profitability of the CPSE, in case it is rated as "Poor".

b) The PRP would be based on physical and financial performance and will come out of profits of the CPSE. 60% of the PRP will be given with the ceiling of 3% of Profit before Tax (PBT) and 40% of PRP will come from 10% of incremental profit. Incremental profit would mean the increase in profit as compared to previous year's profit. The total PRP, however, will be limited to 5% of the year's PBT, which will be for executives as well as non unionized supervisors in a CPSE. The PRP for the year will be calculated latest by December of the following year based on the CPSE's performance as per audited accounts. The proposed PRP scheme will begin from the financial year 2007-08. There will be no incremental profit for the

Central Administrative Tribunal

TRUE COPY

year 2007-08 as it will be the first year of introduction of PRP scheme. The amount available for PRP for above will be 3% of PBT of 2007-08. For the purpose of calculating the incremental profit, the starting year would be 2007-08. The Variable Pay component coming from incremental profit for the first time will be after knowing the results of CPSE's performance for the year 2008-09. Thus, this portion of PRP will be payable w.e.f. 2009-10.

ii) **Memorandum of Understanding (MoU):** Each CPSE would be required to sign the MoU with its parent Ministry/ Department/holding company. The MoU rating will form the basis of PRP with all the Key Result Areas identified in the MoU. No PRP will be eligible for the CPSEs that do not enter into MoU.

iii) **Performance Management System (PMS):** Each CPSE would develop a robust and transparent Performance Management System. CPSEs would adopt "Bell Curve Approach" in grading the officers so that not more than 10% to 15% executives are "Outstanding/ Excellent". Similarly, 10% of executives should be graded as "Below Par". Some CPSEs already have a PMS and others will have to frame a robust and transparent PMS to be able to pay PRP. However, CPSEs which do not have a robust and transparent PMS till date may put in place a robust and transparent PMS by 31.03.2009. For the period 01.01.2007 and till a PMS is in place not later than 31.03.2009, the executives will be governed by the existing guidelines of DPE on PRP, which is limited to 5% of distributable profit in an enterprise.

iv) **Remuneration Committee:** Each CPSE would have Professional Boards with Independent Directors. CPSE to constitute a Remuneration Committee headed by an Independent Director. CPSE will not be eligible for PRP unless the Independent Directors are on its Boards. Remuneration Committee will decide the annual bonus/variable pay pool and policy for its distribution across the executives and Non Unionised Supervisors, within the prescribed limits.

TRUE COPY

Central Administrative Tribunal

Annex IV
(Para 12)

i) **Long Term Incentives:**
All CPSEs would formulate Employees Stock Option Plan (ESOP) and 10% to 25 % of the PRP should be paid as ESOPs. In order to see that Enterprises are able to operate ESOPs scheme, the concerned Administrative Ministry/Department should encourage the CPSEs coming under its control to get them listed on the Stock Exchanges.

ii) **The concept of cost to company (CTC) in CPSEs:**
The concept of cost of Company would be introduced in all the CPSEs. The entire cost of an executive is explicitly made known by the CPSEs adopting the system of CTC for the purpose of reporting executive compensation. Pay, allowances, perquisites and retirement benefits should all be monetized and included while reporting the cost of manpower to the CPSE.

iii) **Pay etc. of Executives of CPSEs, on deputation / transfer:** The executives, who are brought into holding companies from subsidiary companies or vice-versa on deputation/transfer, will continue to draw their basic pay as drawn in the original company. They will, however, be entitled to draw the allowances and variable pay /performance related pay as applicable to the borrowing CPSE.

iv) **Pay etc. of Government officers on deputation to CPSEs:** The government officers, who are on deputation to the CPSE, will continue to draw the salary as per their entitlement in the parent Department. Only those, who come on permanent absorption basis, will get the CPSE scales, perks and benefits.

v) **Superannuation Benefits:** CPSEs would be allowed 30% of Basic Pay as Superannuation benefits, which may include Contributory Provident Fund (CPF), Gratuity, Pension and Post-Superannuation Medical Benefits. The CPSEs should make their own schemes to manage these funds or operate through Insurance companies on fixed contribution basis. The amount of Pension, Gratuity and Post-Retirement Benefit will be decided based on the returns from the schemes to be operated. The Pension and Medical benefits can be extended to those executives, who superannuate from the CPSE and have put in a minimum of 15 years of service in the CPSE, prior to superannuation.

*****

TRUE COPY

2MB.

ANNEXURE-A-13

Government of India
Ministry of Communications & IT
Department of Telecommunications
Sanchar Bhavan, Ashok Road, New Delhi

No. 40-31/2008-Pen(T) Date : 4th May, 2009

To :

I) All Principle CCAs/CCAs
II) CMD, BSNL

Subject : Applicability of revised rules of pension calculation as per 6th CPC with regard to limit of DCRG, commutation table, emoluments, qualifying service, etc. to IDA pensioners to BSNL

The undersigned is directed to intimate that the revised rules for pension calculation as per 6th CPC with regard to limit of DCRG, commutation table, emoluments, qualifying service, etc is applicable to IDA pensioners of BSNL covered under rule 37-A, w.e.f. 01.01.2006.

This issues with the concurrence of Member (Finance), DOT.

(B.K.Singh)
Director (Estt.)

Copy :
(i) DDG (Accounts), DOT
(ii) DDG (FEB), DOT

TRUE COPY

249.

IMMEDIATE

BHARAT SANCHAR NIGAM LTD.
(A Govt. of India Enterprise)
PENSION SECTION
Bharat Sanchar Bhawan,
Janpath, New Delhi-1.

Circular No. 08

No. 40-05/2011-Pen (B) Dated: 01-04-2011.

To

All Heads of Telecom Circles/Telecom District/
Other Administration Offices/
Telecom Stores/ Telecom Factories.
Bharat Sanchar Nigam Ltd.,

Sub: Applicability of revised rules of CCS (Pension) Rules 1972 consequent to the 6th CPC to the Government employees absorbed in BSNL - clarification regarding.

Sir,

I am directed to forward herewith a copy of DOT letter No. 40-31/2008-Pen (T) dated 16-08-2010 issued by the Department of Telecommunications on the subject mentioned above for information and further necessary action.

Encl: As above.

Yours faithfully,

(Sheo Shankar Prasad)
Asstt. General Manager(Pers-V)
Tele. No. 23037476
Fax No. 23766034

Copy to:

1. PPS to CMD, BSNL
2. PPS to DIR(HR)/ DIR(Enterprise)/DIR(Consumer Fixed Access)/ DIR(Consumer Mobility)/DIR(Finance), BSNL Board.
3. All Executive Directors, BSNL.
4. All PGMs/Sr.GMs/GMs in BSNL, C.O.
5. DGM(A)/Pers)/(BW)/(Elect.)/(Arch.)/(SEA)/(EF)/(CA), BSNL, C.O.
6. AGM(R&P)/(EF)/(SEA)/(Pers-I)/(Pers-II)/(Pers-III)/(Pers-IV)/(Civil)/ (A&E)/(TF), BSNL, C.O.
7. DM(Pay Bill)/(Cash)/(L&A), BSNL, C.O.
8. General Secretary, BSNL EU.
9. DM(OL), BSNL CO. It is requested that a Hindi version of this circular may be provided within 15 days.

TRUE COPY

250.

No. 40-31/2008-Pen(T)
Government of India
Department of Telecommunications
(Pension Section)

....

New Delhi, dated the 6 August, 2010

To

1. All Principal CCAs/CCAs/Joint CCAs
2. CMD, BSNL

Subject: Applicability of revised rules of CCS (Pension) 1972 consequent to the 6th CPC to the Government employees absorbed in BSNL — clarification regarding.

Sir,

With reference to this office letter of even number dated 12th August, 2009, it is clarified that the provision of admissibility of full pension on completion of 20 years of qualifying service, which was earlier applicable from 2.9.2008 in terms of Deptt. of Pension and Pensioners' Welfare's O.M. No. 38/37/2008-P&PW(A) dated 2.9.2008 has since been revised vide DoP&PW's O.M. No.38/37/08-P&PW(A) dated 1.9.2009, is now admissible with effect from 1.1.2006. This amendment in CCS (Pension) Rules with regard to admissibility of full pension on completion of 20 years of qualifying service is also applicable to absorbed employees of BSNL.

Yours faithfully,

(R.S. Rawal)
Under Secretary (STP)
Tele No. 2305 6854

Copy for information to:

1. Sr. PPS to Chairman, Telecom Commission, New Delhi.
2. Sr. PPS to all Members, Telecom Commission, Sanchar Bhawan, New Delhi.
3. Sr. PPS to all Advisors, DoT, Sanchar Bhawan, New Delhi.
4. Sr. DDG(TEC), Khurja Lal Bhawan, New Delhi.
5. Controller General of Accounts, MoF, 7th Floor, Lok Nayak Bhawan, New Delhi.
6. DG of Audit (P&T), Sham Nath Marg, Near Old Secr. Civil Lines, New Delhi-54.
7. DDG(A/Cs)/DDG(FB&V)/DDG(LF)/DDG(WPF)/DDG(TFB)
8. All Sr. DDGs/DDGs, DoT, Sanchar Bhawan, New Delhi.
9. DDG(Corporate Accounts), BSNL, Statesman House, New Delhi.
10. Sr. A.O(PFP)
11. Pay Bill/Cash Section, DoT, Sanchar Bhawan, New Delhi.
12. Guard File/Reference Folder

Central Administrative Tribunal

851

True Typed Copy

No.40-31/2008-Pen(T)

Government of India

Department of telecommunications

(Pension Section)

New Delhi, dated the 16 August, 2010

To
1. All Principal CCAs/CCAs/Joint CCAs
2. CMD, BSNL

Subject: Applicability of revised rules of CCS (Pension) 1972 consequent to the 6th CPC to the Government employees absorbed in BNL – clarification regarding

Sir,

With reference to this office letter of even number dated 12th August, 2009, it is clarified that the provision of admissibility of full pension on completion of 20 years of qualifying service, which was earlier applicable from 2.9.2008 in terms of Deptt. of Pension and Pensioners' Welfare's O.M. No.38/37/2008-P&PW(A) dated 2.9.2009 has since been revised vide DoP&PW's O.M. no.38/37/08-P&PW(A) dated 10.12.2009, is now admissible with effect from 1.1.2006. This amendment in CCS (Pension) Rules with regarding to admissibility of full pension on completion of 20 years of qualifying service is also applicable to absorbed employees of BSNL.

Yours faithfully,
Sd/-
(R.S. Rawat)
Under Secretary (STP)
Tele No: 2303 6854

TRUE COPY

252

Copy for information to:

1. Sr.PPS to Chairman, Telecom Commission, New Delhi
2. Sr. PPS to all Members, Telecom Commission, Sanchar Bhawan, New Delhi
3. Sr. PPS to all Advisors, DoT, Sanchar Bhawan, new Delhi
4. Sr. DDG(TEO) Khursid Lal Bhawan, New Delhi
5. Controller General of Accounts, MoF, 7th Floor, Lok Nayak Bhawan, New Delhi
6. DG of Audit (P&T), Sham Nath Marg, Near Old Sectt. Civil Lines, New Delhi-54
7. DDG (A/Cs)/DDG(FBB)/DDG(LF)/DDO(WPP)/DDG(TFP)
8. All Sr. DDGs/DDGs, DoT, Sanchar Bhavan, New Delhi
9. DDG (Corporate Accounts), BSNL, Statesman House, new Delhi
10. Sr. A.O. (PFP)
11. Pay Bill/Cash Section, DoT, Sanchar Bhawan, New Delhi
12. Guard File / Reference Folder

// TRUE TYPED COPY //

ANNEXURE-A-14 253

No. 47-35/2014-Pen(T)
Government of India
Department of Telecommunications
20, Ashoka Road, Sanchar Bhavan,
New Delhi.

Dated 23 December, 2014.

To

Shri Amit Kumar Gupta,
1/4 Rajendra Banerjee Road,
Behala,
Kolkata 700034.

Subject: Seeking information under RTI Act, 2005 - Case of Shri Amit Kumar Gupta.

Sir,

Kindly refer to your representation dated 14.11.2014 vide which you have deposited an amount of Rs. 36/- for obtaining the copy of the Cabinet Memo dated 29.12.2010.

2. As desired by you, a copy of the Cabinet Note dated 29th December, 2010 enclosed herewith.

Yours faithfully,

(R.K. Mishra)
DDG(Estt.) & Appellate Authority

Encl: As stated above.

TRUE COPY

254

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

Copy No. /70

Dated 29th December, 2010

NOTE FOR THE CABINET

Sub: Revision of IDA pension for employees of BSNL, who retired after 01.10.2000 and before 01.01.2007.

1. Background:

1.1 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 (DTO) into a Public Sector Undertaking (PSU). The Government employees in the two departments were transferred en masse to BSNL on deemed deputation basis. The process of absorption of these employees in BSNL took place with effect from 01.10.2000 in accordance with Rule 37A of CCS(Pension) Rules, 1972. On absorption, these absorbed employees started getting their pay in Industrial Dearness Allowance (IDA) based pay scales. As per sub-rule 8 of rule 37A of CCS(Pension) Rules, 1972, these absorbed employees are eligible for pensionary benefits on the basis of the combined service rendered by them with the Central Government and with 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 get pension, and dearness relief thereon as per IDA

SECRET

Tribunal

pattern. The number of such retired employees as on 31.12.2006 is approximately 47,000. The pension to employees absorbed in BSNL is paid by Government as per sub-rule 21 to 23 of Rule 37-A of CCS (Pension) Rules 1972, while BSNL continues to pay Pension Contribution to the DoT as per rates prescribed under FR-116.

1.2 The Department of Public Enterprises (DPE) issued orders for revision of pay of employees in BSNL with effect from 1.1.2007. No such orders were issued by the government for revision of pension of employees retired from BSNL. As a result, employees who retired from BSNL after 1.1.2007 got about 30% higher pension than the employees who retired before 1.1.2007.

2. Justification:

2.1 In respect of government employees, consequent to pay revision, pension revision has also been carried out in accordance with guidelines issued by the Department of Pension & Pensioners' Welfare (DoP&PW). Though there are only a few PSUs which are paying pension on IDA pay scales, BSNL is a unique PSU where pension continues to be paid by the government to absorbed employees of BSNL. However, consequent to pay revision in BSNL with effect from 1.1.2007, no guidelines have been issued for revision of pension of absorbed employees of BSNL.

TRUE COPY

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

2.2 As on 1.1.2007, Dearness Relief given on IDA pay scales was 68.8% of the basic pension. From 01.01.2007, wage revision in IDA scales for all employees took place in BSNL. The revision was done after merging basic pay with IDA @ 68.8% and applying fitment of 30% thereon i.e. on basic pay plus merged IDA. This resulted in significant rise in basic pension for those employees, who retired after 01.01.2007 in the revised pay scales. However, the BSNL absorbed employees who retired before 1.1.2007 continued to draw pension at lower rates, as no change in the pension was notified. A large number of BSNL pensioners, Service Unions as well as pensioner's Associations/Unions have represented for revision of pension in respect of BSNL absorbed employees retired before 1.1.2007.

2.3 The Department of Pension & Pensioners Welfare (DoP&PW) had earlier advised the Department of Public Enterprises (DPE) to issue instructions to all administrative Ministries for revision of pension (under IDA pattern) of retired en-masse transferees who had opted for combined pension as per formulae under the Central Government rules based on IDA pattern of pay, on the lines of procedure adopted for pay scales of PSU officials. No instructions have, however, been issued by DPE to the administrative ministries for revision of pension, presumably on the ground that IDA pension revision issue is beyond DPE's scope.

2.4 It is therefore felt that for pre-2007 retirees of BSNL, DOT has to process revision of pension on IDA pattern. As per sub-rule 21 of Rule 37-A, pensionary benefits including family pension are to be paid by the Government for employees

SECRET

Central Administrative Tribunal

...E COPY

absorbed in BSNL. In the absence of suitable general guidelines for pension revision on IDA pattern, it has been felt necessary to seek Cabinet Approval for such revision. Accordingly, this proposal has been prepared considering the factors given in following paragraphs.

2.5 Pension is linked to pay drawn at the time of retirement as well as pay drawn by employee of similar status in future even after retirement. Pension revision of retired employee is linked to pay revision of existing employees. As per the judgment of Apex Court in case of D. S. Nakara & Others versus Union of India, the Apex Court has ruled that applicability of any liberalised pension scheme should not depend on a fixed date of retirement but the division of pensioners into two classes should be based on some rational principle.

2.6 The annual pension liability of the Government in respect of employees of DoT/DTS/DTO, who retired prior to 1.10.2000 and those who have worked or working in BSNL on deemed deputation and for those who are absorbed in BSNL, shall not exceed 60% of annual receipts to Government from (i) Dividend income from MTNL/BSNL, (ii) License fee from MTNL/BSNL and (iii) Corporate tax /Excise duty /Service tax paid by BSNL. If the annual pension liability exceeds the figure of 60%, the liability beyond that level will be borne by BSNL. Details of pension liability of government for the year 2009-10 for BSNL are given at Annexure-I (Page 14).

2.7 The pension of pre-2006 Central Government pensioner/family pensioner has been revised as per orders dated 1.9.2008, by adding together (i) the existing

TRUE COPY

pension/family pension; (ii) Dearness pension, where applicable (iii) Dearness relief as on 1.1.2006 i.e. 24% of Basic pension/Basic family pension plus dearness pension; and (iv) Fitment weightage @ 40% of existing pension/family pension. The amount so arrived at will be regarded as consolidated pension/family pension with effect from 1.1.2006. The pension revision factor thus comes out to be 2.26 as on 1.1.2006; of course, with minimum and maximum pension as on 1.1.2006 as Rs.3500/- and Rs.45000/- respectively.

2.8 The pension revision methodology contained in this note is based upon the pay revision parameters of BSNL. The consolidated pension/ family pension will be worked out by adding (i) the existing basic pension/family pension, (ii) Dearness relief as on 1.1.2007 i.e. 68.8% of Basic pension/Basic family pension and (iii) Fitment weightage @ 30% on the sum of existing basic pension/family pension and the dearness relief (IDA) thereon. The pension revision factor thus comes out to be 2.194 as on 1.1.2007.

2.9 Other conditions like minimum and maximum revised pension being Rs. 3500/- and Rs. 45000/- as on 1.1.2007 respectively, age related additional pension for pensioners as prescribed by DoP&PW, and government liability of pension being limited to 60% of receipts will remain similarly applicable.

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

3. **Proposal:**

3.1 In view of the foregoing, it is proposed that the pension/ family pension of existing BSNL absorbed pre-2007 pensioners/ family pensioners may be revised w.e.f. 1.1.2007 by adding together-

(i) Existing pension/ family pension including commuted portion of pension, if any

(ii) Dearness relief (IDA) @ 68.8%

(iii) Fitment weightage @ 30% of the existing pension/ family pension and dearness relief (IDA) thereon.

3.2 The amount so arrived at will be regarded as the consolidated pension/ family pension w.e.f. 1.1.2007 subject to minimum/ maximum limit prescribed under CCS Pension Revised Rules 2008. 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.

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

3.4 This quantum of pension/family pension available to the old pensioners/family pensioners shall be increased as follows:

Central Administrative Tribunal

COPY

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

Age of pensioners/ family pensioners	Additional quantum of pension
From 80 years to less than 85 years	20% of revised basic pension/family pension
From 85 years to less than 90 years	30% of revised basic pension/family pension
From 90 years to less than 95 years	40% of revised basic pension/family pension
From 95 years to less than 100 years	50% of revised basic pension/family pension
100 years or more	100% of revised basic pension/family pension

3.5 After this revision, the annual pension liability of the Government in respect of employees of DoT/DTS/DTO, who retired prior to 1.10.2000 and those who have worked or working in BSNL on deemed deputation and for those who are absorbed in BSNL, shall not exceed 60% of annual receipts to Government from (i) Dividend income from MTNL/BSNL; (ii) License fee from MTNL/BSNL; and (iii) Corporate tax /Excise duty /Service tax paid by BSNL. If the annual pension liability exceeds the figure of 60%, the balance amount is to be paid by BSNL.

4. **Inter-Ministerial Consultation:**

4.1 The draft note was circulated to the Department of Expenditure (Ministry of Finance), Department of Legal Affairs (Ministry of Law and Justice), Department of Pension and Pensioners' Welfare (Ministry of Personnel, Public Grievances and Pensions) and Department of Public Enterprises (Ministry of Heavy Industries & Public Enterprises) on 28.7.2010. The views of the consulted Ministries along with

SECRET

TRUE COPY

Central Administrative Tribunal



counter comments of Department of Telecommunications are placed at Annexure-II (Page 15) to this note.

4.2 The Department of Expenditure vide its OM dated 3.9.2010 conveyed its concurrence to the proposal contained this Cabinet Note. Department of Legal Affairs has opined that if IDA pension is not revised from 1.1.2007 in case of BSNL absorbee pensioners, it may create a huge difference in the pension of employees of the same grade retired before and after 1.1.2007 and the former may resort to their legal right on the basis of the aforesaid judgement of the Hon'ble Supreme Court. There being no legal or constitutional objection to the proposal, they also concurred to the proposal contained in this note on 12.8.2010. Department of Pension and Pensioners' Welfare vide its OM dated 23.8.2010 has agreed with the proposal contained in the Cabinet Note with certain observations which have been duly incorporated in the Cabinet Note. Department of Public Enterprises vide its OM dated 23.9.2010 has indicated no objection to the proposal subject to certain observations which have been duly considered while preparing this cabinet note as mentioned in Annexure-II (Page 15).

5. Financial Implications:

5.1 The additional annual expenditure on account of revision of IDA pension in BSNL comes to around Rs. 110 crores. The additional expenditure for payment of arrears for last 3 years since 1.1.2007 is approximately Rs. 330 crores. The annual liability of the Government on account of this proposed revision of pension in BSNL

TRUE COPY

Tribunal

with effect from 1.1.2007 shall be within the prescribed limits as explained in para 3.5 above.

6. Approval Sought:

6.1 Approval of the Cabinet is sought for revision of pension/ family pension of existing BSNL absorbed pre-2007 pensioners/ family pensioners w.e.f. 1.1.2007 by adding together-

(i) Existing pension/ family pension including commuted portion of pension, if any

(ii) Dearness relief (IDA) @ 68.8%

(iii) Fitment weightage @ 30% of the existing pension/ family pension and dearness relief (IDA) thereon.

6.2 The amount so arrived at will be regarded as the consolidated pension/ family pension w.e.f. 1.1.2007. This will be subject to the conditions of minimum and maximum revised pension, age related additional pension for pensioners, and government liability of pension being limited to 60% of receipts as mentioned in para 3.2 to 3.5 of this note.

7. The statement of Implementation Schedule has been given in Appendix-I (Page 11) to this note.

TRUE COPY

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

8. The proposal covered in the note is an administrative issue and therefore criteria of Equity, Innovation and Public Accountability is not relevant in this case. A statement on Equity, Innovation and Public Accountability is attached at Appendix-II (Page 13) to this note.

This note has been seen by Hon'ble Minister of Communications & Information Technology.

(Malay Shrivastava)
Joint Secretary to the Govt. of India
Telephone No. 23717411
FAX No. 23372049

TRUE COPY

Tribunal

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

APPENDIX – I
(Refer paragraph 7)

STATEMENT OF IMPLEMENTATION SCHEDULE

Sub: Revision of IDA pension for employees of BSNL, who retired after 01.10.2000 and before 01.01.2007.

*****

Gist of decision required	Project benefits/results	Time-frame and manner of Implementation / Reporting to Cabinet Secretariat.
Revision of IDA Pension of existing BSNL absorbed pre-2007 pensioners/ family pensioners w.e.f. 1.1.2007 by adding together- (i) Existing pension/ family pension including commuted portion of pension, if any (ii) Dearness relief @ 68.8% (iii) Fitment weightage @ 30% of the existing pension/ family pension and dearness relief (IDA) thereon.	This will fulfill the demand of pension revision of BSNL retirees (who retired between 01.10.2000 and 01.01.2007) in whose case pension is paid by the Government.	Immediately after approval of this Cabinet Note, instructions will be issued to Controllers of Communication Accounts (CCA), in various circles of BSNL to complete the work of pension revision within 6 months.

TRUE COPY

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

The revision is subject to the conditions of minimum and maximum revised pension, age related additional pension for pensioners, and government liability of pension being limited to 60% of receipts as mentioned in para 3.2 to 3.5 of this note.		

(Malay Shrivastava)
Joint Secretary to the Govt. of India
Telephone No. 23717411
FAX No. 23372049

TRUE COPY

Tribunal

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

APPENDIX – II
(Refer paragraph 8)

STATEMENT OF EQUITY, PUBLIC ACCOUNTABILITY AND INNOVATION

Sub: Revision of IDA pension for employees of BSNL, who retired after 01.10.2000 and before 01.01.2007.

*****

Sl. No.	The required goal	How does the proposal advance this goal?
1.	Equity or Inclusiveness, Public Accountability, Innovation	The proposal covered in the Note is an administrative issue and therefore, the criteria of Equity, Public Accountability and Innovation is not relevant in this case.

(Malay Shrivastava)
Joint Secretary to the Govt. of India
Telephone No. 23717411
FAX No. 23372049

TRUE COPY

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

ANNEXURE – I
(Refer paragraph 2.6)

Total Annual Receipt to Government and Pension Liability

S.No.	Item	Amount Rs. Crores
1.	Dividend from BSNL in 2009-10	0.00
2.	Dividend from MTNL in 2009-10	35.44
3.	Licence fees from BSNL in 2009-10	2154.10
4.	Licence fees from MTNL in 2009-10	348.06
5.	Corporate Tax paid (including TDS) in 2009-10	1935.00
6.	Service tax in 2009-10	2914.68
7.	Excise duty	37.75
8.	Total	7425.03
9.	60% of this amount	4455.00
10.	Pension Liability of Government for 09-10	2877.18
11.	Pension Liability of Government for 09-10 after proposed revision	2877.18 + 110.00 = 2987.18
12.	Pension Contribution paid by BSNL to the government for 2009-10	2023.53

Thus the pension liability of the Government after the proposed revision of pension of the BSNL retirees shall also be within the prescribed limit of 60%.

SECRET

TRUE COPY

Central Administrative Tribunal

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

ANNEXURE – II
(Refer paragraph 4.1)

Comments of Ministries Consulted

Comments	Counter Comments of Ministry of Communications &IT
Department of Legal Affairs The proposals contained in the Draft Note are by and large of administrative nature pertaining to DOT and their two PSUs i.e. BSNL and MTNL. It also appears that at present the pension liability towards the absorbed employees are by and large made by the Government from the receipt of their commercial PSUs. Also, so far the service rendered by these employees in the Government before the corporatisation is concerned, the liability to pay pension was of the Central Government. There appears to be no legal or constitutional objection to the proposals contained in the Note, and if approved, we may concur in the said Note.	No comments required
Department of Pension and Pensioners' Welfare DoP&PW is in agreement with the proposal contained in the draft Cabinet Note. However, following observations are communicated:- (i) The Cabinet Note is silent on the issue of modified parity for pensioners as prescribed in para 4.2 of Department of Pension and Pensioners' Welfare O.M. No.38/37/08-P&PW(A) dated 1.9.2008. Para 4.2 is reproduced below:- 4.2 The fixation of pension will be subject to the provision that the revised pension, in no case, shall be lower than fifty percent of the minimum of the pay in the pay band plus the grade pay corresponding to the pre-revised pay scale from which the pensioner had retired. In the case of HAG+ and above scales, this will be fifty percent of the minimum of the revised scale.	Appropriate provision has been incorporated as para 3.3 of this Cabinet Note.

SECRET

TRUE COPY

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

(II) The Cabinet Note is also silent on the issue of age related additional pension for pensioners as prescribed in para 4.5 of Department of Pension and Pensioners' Welfare O.M. No. 38/37/08-P&PW(A) dated 1.9.2008. Para 4.5 is reproduced below:- '4.5 This quantum of pension/family pension available to the old pensioners/family pensioners shall be increased as follows: Age of pensioners/ family pensioners | Additional quantum of pension From 80 years to less than 85 years | 20% of revised basic pension/family pension From 85 years to less than 90 years | 30% of revised basic pension/family pension From 90 years to less than 95 years | 40% of revised basic pension/family pension From 95 years to less than 100 years | 50% of revised basic pension/family pension 100 years or more | 100% of revised basic pension/family pension	Appropriate provision has been incorporated as para 3.4 of this Cabinet Note.
(III) The Cabinet note in para 3.3 *(para 3.5 of this note)* discusses the modalities of sharing pensionary liability between BSNL and government and states that pension liability of the government after proposed revision of pension of BSNL pensioners would increase by Rs. 110 crores and total liability shall be within prescribed limits. Department of Pension and Pensioners' Welfare has no comments on this financial issue.	No comments required

SECRET

TRUE COPY

Tribunal

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

(iv) The Department of Telecommunications has adopted the formula for revision of pension of all pensioners of BSNL, which has been used for revision of pay of its Board level and below Board level executives and Non-unionized supervisors as communicated vide Department of Telecommunications communication dated 7.2.2009. It is presumed that the same formula had been adopted while revising the pay of employees of BSNL. In case different formula has been prescribed for employees the same shall be adopted for revision of pension of pensioners of this category (employees).	Same formula has been adopted for revision of pay of executives as well as non-executives in BSNL. Presumption confirmed.

TRUE COPY

271

True Typed copy

No.47-35/2014-Pen(T)
Government of India
Department of Telecommunications
20, Ashoka Road, Sanchar Bhavan,
New Delhi

Dated 23 December, 2014

To

Shri Amit Kumar Gupta,

1/4 Rajendra Banerjee Road,

Behala,

Kolkata 700034

Subject: Seeking information under RTI Act, 2005 – Case of Shri Amit Kumar Gupta

Sir,

Kindly refer to your representation dated 14.11.2014 vide which you have deposited an amount of Rs.36/- for obtaining the copy of the Cabinet memo dated 29.12.2010.

2. As desired by you, a copy of the Cabinet Note dated 29th December, 2010 enclosed herewith.

Yours faithfully,
Sd/-
(R.K. Mishra)
DDG (Estt.) & Appellate Authority

Encl: As stated above.

// TRUE TYPED COPY //

Central Administrative Tribunal

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

Copy No. /70
Dated 29th December, 2010

NOTE FOR THE CABINET

Sub: Revision of IDA pension for employees of BSNL, who retired after 01.10.2000 and before 01.01.2007

1. **Background:**

1.1. 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 (DTO) into a Public Sector Undertaking (PSU). The government employees in the two departments were transferred en masse to BSNL on deemed deputation basis. The process of absorption of these employees in BSNL took place with effect from 01.10.2000 in accordance with Rule 37A of CCS (Pension) Rules, 1972. On absorption, these absorbed employees started getting their pay in Industrial Dearness Allowance (IDA) based pay scales. As per sub-rule 8 of rule 37A of CCS (Pension) Rules, 1972, these absorbed employees are eligible for pensionary benefits on the basis of the combined service rendered by them with the central Government and with BSNL in accordance with formula for calculation of pension and family pension under CCS (Pension) Rules, 1972 at the time of their retirement from

TRUE COPY

BSNL. The absorbed employees of BSNL who retired after 01.10.2000 get pension, and dearness relief thereon as per IDA pattern. The number of such retired employees as on 31.12.2006 is approximately 47,000. The pension to employees absorbed in BSNL is paid by Government as per sub-rule 21 to 23 of Rule 37-A of CCS (Pension) Rules, 1972 while BSNL continues to pay Pension Contribution to the DoT as per rates prescribed under FR-116.

1.2. The Department of Public Enterprises (DPE) issued orders for revision of pay of employees in BSNL with effect from 1.1.2007. No such orders were issued by the government for revision of pension of employees retired from BSNL. As a result, employees who retired from BSNL after 1.1.2007 got about 30% higher pension than the employees who retired before 1.1.2007.

2. **Justification**

2.1 In respect of government employees, consequent to pay revision, pension revision has also been carried out in accordance with guidelines issued by the Department of Pension & Pensioners' Welfare (DoP&PW). Though there are only a few PSUs which are paying pension on IDA pay scales, BSNL is a unique PSU where pension continues to be paid by the government to absorbed employees of BSNL. However, consequent to pay revision in BSNL with effect

TRUE COPY

from 1.1.2007, no guidelines have been issued for revision of pension of absorbed employees of BSNL.

2.2 As on 1.1.2007, Dearness Relief given on IDA pay scales was 68.8% of the basic pension. From 01.01.2007, wage revision in IDA scales for all employees took place in BSNL. The revision was done after merging basic pay with IDA @ 68.8% and applying fitment of 30% thereon i.e. on basic pay plus merged IDA. This resulted in significant rise in basic pension for those employees, who retired after 01.01.2007 in the revised pay scales. However, the BSNL absorbed employees who retired before 01.01.2007 continued to draw pension at lower rates, as no change in the pension was notified. A large number of BSNL pensioners, Service Unions as well as pensioner's Associations / Unions have represented for revision of pension in respect of BSNL absorbed employees retired before 01.01.2007.

2.3 The Department of Pension & Pensions Welfare (DoP&PW) had earlier advised the Department of Public Enterprises (DPE) to issue instructions to all administrative ministries for revision of pension (under IDA pattern) of retired en-masse transferees who had opted for combined pension as per formulae under the Central Government rules based on IDA pattern of pay, on the lines of procedure adopted for pay scales of PSU officials. No instructions have, however, been

Central Administrative Tribunal

TRUE COPY

issued by DPE to the administrative ministries for revision of pension, presumably on the ground that Ida pension revision issue is beyond DPE's scope.

2.4 It is therefore felt that for pre-2007 retirees of BSNL, DOT has to process revision of pension on IDA pattern. As per sub-rule 21 of Rule 37-A, pensionary benefits including family pension are to be paid by the Government for employees absorbed in BSNL. In the absence of suitable general guidelines for pension revision on IDA pattern, it has been felt necessary to seek cabinet Approval for such revision. Accordingly, this proposal has been prepared considering the factors given in following paragraphs.

2.5 Pension is linked to pay drawn at the time of retirement as well as pay drawn by employee of similar status in future even after retirement. Pension revision of retired employee is linked to pay revision of existing employees. As per the judgment of Apex court in case of D.S. Nakara & Others versus Union of India, the Apex Court has ruled that applicability of any liberalized pension scheme should not depend on a fixed date of retirement but the division of pensioners into two classes should be based on some rational principle.

2.6 The annual pension liability of the Government in respect of employees of DoT/DTS/DTO, who retired prior to 01.10.2000 and those who have worked or working in BSNL

TRUE COPY

on deemed deputation and for those who are absorbed in BSNL, shall not exceed 60% of annual receipts to Government from (i) Dividend income from MTNL/BSNL, (ii) License fee from MTNL/BSNL; and (iii) Corporate tax / Excise duty / Service tax paid by BSNL. If the annual pension liability exceeds the figure of 60%, the liability beyond that level will be borne by BSNL. Details of pension liability of government for the year 2009-10 for BSNL are given at Annexure-I (Page 14).

2.7 The pension of pre-2006 Central Government pensioner/family pensioner has been revised as per orders dated 1.9.2008, by adding together (i) the existing pension/family pension; (ii) Dearness pension, where applicable (iii) Dearness relief as on 1.1.2006 i.e. 24% of Basic pension/Basic family pension plus dearness pension; and (iv) Fitment weightage @ 40% of existing pension/family pension. The amount so arrived at will be regarded as consolidated pension / family pension with effect from 01.01.2006. The pension revision factor thus comes out to be 2.26 as on 01.01.2006; of course, with minimum and maximum pension as on 01.01.2006 as Rs.3500/- and Rs.45000/- respectively.

2.8 The pension revision methodology contained in this note is based upon the pay revision parameters of BSNL. The consolidated pension/family pension will be worked out by

TRUE COPY

adding (i) the existing basic pension/family pension, (ii) Dearness relief as on 1.1.2007 i.e. 68.8% of Basic pension/Basic family pension and (iii) Fitment weightage @ 30% on the sum of existing basic pension/family pension and the dearness relief (IDA) thereon. The pension revision factor thus comes out to be 2.19 as on 1.1.2007.

2.9 Other conditions like minimum and maximum revised pension being Rs.3500/- and Rs.45000/- as on 1.1.2007 respectively, age related additional pension for pensioners as prescribed DoP&PW, and government liability of pension being limited to 60% of receipts will remain similarly applicable.

3. **Proposal**:

3.1 In view of the foregoing, it is proposed that the pension / family pension of existing BSNL absorbed pre-2007 pensioners/ family pensioners may be revised w.e.f. 1.1.2007 by adding together –

(i) Existing pension / family pension including commuted portion of pension, if any

(ii) Dearness relief (IDA) @ 68.8%

(iii) Fitment weightage @ 30% of the existing pension / family pension and dearness relief (IDA) thereon.

3.2 The amount so arrived at will be regarded as the consolidated pension / family pension w.e.f. 1.1.2007 subject to minimum / maximum limit prescribed under CCS

TRUE COPY

Pension Revised Rules 2008. 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.

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

3.4 This quantum of pension / family pension available to the old pensioners / family pensioners shall be increased as follows:

Age of pensioners/ family pensioners	Additional quantum of pension
From 80 years to less than 85 years	20% of revised basic pension/family pension
From 85 years to less than 90 years	30% of revised basic pension/family pension
From 90 years to less than 95 years	40% of revised basic pension/family pension
From 95 years to less than 100 years	50% of revised basic pension/family pension
100 years or more	100% of revised basic pension/family pension

3.5 After this revision, the annual pension liability of the Government in respect of employees of DoT/DTS/DTO, who retired prior to 01.10.2000 and those who have worked or

TRUE COPY

working in BSNL on deemed deputation and for those who are absorbed in BSNL, shall not exceed 60% of annual receipts to Government from (i) Dividend income from MTNL/BSNL, (ii0 License fee from MTNL/BSNL; and (iii) Corporate tax/Excise duty/Service tax paid by BSNL. If the annual pension liability exceeds the figure of 60%, the balance amount is to be paid by BSNL.

4. **Inter-Ministerial Consultation**:

4.1 The draft note was circulated to the Department of Expenditure (Ministry of Finance), Department of Legal Affairs (Ministry of Law and Justice), Department of Pension and Pensioners' Welfare (Ministry of Personnel, Public Grievances and Pensions) and Department of Public Enterprises (ministry of Heavy Industries & Public Enterprises) on 28.07.2010. The views of the consulted Ministries along with counter comments of Department of Telecommunications are placed at Annexure-II (Page 15) to this note.

4.2 The Department of Expenditure vide its OM dated 03.09.2010 conveyed its concurrence to the proposal contained this Cabinet Note. Department of Legal Affairs has opined that if IDA pension is not revised from 01.01.2007 in case of BSNL absorbee pensioners, it may create a huge difference in the pension of employees of the

TRUE COPY

same grade retired before and after 01.01.2007 and the former may resort to their legal right on the basis of the aforesaid judgment of the Hon'ble Supreme Court. There being no legal or constitutional objection to the proposal, they also concurred to the proposal contained in this note on 12.08.2010. Department of Pension and Pensioners' Welfare vide its OM dated 23.08.2010 has agreed with the proposal contained in the cabinet Note with certain observations which have been duly incorporated in the Cabinet Note. Department of Public Enterprises vide its OM dated 23.09.2010 has indicated no objection to the proposal subject to certain observations which have been duly considered while preparing this cabinet note as mentioned in Annexure-II (Page 15)

5. **Financial Implications**:

5.1 The additional annual expenditure on account of revision of IDA pension in BSNL comes to around Rs.110 crores. The additional expenditure for payment of arrears for last 3 years since 01.01.2007 is approximately Rs.330 crores. The annual liability of the Government on account of this proposed revision of pension in BSNL with effect from 01.01.2007 shall be within the prescribed limits as explained in para 3.5 above.



TRUE COPY

6. **Approval Sought:**

6.1 Approval of the Cabinet is sought for revision of pension / family pension of existing BSNL absorbed pre-2007 pensioners/ family pensioners w.e.f. 01.01.2007 by adding together-

(i) Existing pension / family pension including commuted portion of pension, if any

(ii) Dearness relief (IDA) @ 68.8%

(iii) Fitment weightage @ 30% of the existing pension / family pension and dearness relief (IDA) thereon.

6.2 The amount so arrived at will be regarded as the consolidated pension / family pension w.e.f. 01.01.2007. This will be subject to the conditions of minimum and maximum revised pension, age related additional pension for pensioners, and government liability of pension being limited to 60% of receipts as mentioned in para 3.2 to 3.5 of this note.

7. The statement of Implementation Schedule has been given in Appendix-I (page 11) to this note.

8. The proposal covered in the note is an administrative issue and therefore criteria of Equity, Innovation and Public accountability is not relevant in this case. A statement on Equity, Innovation and Public Accountability is attached at Appendix-II (Page 13) to this note.

TRUE COPY



282

This note has been seen by Hon'ble Minister of Communications & Information Technology.

Sd/-
(Malay Shrivastava)
Joint Secretary to the Govt. of India
Telephone No. 23717411
FAX No.23372049

TRUE COPY

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of telecommunications

APPENDIX-I

(Refer paragraph 7)

STATEMENT OF IMPLEMENTATION SCHEDULE

Sub:- Revision of IDA pension for employees of BSNL, who retired after 01.10.2000 and before 01.01.2007

****

Gist of decision required	**Project benefits / results**	**TimeOframe and manner of Implementation / Reporting to Cabinet Secretariat**
Revision of IDA Pension of existing BSNL absorbed pre-2007 pensioners/ family pensioners w.e.f. 01.01.2007 by adding together- (i) Existing pension / family pension including commuted portion of pension, if any (ii) Dearness relief @ 68.8% (iii) Fitment of weightage @ 30% of the existing pension / family pension and	This will fulfill the demand of pension revision of BSNL retirees (who retired between 01.10.2000 and 01.01.2007) in whose case pension is paid by the Government.	Immediately after approval of this Cabinet Note, instructions will be issued to Controllers of Communication Accounts (CCA), in various circles of BSNL to complete the work of pension revision within 6 months.

TRUE COPY

dearness relief (IDA) thereon. The revision is subject to the conditions of minimum and maximum revised pension, age related additional pension for pensioners, and government liability of pension being limited to 60% of receipts as mentioned in para 3.2 to 3.5 of this note.		

Sd/-
(Malay Shrivastava)
Joint Secretary to the Govt. of India
Telephone No. 23717411
FAX No.23372049

SECRET

TRUE COPY



285.

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

APPENDIX-II
(Refer paragraph 8)

STATEMENT OF EQUITY, PUBLIC ACCOUNTABILITY AND INNOVATION

Sub:- Revision of IDA pension for employees of BSNL, who retired after 01.10.2000 and before 01.01.2007

****

Sl. No.	The required goal	How does the proposal advance this goal?
1.	Equity or inclusiveness, Public Accountability, Innovation	The proposal covered in the Note is an administrative issue and therefore, the criteria of Equity, Public Accountability and Innovation is not relevant in this case.

Sd/-
(Malay Shrivastava)
Joint Secretary to the Govt. of India
Telephone No. 23717411
FAX No.23372049

SECRET

TRUE COPY

Tribunal

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

APPENDIX-I
(Refer paragraph 2.6)

Total Annual Receipt to Government and Pension Liability

S.No.	Item	Amount Rs. Crores
1.	Dividend from BSNL in 2009-10	0.00
2.	Dividend from MTNL in 2009-10	35.44
3.	Licence fees from BSNL in 2009-10	2154.10
4.	Licence fees from MTNL in 2009-10	348.06
5.	Corporate Tax paid (including TDS) in 2009-10	1935.00
6.	Service tax in 2009-10	2914.68
7.	Excise duty	37.75
8.	Total	7425.03
9.	60% of this amount	4455.00
10.	Pension Liability of Government for 09-10	2877.18
11.	Pension Liability of Government for 09-10 after proposed revision	2877.18 +110.00 = **2987.18**
12.	Pension Contribution paid by BSNL to the government for 2009-10	2023.53

Thus the pension liability of the government after the proposed revision of pension of the BSNL retirees shall also be within the prescribed limit of 60%

TRUE COPY

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

ANNEXURE-II
(Refer paragraph 4.1)

Comments of Ministries Consulted

Comments	**Counter Comments of Ministry of Communications & IT**
Department of Legal Affairs The proposals contained in the Draft Note are by and large of administrative nature pertaining to DOT and their two PSUs i.e. BSNL and MTNL. It also appears that at present the pension liability towards the absorbed employees are by and large made by the Government from the receipt of their commercial PSUs. Also, so far the service rendered by these employees in the government before the corporatization is concerned, the liability to pay pension was of the Central Government. There appears to be no legal or constitutional objection to the proposals contained in the Note, and if approved, we may	No comments required.

Central Administrative Tribunal

concur in the said Note.	
Department of Pension and Pensioners' Welfare DoP&PW is in agreement with the proposal contained in the draft Cabinet Note. However, following observations are communicated:- (i) The Cabinet Note is silent on the issue of modified parity for pensioners as prescribed in para 4.2 of Department of Pension and Pensioners' Welfare O.M. No.38/37/08-P&PW(A) dated 01.09.2008. Para 4.2 is reproduced below:- '4.2. The fixation of pension will be subject to the provision that the revised pension in no case, shall be lower than fifty percent of the minimum of the pay in the pay band plus the grade pay corresponding to the pre-revised pay scale from which the pensioner had retired. In the case of HAG+ and above scales, this will be fifty percent of the minimum of the revised scale.'	Appropriate provision has been incorporated as para 3.3 of this Cabinet Note.
(ii) The Cabinet Note is also silent on the issue of age related additional pension for pensioners as prescribed in apra 4.5 of Department of Pension and Pensioners' Welfare O.M. No.38/37/08-	Appropriate provision has been incorporated as para 3.5 of this Cabinet Note.

Central Administrative Tribunal

TRUE COPY

<table>
<tr>
<td>P&PW(A) dated 01.09.2008.
Para 4.5 is reproduced below:-
'4.5 This quantum of pension / family pension available to the old pensioners / family pensioners shall be increased as follows:
<table><tr><td>Age of pensioners/ family pensioners</td><td>Additional quantum of pension</td></tr><tr><td>From 80 years to less than 85 years</td><td>20% of revised basic pension / family pension</td></tr><tr><td>From 85 years to less than 90 years</td><td>30% of revised basic pension / family pension</td></tr><tr><td>From 90 years to less than 95 years</td><td>40% of revised basic pension / family pension</td></tr><tr><td>From 95 years to less than 100 years</td><td>50% of revised basic pension / family pension</td></tr><tr><td>100 years or more</td><td>100% of revised basic pension / family pension</td></tr></table>
(iii) The Cabinet note in para 3.3 (para 3.5 of this note) discusses the modalities of sharing pensionary liability between BSNL and government and states that pension liability of the government after proposed revision of pension of BSNL</td>
<td>No comments required</td>
</tr>
</table>

Central Administrative Tribunal

pensioners would increase by Rs.110 crores and total liability shall be within prescribed limits. Department of Pension and Pensioners' Welfare has no comments on this financial issue.	
(iv) The Department of Telecommunications has adopted the formula for revision of pension of all pensioners of BSNL, which has been used for revision of pay of its Board level and below Board level executives and Non-unionized supervisors as communicated vide Department of Telecommunications communication dated 07.02.2009. It is presumed that the same formula had been adopted while revising the pay of employees of BSNL. In case different formula has been prescribed for employees the same shall be adopted for revision of pension of pensioners of this category (employees.)	Same formula has been adopted for revision of pay of executives as well as non-executives in BSNL. Presumption confirmed.

ANNEXURE-A-15 2911

F. No. 40-17/2008-Pen(T)-Vol.III
Government of India
Ministry of Communications & Information Technology
Department of Telecommunications
Sanchar Bhawan, 20, Ashoka Road, New Delhi-110001

Dated the 15th March, 2011

OFFICE MEMORANDUM

Sub: Revision of pension of pre-2007 pensioners/ family pensioners of BSNL

1. The employees of erstwhile Department of Telecom (DoT) who were absorbed in BSNL with effect from 1.10.2000 in accordance with Rule 37-A of CCS (Pension) Rules 1972 and have since retired are being paid pension by the Government in accordance with sub-rule 21 of the said rule.

2. The matter regarding revision of Pension in respect of BSNL IDA Pensioners, who retired during the period from 1.10.2000 to 31.12.2006, pursuant to wage revision in BSNL with effect from 1.1.2007 had been under consideration of the Government of India.

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

3.1. These orders shall apply to all pensioners/family pensioners who were drawing/ entitled to draw pension/ family pension on 1.1.2007 under the provisions of sub-rule 21 of Rule 37-A of Central Civil Services (Pension) Rules, 1972, based upon the combined services rendered in Government and in BSNL.

3.2. In these orders:

a. Pre-2007 BSNL pensioner / family pensioner means a pensioner/ family pensioner, who, after retirement from BSNL during the period 1.10.2000 to 31.12.2006, was drawing/ entitled to draw pension based upon his combined service in Government and in BSNL, in accordance with sub-rule 21 of Rule 37-A of CCS(Pension) Rules 1972, as on 31.12.2006.

15/3/2011

TRUE COPY

Tribunal

b. Existing pension means the basic pension inclusive of commuted portion, if any, as on 31.12.2006, covered under sub-rule 21 of Rule 37-A of the CCS (Pension) Rules, 1972.

c. Existing family pension means the basic family pension as on 31.12.2006 under sub-rule 21 of Rule 37-A of the CCS (Pension) Rules 1972.

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

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

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

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

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

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

4.3. Since the consolidated pension will be inclusive of commuted portion of pension, if any, the commuted portion will be deducted from the said amount while making monthly disbursements.

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

4.5. The quantum of pension/family pension available to the old pensioners/ family pensioners shall be increased as follows:

Age of Pensioner/family pensioner	Additional quantum of pension
From 80 years to less than 85 years	20% of revised basic pension/ family pension
From 85 years to less than 90 years	30% of revised basic pension/ family pension
From 90 years to less than 95 years	40% of revised basic pension/ family pension
From 95 years to less than 100 years	50% of revised basic pension/ family pension
100 years or more	100% of revised basic pension/ family pension

15/3/2011

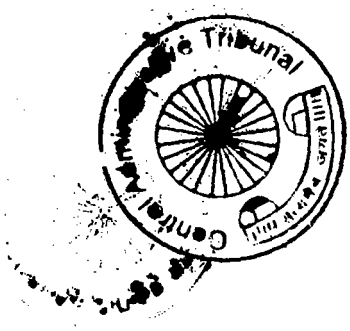
The amount of additional pension will be shown distinctly in the pension payment order. For example, in case where a pensioner is more than 80 years of age and his/ her consolidated pension in terms para 4.1 and 4.2 above is Rs.10,000 pm, the pension will be shown as (i) Basic pension=Rs.10,000 and (ii) Additional pension = Rs.2,000 pm. The pension on his/ her attaining the age of 85 years will be shown as (i) Basic Pension = Rs.10,000 and (ii) additional pension = Rs.3,000 pm.

4.6. The consolidated pension/family pension arrived at as per paragraph 4.1 includes dearness relief of 68.8% of basic pension corresponding to average Index level upto 126.33 (Base year 2001=100) as on 1.1.07, as per orders issued quarterly by Department of Public Enterprises in respect of serving employees, whose pay scales were revised w.e.f. 1.1.1997. Therefore, dearness relief on the consolidated pension/ family pension will be admissible only beyond index average 126.33 (Base year 2001=100) in accordance with the scheme of dearness allowance which is admissible on pay to serving employees of BSNL, i.e. the quarterly IDA rates notified by Department of Public Enterprises. Sixteen such quarterly installments of Dearness Relief on IDA pension due w.e.f. 1.4.07 upto the date of issue of these orders will be paid on the basis of DPE OM issued from time to time in respect of serving employees of CPSEs whose scales were revised w.e.f 1.1.07. A table indicating dearness relief admissible w.e.f 1.4.2007 to 31.3.2011 is as under:

S. No.	IDA effective from	IDA Rates
1.	01-01-2007	0%
2.	01-04-2007	0.8%
3.	01-07-2007	1.3%
4.	01-10-2007	4.2%
5.	01-01-2008	5.8%
6.	01-04-2008	6.3%
7.	01-07-2008	9.2%
8.	01-10-2008	12.9%
9.	01-01-2009	16.6%
10.	01-04-2009	16.9%
11.	01-07-2009	18.5%
12.	01-10-2009	25.3%
13.	01-01-2010	30.9%
14.	01-04-2010	34.8%
15.	01-07-2010	35.1%
16.	01-10-2010	39.8%
17.	01-01-2011	43.0%

4.7. Where the consolidated pension/family pension in terms of paragraph 4 above works out to an amount less than Rs. 3500, the same shall be stepped upto Rs. 3500.

TRUE COPY



This will be regarded as pension/ family pension with effect from 1.1.2007. In the case of pensioners who are in receipt of more than one pension, the floor ceiling of Rs. 3500/- will apply to the total of all pensions taken together.

4.8. Cases of BSNL pensioners who are in receipt of any other pension may be referred to this office for issue of orders separately.

5. The annual pension liability of Government in respect of employees retired from DoT prior to 1.10.2000 and those who are working in BSNL on deemed deputation basis or on absorption shall continue to remain within 60% of annual receipts to Government from (i) dividend income from MTNL/BSNL, (ii) License fee from MTNL/BSNL; and (iii) Corporate Tax/ Excise duty/ Service Tax paid by BSNL after this revision. In case it exceeds 60%, excess liability will be borne by BSNL.

6. All administrative offices of BSNL handling preparation of pension papers to the BSNL pensioners are hereby directed to initiate the process of consolidation of pension/ family pension to existing BSNL pensioners/ family pensioners at the consolidated rates in terms of para 4 above immediately, and forward the same to concerned CCA for authorization. A Table showing pre-revised and revised pay scales in BSNL is given in Annexure-I.

7. A suitable entry regarding the revised consolidated pension shall be recorded by the pension Disbursing Authorities in both halves of the Pension Payment Order. An intimation regarding disbursement of revised pension may be sent by the pension disbursing authorities to the Office of CCA which had issued the PPO in the form given at Annexure-II so that the later can update the Pension Payment Order Register maintained by him. An acknowledgement shall be obtained by the Pension Disbursing Authorities from Office of the respective CCAs in this behalf.

8. The consolidated pension/ family pension as worked out in accordance with provisions of Para 4 above shall be treated as final Basic Pension with effect from 1.1.2007 and shall qualify for grant of Dearness Relief on IDA pattern sanctioned thereafter.

10. It shall be the responsibility of the CCAs/ Heads of the Office, etc. from which the BSNL employee had retired or where he was working prior to his demise to revise the pension/ family pension of all BSNL pensioners/ family pensioners with effect from 1st January 2007 in accordance with the provisions mentioned in para 4.1 and 4.2 above and to issue revised Pension Payment Order (PPOs). Action to revise pension/ family pension in terms of these provisions shall be initiated suo-moto by the concerned Heads of Offices. It is emphasized that the Pension Sanctioning Authority, in no case, will ask the BSNL pensioner/ family pensioner to surrender his/ her original Pension Payment Order (PPO) for issuing revised authority. In case, however, the age of pensioner/family pensioner is not available on the PPO/ office records, the same shall be obtained from the pensioner/ family pensioner and indicated in the revised PPO. The authenticity of the age declared by the pensioner/ family pensioner shall be verified by the pension

TRUE COPY

sanctioning authority. It may also be ensured that a copy of the revised PPO should be invariably endorsed to the pensioner/ family pensioner.

11. It is considered desirable that the benefit of these orders should reach the pensioners as expeditiously as possible. To achieve this objective it is desired that all Heads of offices should ensure that the calculation for revised pension due to the pensioners in terms of para 4.1 and para 4.5 above is forwarded to the concerned CCA by 30th April 2011 who in turn will issue the revised PPO within one month of receipt of cases completed in all respects positively. Payment of pension at revised rates should start from the month of July 2011 and payment of arrears should be completed by 30th September 2011. Concerted efforts should be made by all the authorities concerned to ensure that the revised PPO's are issued, wherever necessary, with the utmost expedition in terms of para 4.1, 4.2 and 4.5 above.

(Shakeel Ahmad) 15.3.11
Dy. Director General (Establishment)
Ph: 23710035

To,
Chairman and Managing Director
Bharat Sanchar Nigam Limited
New Delhi

Copy to:

1. The Cabinet Secretary [Attn:Shri K.L.Sharma, Director (Cabinet)]
2. Secretary, Department of Expenditure
3. Secretary, Department of Pension and Pensioners' Welfare
4. Secretary, Department of Legal Affairs
5. Secretary, Department of Public Enterprises
6. PS to Secretary (T)
7. PS to Members(S)/ (T)/ (F), Telecom Commission
8. DDG(TPF& A/C), DoT, for issuing detailed circular to CCA offices for revision of pension/ family pension as per this order; and to match the liability of government for payment of pension limiting to 60% of receipts as envisaged in para 5 of this order.
9. DDG(FEB)/ Director(Finance)/, DoT

(D.N.Sah) 15/3/2011
U.S. (STP)

TRUE COPY

Central Administrative Tribunal

Pay Scales In BSNL

Pay Scale	Pre-revised	Revised	Min revised Pension
Non-Executive			
NE1	4000-120-5800	7760-13320	3880
NE2	4060-125-5935	7840-14700	3920
NE3	4100-125-5975	7900-14880	3950
NE4	4250-130-6200	8150-15340	4075
NE5	4550-140-6650	8700-16840	4350
NE6	4720-150-6970	9020-17430	4510
NE7	5700-160-8100	10900-20400	5450
NE8	6550-185-9325	12520-23440	6260
NE9	7100-200-10100	13600-25420	6800
NE10	7800-225-11175	14900-27850	7450
NE11	8570-245-12245	16370-30630	8185
Executive			
E2	9850-250-14600	16400-40500	8200
E3	11875-300-17275	20600-46500	10300
E3	13000-350-18250	24900-50500	12450
E4	14500-350-18700	29100-54500	14550
E5	16000-400-20800	32900-58000	16450
E6	17500-400-22300	36600-62000	18300
E7	18500-450-23900	43200-66000	21600
E9	23750-600-28550	62000-80000	31000
E9A	25000-650-30200	62000-80000	31000

TRUE COPY

Form of intimation by the Pension Disbursing Authority to the CCA and Concerned Communication Accounts Officer regarding consolidation of pension in terms of Department of Telecom. Office Memorandum No. 40-17/2008-Pen.(T)-Vol.III dated 15-03-2011.

1. Name of the IDA Pensioner/Family Pensioner :
2. PPO No. :
3. Date of Birth/age :
4. Date of retirement/Death (in case of family pension) :
5. Savings Bank Account No. :
6. Name of the Bank/Paying Branch :
7. Bank Code No. :
8. Computation of consolidated IDA pension/family pension:
   Pension/*Family Pension/*Family Pension (at enhanced rate)

Pension			Family Pension/Enhanced Family Pension		
(A)	Existing basic pension (inclusive of commuted portion)		(A)	Existing basic Family Pension/Enhanced family pension	
(B)	Dearness Relief up to 68.8% of Basic Pension		(B)	Dearness Relief upto 68.8% of Basic Family Pension	
(C)	30% of (A) + (B) above		(C)	30% of (A) + (B) above	
(D)	Consolidated Pension (A+B+C)		(D)	Consolidated Family Pension (A+B+C)	

Note:

(a) The final revision of IDA pension in respect of pensioners of BSNL will be done by the CCA & Accounts Officer concerned.
(b) The final revision of IDA Family Pension will also be done by the CCA & Accounts Officer concerned.

(* If not applicable draw a line across)

9. Whether consolidated IDA pension/family pension is final or allowed as immediate relief.

10. Remarks, If any.

SIGNATURE OF PENSION DISBURSING AUTHORITY

I. CCA concerned
Ministry of Communications & I.T.
Department of Telecommunications

---

ii. Concerned Communications
Accounts Officer

TRUE COPY

Tribunal

F.No._____
Department of Telecommunications
(Pension Section)
DOT Cell,_____

(PENSION CALCULATION SHEET)

Revision of Pension of Pre-2007 BSNL Pensioners/Family Pensioners

1. Name of the pensioner with former Designation :
2. P.P.O. No. :
3. Category of pension (Supn./VR) :
4. Date of Birth of pensioner :
5. Date of Commencement of pension :
6. Existing Basic Pension :
7. IDA Pay Scale (Pre-revised) :
8. IDA Pay Scale (Revised) :
9. Consolidated pension effective from 01-01-2007 (subject to provisions of Para 4 of O.M. dated 15-03-2011) :
10. Amount of commuted portion :
11. Reduced rate of pension (Sl.No.8-9) after revision :

Revised Family Pension payable in case of death after retirement

(a) Relationship with pensioner :

(b) Date of Birth of spouse :

(c) Higher rate : Rs. ---------- Upto ----------

(d) Normal rate: Rs. ---------- from---------- onwards

Note: Admisibility of normal & higher rate of family pension, if applicable, may be confirmed by pension Disbursing Authority (PDA).

(Signature with Seal)
Pension Sanctioning Authority

Note: Table Showing DR (IDA pattern) w.e.f. 01-04-2007 and additional quantum of pension to old pensioners/ family pensioners shall be attached alongwith revised authority of PPO for convenience of

F.No._____
Department of Telecommunications
(Pension Section)
DOT Cell, _____

(PENSION CALCULATION SHEET)

Revision of pension of Pre-2007 BSNL Family Pensioners in case of death in service

1. Name of the deceased employee :
2. P.P.O. No. :
3. Date of death in service :
4. Relation of family pensioner with deceased employee :
5. Name and/ Date of Birth of spouse/ Family pensioner :

Consolidated family pension payable :)
(subject to fitment weightage/ lower and)
upper ceiling of family pension as per)
O.M. dated 15-03-2011)

(a) Higher rate : Rs. ---------- Upto ----------

(b) Normal rate: Rs. ---------- from---------- onwards

Note: Admisibility of normal & higher rate of family pension may be confirmed by pension Disbursing Authority (PDA).

(Signature with Seal)
Pension Sanctioning Authority

Note: Table Showing DR (IDA pattern) w.e.f. 01-04-2007 and additional quantum of pension to old pensioners/ family pensioners shall be attached alongwith revised authority of PPO for convenience of Pension Disbursing Authority.

TRUE COPY

Central Administrative Tribunal

300

ANNEXURE-A-16

BHARAT SANCHAR NIGAM LTD.
(A Govt. of India Enterprise)
PENSION SECTION
Bharat Sanchar Bhawan,
Janpath, New Delhi-1.

Circular No. 09

No. 40-06/2011-Pen (B) Dated: 04-04-2011.

To

All Heads of Telecom Circles/Telecom District/
Regions/Projects/Telecom Stores/ Telecom Factories &
Other Administration Offices
Bharat Sanchar Nigam Ltd.

Sub: Revision of pension of pre-2007 pensioners/family pensioners of BSNL.

Sir,

I am directed to forward herewith a copy of Office Memorandum No. 40-17/2008-Pen(T)-Vol.III dated 15th March, 2011 issued by the Department of Telecommunications on the subject mentioned above for information and further necessary action. All the administrative offices of BSNL handling preparation of pension papers to the BSNL pensioners are directed to initiate the process of consolidation of pension/family pension to existing pre-2007 BSNL pensioners/family pensioners within the prescribed time schedule at the consolidated rates in terms of para 4 of the enclosed O.M. dated 15th March, 2011 issued by the DoT immediately and forward the same to the concerned CCA for authorization.

Two calculation sheets (Annexure-III & IV) prescribed to facilitate revision of pension/family pension, are enclosed for taking necessary action please.

Encl: As above.

Yours faithfully,

(Sheo Shankar Prasad)
Asstt. General Manager(Pers-V)
Tele. No. 23037475
Fax No. 23766034

Copy to:

1. PPS to CMD, BSNL
2. PPS to DIR(HR)/ DIR(Enterprise)/DIR(Consumer Fixed Access)/ DIR(Consumer Mobility)/DIR(Finance), BSNL Board.
3. All Executive Directors, BSNL.
4. DDG (Estt), DoT for information.
5. All PGMs/Sr.GMs/GMs in BSNL, C.O.
6. Addl.GMs(A)/Pers)/(BW)/(Elect.)/(Arch.)/(SEA)/(EF)/(CA), BSNL, C.O.
7. AGM(R&P)/(EF)/(SEA)/(Pers-I)/(Pers-II)/(Pers-III)/(Pers-IV)/(Civil)/(A&E)/(TF), BSNL, C.O.
8. DM(Pay Bill)/(Cash)/(L&A), BSNL, C.O.
9. General Secretary, BSNL EU.
10. DM(OL), BSNL CO for providing Hindi version

TRUE COPY

ANNEXURE-A-17

35. का.आ. 1028 (अ), तारीख 25 अप्रैल, 2008

36. का.आ. 829(अ), तारीख 12 अप्रैल, 2010

37. सा.का.नि.176, तारीख 8 जून, 2011

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Pension and Pensioner's Welfare)

NOTIFICATION

New Delhi, the 21st December, 2012

G.S.R. 928(E).—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and, after consultation with the Comptroller and Auditor General of India in relation to conditions of service of persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Pension) Rules, 1972, namely:-

(1) These rules may be called the Central Civil Services (Pension) Amendment Rules, 2012.

(2) Save as otherwise provided, these rules shall come into force on the date of their publication in the Official Gazette.

2. In the Central Civil Services (Pension) Rules, 1972, (hereinafter referred to as the said rules) in rule 5, in sub-rule (2), the proviso shall be omitted and shall be deemed to have been omitted with effect from the 1st Day of January, 1996.

3. In the said rules, rule 29 shall be omitted.

4. In the said rules, for rule 29A, the following rule shall be substituted, namely:-

"29A - Ex-gratia under Special Voluntary Retirement Scheme.- A permanent Government servant, who, on being declared surplus to the establishment in which he was serving, opts for Special voluntary Retirement Scheme, shall be entitled for determination of ex-gratia in addition to the pension".

5. In the said rules, rule 30 shall be omitted.

6. In the said rules, for rule 31, the following rule shall be substituted, namely :–

"31. Deputation to United Nations and other organisations.—A Government servant who is deputed on foreign service to the United Nations' Secretariat or other United Nations' Bodies or the International Monetary Fund or the International Bank of Reconstruction and Development or the Asian Development Bank or the Commonwealth Secretariat or any other

Central Administrative Tribunal

302

International organization and who becomes entitled for pensionary benefits from that Organization, may at his option,—

(a) pay the pension contributions in respect of his foreign service and count such service as qualifying for pension under these rules; or

(b) avail the retirement benefits admissible under the rules of the aforesaid organization and not count such service as qualifying for pension under these rules:

Provided that where a Government servant opts for clause (b), retirement benefits shall be payable to him in India in rupees from such date and in such manner as the Government may, by order, specify:

Provided further that pension contributions, if any, paid by the Government servant, shall be refunded to him".

7. In the said rules, in the rule 32.–

(a) for the marginal heading, the following heading shall be substituted, namely:-

"Verification of qualifying service after eighteen years' service or five years before retirement.—" ;

(b) in sub-rule(1), for the words "twenty-five years", the words "eighteen years" shall be substituted.

8. In the said rules, in rule 36, in clause (b), for the words "Rule 29 of these rules" the words "Special Voluntary Retirement Scheme relating to voluntary retirement of surplus employees." shall be substituted.

9. In the said rules, in rule 37, in sub-rule (3), the words "*pro rata*" shall be omitted.

10. In the said rules, for rule 37A, the following rule shall be substituted, namely;–

"37A. Conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Public Sector Undertaking.– (1) On conversion of a department of the Central Government into a Public Sector Undertaking, all Government servants of that Department shall be transferred *en-masse* to that Public Sector Undertaking, on terms of foreign service without any deputation allowance till such time as they get absorbed in the said undertaking, and such transferred Government servants shall be absorbed in the Public Sector Undertaking with effect from such date as may be notified by the Government.

4782G1/12-3.

TRUE COPY

(2) The Central Government shall allow the transferred Government servants an option to revert back to the Government or to seek permanent absorption in the Public Sector Undertaking.

(3) The option referred to in sub-rule (2) shall be exercised by every transferred Government servant in such manner and within such period as may be specified by the Government.

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

(5) Upon absorption of Government servants in the Public Sector Undertaking, the posts which they were holding in the Government before such absorption shall stand abolished.

(6) The employees who opt to revert to Government service shall be re-deployed through the surplus cell of the Government.

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

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

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

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

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

COPY

Central Administrative Tribunal

(11) The benefits of pension and family pension shall be available to quasi-permanent and temporary transferred Government servants after they have been confirmed in the Public Sector Undertaking.

(12) A Permanent Government servant absorbed in a Pubic Sector Undertaking or a temporary or quasi-permanent Government servant who has been confirmed in the a Public Sector Undertaking subsequent to his absorption therein, shall be eligible to seek voluntary retirement after completing ten years of qualifying service with the Government and the Public Sector Undertaking taken together, and such person shall be eligible for pensionary benefits on the basis of qualifying service.

(13) The Central Government shall create a Pension Fund in the form of a trust and the pensionary benefits of absorbed employees shall be paid out of such Pension Fund.

(14) The Secretary of the administrative Ministry of the Public Sector Undertaking shall be the Chairperson of the Board of Trustees which shall include representatives of the Ministries of Finance, Personnel, Public Grievances and Pensions, Labour, concerned Public Sector Undertaking and their employees and experts in the relevant field to be nominated by the Central Government.

(15) The procedure and the manner in which pensionary benefits are to be sanctioned and disbursed from the Pension Fund shall be determined by the Government on the recommendation of the Board of Trustees.

(16) The Government shall discharge its pensionary liability by paying in lump sum as a one time payment to the Pension Fund the pension or service gratuity and retirement gratuity for the service rendered till the date of absorption of the Government servant in the Public Sector Undertaking.

(17) The manner of sharing the financial liability on account of payment of pensionary benefits by the Public Sector Undertaking shall be determined by the Government.

(18) Lump sum amount of the pension shall be determined with reference to Commutation Table laid down in Central Civil Services (Commutation of Pension) Rules, 1981.

(19) The Public Sector Undertaking shall make pensionary contribution to the Pension Fund for the period of service to be rendered by the concerned employees under that undertaking at the rates as may be determined by the Board of Trustees so that the Pension Fund shall be self-supporting.

(20) If, for any financial or operational reason, the Trust is unable to discharge its liabilities fully from the Pension Fund and the Public Sector Undertaking is also not in a position to meet the shortfall, the Government

Administrative Tribunal

COPY

shall be liable to meet such expenditure and such expenditure shall be debited to either the Fund or to the Public Sector Undertaking.

(21) Payments of pensionary benefits of the pensioners of a Government Department on the date of conversion of it into a Public Sector Undertaking shall continue to be the responsibility of the Government and the mechanism for sharing its liabilities on this account shall be determined by the Government.

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

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

(24) The arrangements under sub-rule (23) shall be applicable to the existing pensioners and to the employees who are deemed to have retired from the Government.

(25) Upon conversion of a Government Department into a Public Sector Undertaking,-

(a) the balance of provident fund standing at the credit of the absorbed employees on the date of their absorption in the Public Sector Undertaking shall, with the consent of such undertaking, be transferred to the new Provident Fund Account of the employees in such undertaking;

(b) earned leave and half pay leave at the credit of the employees on the date of absorption shall stand transferred to such undertaking;

(c) the dismissal or removal from service of the Public Sector Undertaking of any employee after his absorption in such undertaking for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his dismissal or removal or retrenchment the decisions of the undertaking shall be subject to review by the Ministry administratively concerned with the undertaking .

(26) In case the Government disinvests its equity in any public sector undertaking to the extent of fifty-one per cent or more, it shall specify adequate safeguards for protecting the interest of the absorbed employees of such Public Sector Undertaking.

(27) The safeguards specified under sub-rule (26) shall include option for voluntary retirement or continued service in the undertaking or voluntary retirement benefits on terms applicable to Government employees or

Central Administrative Tribunal

COPY

employees of the Public Sector Undertaking as per option of the employees and assured payment of earned pensionary benefits with relaxation in period of qualifying service, as may be decided by the Government."

(11) In the said rules, after rule 37A, the following rule shall be inserted, namely;–

"37B. Conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Central Autonomous Body.–

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

(2) The Central Government shall allow the transferred Government servants an option to revert back to the Government or to seek permanent absorption in the Autonomous Body.

(3) The option referred to in sub-rule (2) shall be exercised by every transferred Government servant in such manner and within such period as may be specified by the Government.

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

(5) Upon absorption of Government servants in the Autonomous Body, the posts which they were holding in the Government before such absorption shall stand abolished.

(6) The employees who opt to revert to Government service shall be re-deployed through the surplus cell of the Government.

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

(8) A permanent Government servant who has been absorbed as an employee of an Autonomous Body and his family shall be eligible for pensionary benefits (including commutation of pension, gratuity, family pension or extra-ordinary pension), on the basis of combined service rendered by him in the government and Autonomous Body in accordance with the

Central Administrative Tribunal Jaipur Bench

4782/61/12-4

TRUE COPY

formula for calculation of such pensionary benefits as may be in force at the time of his retirement from the Autonomous Body/death or at his option, to receive benefits for the service rendered under the Central Government in accordance with the orders issued by the Central Government.

Explanation:- The amount of pension or family pension in respect of the absorbed employee on retirement from Autonomous Body or death shall be calculated in the same way as would be the case with a Central Government servant retiring or dying, on the same day.

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

(10) In addition to pension or family pension, as the case may be, the absorbed employees who opt for pension on the basis of combined service shall also be eligible to dearness relief as per central dearness allowance pattern.

(11) The benefits of pension and family pension shall be available to quasi-permanent and temporary transferred Government servants after they have been confirmed in the Autonomous Body.

(12) The Central Government shall create a Pension Fund in the form of a trust and the pensionary benefits of absorbed employees shall be paid out of such Pension Fund.

(13) The Secretary of the administrative Ministry of the autonomous body shall be the Chairperson of the Board of Trustees which shall include representatives of the Ministries of Finance, Personnel, Public Grievances and Pensions, Labour, concerned Autonomous Body and their employees and experts in the relevant field to be nominated by the Central Government.

(14) The procedure and the manner in which pensionary benefits are to be sanctioned and disbursed from the Pension Fund shall be determined by the Government on the recommendation of the Board of Trustees.

(15) The Government shall discharge its pensionary liability by paying in lump sum as a one time payment to the Pension Fund the pension or service gratuity and retirement gratuity for the service rendered till the date of absorption of the Government servant in the Autonomous Body.

(16) The manner of sharing the financial liability on account of payment of pensionary benefits by the Autonomous Body shall be determined by the Government.

(17) Lump sum amount of the pension shall be determined with reference to Commutation Table laid down in Central Civil Services (Commutation of Pension) Rules, 1981.

TRUE COPY

Central Administrative Tribunal

(18) The Autonomous Body shall make pensionary contribution to the Pension Fund for the period of service to be rendered by the concerned employees under that body at the rates as may be determined by the Board of Trustees to that the Pension Fund shall be self-supporting.

(19) If, for any financial or operational reason, the Trust is unable to discharge its liabilities fully from the Pension Fund and the Autonomous Body is also not in a position to meet the shortfall, the Government shall be liable to meet such expenditure and such expenditure shall be debited to either the Fund or to the Autonomous Body, as the case may be.

(20) Payments of pensionary benefits of the pensioners of a Government Department on the date of conversion of it into an Autonomous Body shall continue to be the responsibility of the Government and the mechanism for sharing its liabilities on this account shall be determined by the Government.

(21) Upon conversion of a Government Department into an Autonomous Body .–

(a) the balance of provident fund standing at the credit of the absorbed employees on the date of their absorption in the Autonomous Body shall, with the consent of such body, be transferred to the new Provident Fund Account of the employees in such body.

(b) earned leave and half pay leave at the credit of the employees on the date of absorption shall stand transferred to such body.

(c) the dismissal or removal from service of the Autonomous Body of any employee after his absorption in such body for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his dismissal or removal or retrenchment the decisions of the body shall be subject to review by the Ministry administratively concerned with the body.

(22) In case the Government disinvests its equity in any Autonomous Body to the extent of fifty-one per cent or more, it shall specify adequate safeguards for protecting the interest of the absorbed employees of such Autonomous Body.

(23) The safeguards specified under sub-rule (22) shall include option for voluntary retirement or continued service in the body, as the case may be, or voluntary retirement benefits on terms applicable to Government employees or employees of the Autonomous Body as per option of the employees, assured payment of earned pensionary benefits with relaxation in period of qualifying service, as may be decided by the Government.

(24) Nothing contained in this rule shall be applicable to the officers or employees including members of Indian Information Service, Central Secretariat service or any other service or to the persons borne on cadres outside Akashvani and Doordarshan, serving in the Akashvani and

47 8261/12-5

TRUE COPY

Doordarshan and engaged in the performance of functions transferred to Prasar Bharati established under Prasar Bharati (Broadcasting Corporation of India) Act, 1990.

(12) In the said rules, in rule 48A,-

(i) sub-rule (5) shall be omitted.

(ii) in sub-rule (6), for clause (a), the following clause shall be substituted, namely;--

"(a) retires under the Special Voluntary Retirement Scheme relating to voluntary retirement of surplus employees, or"

(13) In the said rules, rule 48B shall be omitted;

(14) In the said rules, rule 48C shall be omitted;

[F. No. 38/80/08-P&PW]
TRIPTI P. GHOSH, Director

Note : The principal rules were published *vide* notification number S.0.934, dated the 1st April, 1972 and were subsequently amended vide notification number--

1. S.0.254, dated the 4th February, 1989
2. S.0.970, dated the 6th May, 1989
3. S.0.2467, dated the 7th October, 1989
4. S.0.899, dated the 14th April, 1990
5. S.0.1454, dated the 28th May, 1990
6. S.0.2329, dated the 8th September, 1990
7. S.0.3269, dated the 8th December, 1990
8. S.0.3270, dated the 8th December, 1990
9. S.0.3273, dated the 8th December, 1990
10. S.0.409, dated the 9th February, 1991
11. S.0.464, dated the 16th February, 1991
12. S.0.2267, dated the 7th September, 1991
13. S.0.2740, dated the 2nd November, 1991
14. GSR 677, dated the 7th December, 1991
15. GSR 399, dated the 1 st February, 1992
16. GSR 55, dated the 15th February, 1992
17. GSR 570, dated the 19th December, 1992
18. S.0.258, dated the 13th February, 1993
19. S.0.1673, dated the 7th August, 1993
20. GSR 449, dated the 11 th September, 1993
21. S.0.1984, dated the 25th September, 1993

Central Administrative Tribunal

TRUE COPY

22. GSR 389(E), dated the 18th April, 1994
23. S.O.1775, dated the 19th July, 1997
24. S.O.259, dated the 30th January, 1999
25. S.O.904(E), dated the 30th September, 2000
26. S.O.717(E), dated the 27th July, 2001
27 GSR 75(E), dated the 1st February, 2002
28. S.O.4000, dated the 28th December, 2002
29. S.O. 860(E), dated the 28th July, 2003
30. S.O. 1483 (E), dated the 30th December, 2003
31. S.O. 1487 (E), dated the 14th October, 2005
32. GSR 723(E), dated the 23rd November, 2006
33. S.O. 1821 (E), dated the 25th October, 2007
34. GSR 258 (E), dated the 31st March, 2008
35. S.O. 1026 (E), dated the 25th April, 2008
36. S.O. 829(E), dated the12th April, 2010
37. GSR No. 176 dated 8th June 2011

Printed by the Manager, Government of India Press, Ring Road, Mayapuri, New Delhi-110064
and Published by the Controller of Publications, Delhi-110054.

Central Administrative Tribunal

COPY

ANNEXURE-A-18

File No : 4-12(11)/2012-PAT
Government of India
Department of Telecommunications
Sanchar Bhawan,20,Ashoka Road,
New Delhi-110001

Dated: 20 /2/2014

To,

The Chairman and Managing Director,
Bharat Sanchar Nigam Limited,
Bharat Sanchar Bhawan
H.C. Mathur Lane
Janpath,
New Delhi-11001

Subject:-Extension of CGHS facilities to retired BSNL employees.

Sir,

Reference is invited to BSNL's letter Nos.BSNL/Admn-I/14-15/9(pt.) dated 09.04.2012 and dated 11.1.2013 regarding extension of CGHS facilities to retired BSNL employees. The matter has been examined in consultation with the Ministry of Health & Family Welfare and it has been decided that:

i) The retired employees, who are in receipt of Central Civil Pension/Pro-rata pension only from Central Civil Estimates are eligible for joining CGHS, other retired employees of BSNL are **not** eligible for CGHS.

ii) Since CGHS is in operation only at 25 select locations in the country, the retired employees of BSNL who are in receipt of Central Civil Pension and therefore eligible for CGHS facilities, may also be considered for providing with an option to choose either CGHS or BSNL-MRS post retirement as per their convenience, in recognition of their services rendered to DoT/BSNL.

2 However, it may be noted that the retired BSNL employees who opt for CGHS would have to pay the requisite fee to CGHS as applicable to Government retirees.

3 This issues with the approval of Secretary(T).

Yours faithfully

(Sanjay Agrawal)
ADG(PAT)

Copy for information to:
1.Sr.PPS to Chairman, Telecom Commission.
2.All Members/Advisors/Addl.Secretary/JS(T)/DDGs of DoT.
3.All Principal CCA's/CCA's/Jt.CCA's of DOT
4. Dir (IT), DoT for posting this circular on the web site of DoT.

TRUE COPY

312.

ANNEXURE-A-19 (Colly)

F.No.47-63/2015-Pen (T)
Government of India
Ministry of Communications & IT
Department of Telecommunications
(Pension Section)

516-Sanchar Bhawan,
20-Ashoka Road, New Delhi-110001

Dated 7 Dec, 2015

OFFICE MEMORANDUM

Subject: Reference to 3rd PRC for revision of pensionary benefits to BSNL/MTNL employees- regarding

It is learnt the 3rd Pay Revision Committee is likely to be set up by Department of Public Enterprises to study and recommend the pay revision of serving PSU employees. BSNL and MTNL constitute an unique category of PSUs where pensionary benefits to a large sections of employees on retirement is discharged by Government as an obligation arising from their erstwhile status as Government employees. Therefore, while PRC for PSU employees does not deal with issue of pensionary benefits in general, the pension revision in case of BSNL and MTNL to the limited extent of erstwhile Government employees who were absorbed in the two PSUs, would need to be undertaken through the PRC as payment of benefits to such employees is an obligation of Government. I am, therefore, directed to request you that while framing the terms of reference for 3rd PRC for PSU employees, the case of revision of pensionary benefits to erstwhile Government employees absorbed in BSNL and MTNL and retired thereafter may also be included in the terms of reference. A detailed note on the subject is also enclosed.

Enclosures: As above.

(K S Dahiya)
Under Secretary to the Government of India
Tel No. 23036854.

To,

(Shri S Meenakshi Sunadaram, Director (Wage))
Department of Public Enterprises
Block No. 14, CGO Complex,
New Delhi-110003.

O/C

TRUE COPY

File No.47-82/2019-Pen(T)

Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20 – Ashoka Road
New Delhi – 110 001

Dated the 17th October, 2019

To,
Sh. SEBASTIN K.
B-11/1, SNEA BHAVAN,
DOUBLE STOREY, REMESH NAGAR,
NEW DELHI – 110015.

Subject: Seeking information under RTI Act, 2005 –Case of Sh. Sebastin K.

Please refer to your RTI application (Registrarion No.DOTEL/R/2019/50790/1) dated 03.09.2019, received in this office on 19.09.2019 on transfer from Dir(Estt.) & CPIO, DoT(HQ).

2. In this regard, the OM No.47-63/2015-Pen(T) dated 31.12.2015 sent to Department of Public Enterprises (DPE) is enclosed herewith.

3. Appeal against this reply, if any, may be preferred before Shri S. K. Jain, DDG (Estt.) & Appellate Authority, Department of Telecommunications, Sanchar Bhawan, 20, Ashoka Road, New Delhi, within 30 days of the receipt of this letter.

Encl:- As above.

(Sanjay Agrawal)
Director (Estt.II) & CPIO
Tel: 2303 6500

Copy to: Sh. S. C. Karol, Director (Estt.) & CPIO, DoT (HQ), Sanchar Bhawan, New Delhi - 110001 for information w.r.t. the above mentioned RTI application.

TRUE COPY

ANNEXURE-A-20

AIBSNLEA

No. 40-13/2013-Pen (T)
Government of India
Ministry of Communications
Department of Telecommunications

Dated 20.07.2016

OFFICE MEMORANDUM

Sub: Modifying the liability of BSNL towards the payment of pensionary benefits to the retired employees

As stipulated in Rule 37-A of CCS (Pension) Rules, 1972, the pensionary benefits in the case of BSNL shall be paid by the Government, and the Government shall specify the arrangement and the manner including the rate of pensionary contribution to be made by BSNL and the manner in which financial liabilities on this account shall be met. As per sub-rule 24 of the said Rule, the arrangement thus worked out shall be applicable to the existing pensioners and to the employees who are deemed to have retired from Government.

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

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

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

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

(S K Jain)
DDG (Establishment)
Tel 2303 6500
Fax 23372302

To

Chairman and Managing Director, BSNL, New Delhi

TRUE COPY

No. 40-13/2013-Pen (T) dated 20.7.2016

Copy to:

1. DDG (B&PEF)/ DDG (Accounts), DoT, New Delhi.
2. Director (IT), DoT, New Delhi for uploading this O.M. on DoT website

Copy for information to:-

1. PS to Hon'ble MOS (IC), Ministry of Communications
2. PPS to Secretary (T), DoT
3. PPS to Member (Services)/ Member (Finance)/ Member (T), DoT
4. PPS to AS (T)/JS(A)/ JS(T), DoT
5. Director (Estt.), DoT, New Delhi

Copy also for information to:

1. Cabinet Secretary [Attn: Shri S G P Verghese, Director]
2. Secretary, Department of Expenditure
3. Secretary, DoP&PW
4. Secretary, Department of Legal Affairs
5. Secretary, Department of Public Enterprise

Central Administrative Tribunal

TRUE COPY

True typed copy

ANNEXURE-A-20

No.40-13/2013-Pen(T)
Government of India
Ministry of Communications
Department of Telecommunications

Dated 20.07.2016

OFFICE MEMORANDUM

Sub: Modifying the liability of BSNL towards the payment of pensionary benefits to the retired employees

As stipulated in Rule 37-A of CCS (Pension) Rules, 1972, the pentionary benefits in the case of BSNL shall be paid by the Government, and the Government shall specify the arrangement and the manner including the rate of pensionary contribution to be made by BSNL and the manner in which financial liabilities on this account shall be met. As per sub-rule 24 of the said Rule, the arrangement thus worked out shall be applicable to the existing pensioners and to the employees who are deemed to have retired from Government.

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

TRUE COPY

considered by the Government, and the following has been decided.

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

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

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

Sd/-
(S.K. Jain)
DDG (Establishment)
Tel 2303 6500
Fax 23372302



To

Chairman and Managing Director, BSNL, New Delhi

TRUE COPY

Copy to:

1. DDG (B&PEP)/DDG (Accounts), DoT, New Delhi
2. Director (IT),DoT, New Delhi for uploading this O.M. on DoT website

Copy for information to;

1. PSto Hon'ble MOS(IC), Ministry of Communications
2. PPSto Secretary (T), DoT
3. PPS to Member (Services)/Member (Finance) / Member (T), DoT
4. PPS to AS (T)/IS(A)/JS(T), DoT
5. Director (Estt.), DoT, New Delhi

Copy also for information to:

1. Cabinet Secretary [Attn: Shri S G P Verghese, Director]
2. Secretary, Department of Expenditure
3. Secretary, DoP &PW
4. Secretary, Department of Legal Affairs
5. Secretary, Department of Public Enterprise

// TRUE TPYED COPY //

ANNEXURE-A-21

F.No.38/37/2016-P&PW(A) (R)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Pension & Pensioners' Welfare
Lok Nayak Bhawan, New Delhi-110003

Dated the 4th August, 2016.

OFFICE MEMORANDUM

Sub: Implementation of Government's decisions on the recommendations of the Seventh Central Pay Commission - Revision of pension of pre-2016 pensioners/family pensioners etc.

The undersigned is directed to say that in pursuance of Government's decision on the recommendations of Seventh Central Pay Commission, sanction of the President is hereby accorded to the regulation, with effect from 01.01.2016, of pension/ family pension of all the pre-2016 pensioners/ family pensioners in the manner indicated in the succeeding paragraphs. Separate orders are being issued in respect of employees who retired/died on or after 01.01.2016.

2.1 These orders shall apply to all pensioners/family pensioners who were drawing pension/family pension before 1.1.2016 under the Central Civil Services (Pension) Rules, 1972, Central Civil Services (Extraordinary Pension) Rules and the corresponding rules applicable to Railway pensioners and pensioners of All India Services, including officers of the Indian Civil Service retired from service on or after 1.1.1973. A pensioner/family pensioner who became entitled to pension/family pension with effect from 01.01.2016 consequent on retirement/death of Government servant on 31.12.2015, would also be covered by these orders.

2.2 Separate orders will be issued by the Ministry of Defence in regard to Armed Forces pensioners/family pensioners.

2.3 These orders also do not apply to retired High Court and Supreme Court Judges and other Constitutional/Statutory Authorities whose pension etc. is governed by separate rules/orders.

3. In these orders :

a. 'Existing pensioner' or 'Existing Family pensioner' means a pensioner/family pensioner to whom these orders are applicable in terms of para 2.1 above.

b. 'Existing pension' or 'Existing Family Pension means the basic pension (inclusive of commuted portion, if any) or basic family pension, as had been fixed at the time

TRUE COPY

Central Administrative Tribunal

of implementation of 6th CPC recommendations, which an existing pensioner or family pensioner was entitled to.

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

Illustration:

Case I

Pensioner 'A' retired at last pay drawn of Rs. 79,000 on 31st May, 2015 under the 6th CPC regime in the scale of Rs. 67000-79000:

		Amount in Rs.
1.	Basic Pension fixed in 6th CPC	39500
2.	Revised Pension fixed under 7th CPC (using a multiple of 2.57)	101515

Case II

Pensioner 'B' retired at last pay drawn of Rs. 4,000 on 31st January, 1989 under the 4th CPC regime in the pay scale of Rs. 3000-100-3500-125-4500:

		Amount in Rs.
1.	Basic Pension fixed in 4th CPC	1940
2.	Basic Pension as revised in 6th CPC	12600
3.	Revised Pension fixed under 7th CPC (using a multiple of 2.57)	32,382

4.2 For this purpose, the existing pension/family pension will be the basic pension/family pension only without the element of additional pension available to the old pensioners/family pensioners of the age of 80 years and above. The additional pension/family pension payable to the old pensioners/family pensioners will be worked out in accordance with para 4.5 of this O.M.

4.3 Since the consolidated pension will be inclusive of commuted portion of pension, if any, the commuted portion will be deducted from the said amount while making monthly disbursements.

4.4 The minimum pension with effect from 01.01.2016 will be Rs. 9000/- per month (excluding the element of additional pension to old pensioners). The upper ceiling on pension/family pension will be 50% and 30% respectively of the highest pay in the Government (The highest pay in the Government is Rs. 2,50,000 with effect from 01.01.2016).

TRUE COPY

4.5 The quantum of pension/family pension available to the old pensioners/ family pensioners shall continue to be as follows:-

Age of pensioner/family pensioner	Additional quantum of pension
From 80 years to less than 85 years	20% of revised basic pension/ family pension
From 85 years to less than 90 years	30% of revised basic pension / family pension
From 90 years to less than 95 years	40% of revised basic pension / family pension
From 95 years to less than 100 years	50% of revised basic pension / family pension
100 years or more	100% of revised basic pension / family pension

The amount of additional pension will be shown distinctly in the pension payment order. For example, in case where a pensioner is more than 80 years of age and his/her revised pension in terms para 4.1 above is Rs.10,000 pm, the pension will be shown as (i).Basic pension=Rs.10,000 and (ii) Additional pension = Rs.2,000 pm. The pension on his/her attaining the age of 85 years will be shown as (i).Basic Pension = Rs.10,000 and (ii) additional pension = Rs.3,000 pm. Dearness relief will be admissible on the additional pension available to the old pensioners also.

4.6 The revised pension/family pension arrived at as per paragraph 4.1 includes dearness relief sanctioned from 1.1.2016.

5. Where the revised pension/family pension in terms of paragraph 4.1 above works out to an amount less than Rs. 9000/-, the same shall be stepped up to Rs. 9000/-. This will be regarded as pension/family pension with effect from 1.1.2016.

6. The existing instructions regarding regulation of dearness relief to employed/re-employed pensioners/family pensioners, as contained in Department of Pension & Pensioners Welfare O.M. No. 45/73/97-P&PW(G) dated 02.07.1999, as amended from time to time, shall continue to apply.

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

(a) PENSION

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

TRUE COPY

(b) FAMILY PENSION

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

8. The matter regarding Constant Attendant Allowance admissible to the existing pensioners shall be examined by a Committee comprising Finance Secretary and Secretary (Expenditure) as Chairman and Secretaries of Home Affairs, Defence, Posts, Health & Family Welfare, Personnel & Training and Chairman, Railway Board as Members. Till a final decision is taken based on the recommendations of the Committee, Constant Attendant Allowance shall be paid at existing rates.

9. All Pension Disbursing Authorities including Public Sector Banks handling disbursement of pension to the Central Government pensioners are hereby authorised to pay pension/family pension to existing pensioners/family pensioners at the revised rates in terms of para 4.1 and 5 above without any further authorisation from the concerned Accounts Officers/Head of Office etc. Wherever the age of pensioner/ family pensioner is available on the pension payment order, the additional pension/ family pension in terms of para 4.4. above may also be paid by the pension disbursing authorities immediately without any further authorisation from the concerned Account Officer/ Head of Office, etc. A suitable entry regarding the revised pension shall be recorded by the pension Disbursing Authorities in both halves of the Pension Payment Order.

10 The pension/family pension as worked out in accordance with provisions of Para 4.1. and 5 above shall be treated as 'Basic Pension' with effect from 01.01.2016. The revised pension/family pension includes dearness relief sanctioned from 1.1.2016 and shall qualify for grant of Dearness Relief sanctioned thereafter.

11. Further orders in regard to revision of pension based on the recommendations of the Committee to be constituted in terms of the Government's decision on Item No. 11 of this Department's Resolution No. 38/37/2016-P&PW (A) dated 4th August, 2016, will be issued in due course.

12. After a decision as in para 11 above is taken by the Government and orders are issued in this regard, the Head of the Department of the Ministry, Department, Office, etc. from which the government servant had retired or where he was working prior to his demise will revise the pension/family pension of all pensioners/ family pensioners with

TRUE COPY

effect from 1st January 2016 in accordance with those orders and issue revised Pension Payment Order (PPOs) accordingly.

13. It is considered desirable that the benefit of these orders should reach the pensioners as expeditiously as possible. To achieve this objective it is desired that all Pension Disbursing Authorities should ensure that the revised pension and the arrears due to the pensioners in terms of para 4.1. and para 5 above is paid to the pensioners or credited to their account by 31st August, 2016 or before positively.

14. In their application to the persons belonging to Indian Audit and Accounts Department, these orders issue in consultation with the Comptroller and Auditor General of India.

15. Ministry of Agriculture etc. are requested to bring the contents of these Orders to the notice of Controller of Accounts/Pay and Accounts Officers and Attached and subordinate Offices under them on a top priority basis. All pension disbursing offices are also advised to prominently display these orders on their notice boards for the benefit of pensioners.

16. Hindi version will follow.

(Vandana Sharma)
Joint Secretary to the Government of India

To

All Ministries/ Departments of Government of India

Copy to : As per mailing list

- Central Pension Accounting Office, New Delhi
- CMDs of All Pension Disbursing Banks

TRUE COPY

Central Administrative Tribunal

249

ANNEXURE-A-22

No. 47-35/2014-Pen (T)
Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20 – Ashoka Road
New Delhi – 110 001

Dated the 27th December, 2016.

Sh. Amit Kumar Gupta,
1/4 Rajendra Banerjee Road,
Behala, Kolkata-700034.

Subject: Information under RTI Act, 2005 – Case of Sh. Amit Kumar Gupta.

Kindly refer to your RTI application dated 07.09.2016, received in this office on 05.12.2016 on transfer from Dy. Secretary(Coord.) & Nodal Officer(RTI), DoT vide letter No. 9-11/2016-RTI(7) dated 02.12.2016.

2. In this regard, it is noted that the information sought by you is in the nature of seeking clarification of the rules already available in public domain and interpretation thereof and not in respect of the information available in records. It is mentioned that CPIOs are not expected to do research on behalf of applicants under the RTI Act, but to supply information in material form as available in record as per the definition of information under section 2(f) of the RTI Act, 2005.

3. Notwithstanding above, it is mentioned that in pursuance of Government's decision on the recommendation of the Seventh Central Pay Commission, DOP&PW vide its OM No. 38/37/2016-P&PW(A)(ii) dated 04.08.2016 have issued instructions for revision of pension of pre-2016 pensioners/family pensioners w.e.f.01.01.2016. As per Para 2.1 of the said OM, "*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*". Further, as per Para 7(a) of the said OM, "*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*". As such DOP&PW's OM dated 04.08.2016 is applicable to Govt. Servant permanently absorbed in PSU/AB and drawing pro-rata pension only.

3. Appeal against this reply, if any, may be preferred before Shri S. K. Jain, DDG (Estt) & Appellate Authority, Department of Telecommunications, Sanchar Bhawan, 20, Ashoka Road, New Delhi, within 30 days of the receipt of this letter.

(Vandana Sethi)
Director (Estt) & CPIO
Tel: 2303 6500

Copy to:

1. Sh. Subhash Chander, CPIO/Under Secretary, DOP&PW, Ministry of Personnel, PG Pension, 3rd Floor, Lok Nayak Bhawan, Khan Market, New Delhi w.r.t. his letter No. 4/1/2016-P&PW(D) dt. 25.11.2016.
2. Sh. Ranjan Kumar, Dy. Secretary & Nodal Officer(RTI), Sanchar Bhawan, DoT Hqrs w.r.t. his letter No. 9-11/2016-RTI(7) dated 02.12.2016.

TRUE COPY

325

NE True Typed Copy

ANNEXURE-A-22

No.47-35/2014-Pen(T)
Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20 – Ashoka Road,
New Delhi – 110 001

Dated the 27th December, 2016

Sh. Amit Kumar Gupta,

1/4 Rajendra Banerjee Road,

Behala, Kolkata-700034

Subject: Information under RTI Act, 2005 – Case of Sh. Amit Kumar Gupta

Kindly refer to your RTI application dated 07.09.2016, received in this office on 05.12.2016 on transfer from Dy. Secretary (Coord.) & Nodal Officer (RTI), DoT vide letter No.9-11/2016-RTI(7) dated 02.12.2016.

2. In this regard, it is noted that the information sought by you is in the nature of seeking clarification of the rules already available in public domain and interpretation thereof and not in respect of the information available in records. It is mentioned that CPIOs are not expected to do research on behalf of applicants under the RTI Act, but to supply information in material form as available in record as per the definition of information under section 2(f) of the RTI act, 2005.

TRUE COPY

Central Administrative Tribunal

3. Notwithstanding above, it is mentioned that in pursuance of Government's decision on the recommendation of the Seventh Central Pay Commission, DOP&PW vide its OM No.38/37/2016-P&PW(A)(ii) dated 04.08.2016 have issued instructions for revision of pension of pre-2016 pensioners/family pensioners w.e.f. 01.01.2016. As per Para 2.1 of the said OM, "*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".* Further, as per Para 7(a) of the said OM, "*Where the Government servants on permanent absorption in public sector undertakings/autonomous bodies continue to draw pension separately from the Government, the 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".* As such DOP&PW's OM dated 04.08.2016 is applicable to Govt. Servant permanently absorbed in PSU/AB and drawing pro-rata pension only.

3. Appeal against this reply, if any, may be preferred before Shri S.K. Jain, DDG (Ext) & Appellate Authority, Department of

TRUE COPY

Telecommunications, Sanchar Bhawan, 20, Ashoka Road, New Delhi, within 30 days of the receipt of this letter.

Sd/-
(Vandana Sethi)
Director (Estt.) & CPIO
Tel: 2303 6500

Copy to:

1. Sh. Subhash Chander, CPIO/Under Secretary, DO&PW, Ministry of Personnel, PG Pension, 3rd Floor, Lok Nayak Bhawan, Khan Market, New Delhi w.r.t. his letter No.4/1/2016-P&PW(D) dt. 25.11.2016.

2. Sh. Ranjan Kumar,Dy. Secretary &Notal officer (RTI), Sanchar Bhawan, DoT Hqrs w.r.t his letter No.9-11/2016-RT(7) dated 02.12.2016

// TRUE TYPED COPY //

Central Administrative Tribunal

388

253

ANNEXUR-A-23

F.No. 47-63/2015-Pen(T)(pt)
Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20, Ashoka Road, New Delhi – 110001.

Dated : 16th March 2017

Office Memorandum

Subject: Implementation of 7th CPC recommendations : Applicability to the BSNL/ MTNL absorbees opting for pension for combined service governed under Rule 37-A of CCS (Pension) Rules, 1972.

The undersigned is directed to refer to this Department's OM No. 36-02/2016-Pen(T)(i) dated 22.08.2016 and to give the following clarification on the applicability of the revised rules of CCS (Pension) Rules, 1972 to the BSNL/ MTNL absorbees (opting for pension for combined service and whose pension is governed under Rule 37-A of CCS (Pension) Rules) consequent to 7th CPC with regard to DoP&PW's OM No. 38/37/16-P&PW(A)(i) dated 04.08.2016:

2. The rates for payment of death gratuity shall be revised as per para 6.1 of DoP&PW's O.M. No. 38/37/2016-P&PW(A)(i) dated 4th August, 2016. The maximum limit of Death/ Retirement gratuity shall be Rs. 20 lakh w.e.f. 01.01.2016.

3. There is no change in the formula for pension/ family pension w.e.f. 01.01.2016. BSNL/ MTNL absorbee employees will, therefore, continue to get pension based on the same formula.

4. There will be no change in the provisions relating to commutation of pension.

This issues with the approval of competent authority.

Yours faithfully,

(K. S. Dahiya)
Under Secretary (STP)
Tel. 23036260

To
1. All the CCAs/ TERM Cells.
2. Sr. DDG (TEC), Khurshid Lal Bhawan, Janpath, New Delhi.
3. Sr. DWA, 6th Floor, Sanchar Bhwan, 20, Ashoka Road, New Delhi – 110001.
4. DDG (Estt.)/ DDG (Accounts), DoT Hqrs., Sanchar Bhwan, 20, Ashoka Road, New Delhi – 110001.
5. DDG (TEC), TTTRIT, Admin Building, ALT Centre, Govt. of India Enclave, Near Raj Nagar, Ghaziabad-201002.

TRUE COPY

6. Director General, National Institute of Commutation Finance, Mehrauli-Gurgaon Road, Ghitorni, New Delhi – 110047.
7. Director (Estt.)/ Director (Accts. I)/ Director (Accts. II), DoT Hqrs. New Delhi.
8. Executive Director, CENTRE FOR DEVELOPMENT OF TELEMATICS, C-DOT Campus, Mandi Road, Mehrauli, New Delhi – 110030.
9. Director, Telecom Centres of Excellence, C-DoT Campus, Mandi Road, Mehrauli, New Delhi – 110030.
10. CMD, BSNL Corporate Office, Janpath, New Delhi.
11. CMD, MTNL, Khursheed Lal Bhawan, New Delhi.
12. CMD, Bharat Broadband Network Limited (BBNL), C-DoT Campus, Mandigaon Road, Mehrauli, New Delhi – 110030.
13. CMD, Telecommunications Consultants India Limited, TCIL Bhawan, Greater Kailash-I, New Delhi – 110048.
14. CMD, ITI Limited, Regional Office, 201/202, Rohit House, 3, Tolstoy Marg, New Delhi – 110001.
15. Director (IT), DoT(HQ), Sanchar Bhawan, New Delhi for uploading the same on DoT website.

TRUE COPY

Central Administrative Tribunal

330

ANNEXURE-A-24

Bharat Sanchar Nigam Limited
(A Government of India Enterprise)
Corporate Office
(Pension Section)
5th Floor, Bharat Sanchar Bhawan, New Delhi-110001

No. 48-11/2016-Pen(B) Dated: 21/03/2017

To

All Heads of Circles/Telecom Districts/Regions/Projects/
Telecom Stores/Telecom Factories & other Administrative Offices
Bharat Sanchar Nigam Limited

SUB: Implementation of 7th CPC recommendations : Applicability to the BSNL aborbees opting for pension for combined service governed under Rule 37-A of CCS (Pension) Rules, 1972 - regarding.

Sir,

I am directed to forward herewith a copy of DOT O.M. No. 47-63/2015-Pen(T)(pt) dated 16/03/2017, on the above mentioned subject and to say that the rates for payment of death gratuity shall be revised as per para 6.1 of DOP&PW's O.M. No. 38/37/2016-P&PW (A)(i) dated 04/08/2016. Further, the maximum limit of Death/Retirement Gratuity shall be Rs. 20 lakh w.e.f. 01/01/2016.

2. Accordingly, the Circles are requested to take necessary action with regard to settlement of pensionary matters including Death/Retirement Gratuity in accordance with the instructions issued by DOT vide above mentioned O.M.

Yours faithfully,

21.3.17
(S.P. Bhatta)
Asstt. General Manager (Estt.I)
Tele. No. 23037477

Encl: As above

Copy to:-

1. PS to CMD, BSNL
2. PS to Dir.(HR)/Dir.(Ent.)/Dir.(CFA)/Dir.(CM)/Dir.(F), BSNL Board
3. PS to all Executive Directors/CS & Sr. GM (Legal)/CVO, BSNL
4. DDG(Estt.)/DDG (SR), DOT for information
5. Al PGMs/Sr.GMs/GMs in BSNLCO
6. General Secretary, BSNLEU/NFTE
7. DM(OL), BSNLCO
8. Guard File

(Sudhanshu Shekhar Ray)
Deputy Manager (Pension)

Central Administrative

TRUE COPY

ANNEXURE-A-25

No.38/37/2016-P&PW(A)
Ministry of Personnel, PG & Pensions
Department of Pension & Pensioners' Welfare

3rd Floor, Lok Nayak Bhawan
Khan Market, New Delhi
Dated, the 12th May, 2017

Office Memorandum

Sub:- Implementation of Government's decision on the recommendations of the Seventh Central Pay Commission – Revision of pension of pre-2016 pensioners/family pensioners, etc.

The undersigned is directed to say that the 7th Central Pay Commission (7th CPC), in its Report, recommended two formulations for revision of pension of pre-2016 pensioners. A Resolution No. 38/37/2016-P&PW (A) dated 04.08.2016 was issued by this Department indicating the decisions taken by the Government on the various recommendations of the 7th CPC on pensionary matters.

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

Central Administrative Tribunal

TRUE COPY

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.

TRUE COPY

10. The existing instructions regarding regulation of dearness relief to employed/re-employed pensioners/family pensioners, as contained in Department of Pension & Pensioners Welfare O.M. No. 45/73/97-P&PW(G) dated 02.07.1999, as amended from time to time, shall continue to apply.

11. These orders would not be applicable for the purpose of revision of pension of those pensioners who were drawing compulsory retirement pension under Rule 40 of the CCS (Pension) Rules or compassionate allowance under Rule 41 of the CCS (Pension) Rules. The pensioners in these categories would continue to be entitled to revised pension in accordance with the instructions contained in this Department's O.M. No. 38/37/2016-P&PW(A)(ii) dated 4.8.2016.

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

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

14. Since the consolidated pension will be inclusive of commuted portion of pension, if any, the commuted portion will be deducted from the said amount while making monthly disbursements.

15. The quantum of age-related pension/family pension available to the old pensioners/ family pensioners shall continue to be as follows:-

Age of pensioner/family pensioner	Additional quantum of pension
From 80 years to less than 85 years	20% of revised basic pension/ family pension
From 85 years to less than 90 years	30% of revised basic pension / family pension
From 90 years to less than 95 years	40% of revised basic pension / family pension
From 95 years to less than 100 years	50% of revised basic pension / family pension
100 years or more	100% of revised basic pension / family pension

The amount of additional pension will be shown distinctly in the pension payment order. For example, in case where a pensioner is more than 80 years of age and

TRUE COPY

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.

TRUE COPY

23. Ministry of Agriculture etc. are requested to bring the contents of these orders to the notice of Heads of Department/Controller of Accounts, Pay and Accounts Officers, and Attached and Subordinate Offices under them on top priority basis. All Ministries/Departments are requested to accord top priority to the work of revision of pension of pre-2016 pensioners/family pensioners and issue the revised Pension Payment Authority in respect of all pre-2016 pensioners.

24. Hindi version will follow.

(Harjit Singh)
Director

To

1. All Ministries/Departments of Government of India (as per standard mailing list)
2. Central Pension Accounting Office, New Delhi
3. Comptroller & Auditor General of India, New Delhi

TRUE COPY

Central Administrative Tribunal

ANNEXURE I

EXAMPLES

(Reference Para 16 of OM No.38/37/2016-P&PW(A) dated 12th May, 2017.)

S.No	Description	1st case	2nd Case	3rd Case	4th Case
1.	Date of Retirement	31.12.1984	31.01.1989	30.06.1999	31.05.2015
2.	Scale of Pay (or Pay Band & G.P.) at the time of retirement OR Notional pay scale as on 1.1.1986 for those retired before 1.1.1986	975-1660 (4th CPC Scale)	3000-4500 (4th CPC Scale)	4000-6000 (5th CPC Scale)	67000-79000 (6th CPC Scale)
3.	Pay on retirement OR Notional pay as on 1.1.1986 for those retired before 1.1.1986	1210	4000	4800	79000
4.	Pension as on 01.01.2016 before revision	4191	12600	5424	39500
5.	Family pension as on 01.01.2016 before revision	3500	7560	3500	23700
6.	Family pension at enhanced rate as on 01.01.2016 before revision (if applicable)	NA	N.A.	NA	39500
7.	Revised pension by multiplying pre-revised pension by 2.57	10771	32382	13940	101515
8.	Revised family pension by multiplying pre-revised family pension by 2.57	9000	19430	9000	60909
9.	Revised family pension at enhanced rate by multiplying pre-revised enhanced family pension by 2.57	NA	NA	N.A.	101515
10.	Pay fixed on notional basis on 1.1.1996	3710 (3200-4900)	11300 (10000-15200)	N.A.	NA
11.	Pay fixed on notional basis on 1.1.2006	8910 (PB-I, GP 2000)	27620 (PB-3, GP 6600)	11330 (PB-I, GP-2400)	NA
12.	Pay fixed on notional basis on 1.1.2016	23100 (Level -3)	71830 (Level-11)	29600 (Leval-4)	205100 (Level-15)
13.	Revised pension w.e.f 1.1.2016 as per first formulation.	11550	35900	14800	102550
14.	Revised family pension w.e.f. 1.1.2016 as per first formulation.	9000	21540	9000	61530
15.	Revised family pension at enhanced rate w.e.f. 1.1.2016 as per first formulation.	NA	N.A.	N.A.	102550
16.	Revised pension payable (Higher of S.No. 7 and 13)	11550	35900	14800	102550
17.	Revised family pension payable (Higher of S.No. 8 and 14)	9000	21540	9000	61530
18.	Revised family pension at enhanced rate payable (Higher of S.No. 9 and 15)	NA	N.A.	N.A.	102550

TRUE COPY

337

ANNEXURE-A-26

Regn. No. S/08108/NE-/2010

ALL INDIA

RETIRED BHARAT SANCHAR NIGAM LIMITED EXECUTIVE'S WELFARE ASSOCIATION
CENTRAL HEAD QUARTERS, NEW DELHI

CHQ ADDRESS: C-8/230, YAMUNA VIHAR, DELHI-110053, www.aibsnlretd.org

OFFICE BEARERS:

1. President
   Rakesh Srivastava (Delhi)
   M.: 09868876677
2. Vice President-I
   Manas Roy (WB)
   M.: 09434009002
3. Vice President-II
   T. Ravindran (Kerala)
   M.: 09447815400
4. General Secretary
   Kishan Singh (Delhi)
   M.: 09968270611
5. Asstt. General Secretary-I
   Amit Kr. Gupta (Kolkata)
   M.: 09433000088
6. Asstt. General Secretary-II
   K. Jairam (AP)
   M.: 09440000212
7. Asstt. General Secretary-III
   Pradeep Goel (Lucknow)
   M.: 09415315111
8. Asstt. General Secretary-IV
   P. Mukharjee (Assam)
   M.: 09433400560
9. Asstt. General Secretary-(HQ)
   N.C. Jain (Ghaziabad)
   M.: 09871915573
10. Finance Secretary
    A.K. Jain (Delhi)
    M.: 09868838466
11. Assistant Finance Secretary
    P. Chandrasekhar (TN)
    M.: 09486100045
12. Organising Secretary (East)
    Swapan Mukharjee (Kolkata)
    M.: 09433400210
13. Organising Secretary (West)
    Amlendu Guha (Ahmedabad)
    M.: 09426643434
14. Organising Secretary (South)
    R.B. Athani (Karnataka)
    M.: 09449858299
15. Organising Secretary (North)
    D.N. Verma (UP East)
    M.: 09415339696
16. Editor
    J. Saibaba (AP)
    M.: 09490667899
17. Auditor

No: AIRBSNLEWA/CHQ/MOC/2017-18/ Dated 28.08.2017.

To

Shri Manoj Sinha,
Hon'ble Minister of Communications,
Sanchar Bhavan, New Delhi-110001

Sub: Revision of Pension of BSNL retirees, who are Central Service Pensioners drawing pension from Government of India on combined service rendered in DOT and BSNL, under Rule 37-A of CCS Pension Rules 1972, in accordance with fitment formula given by the 7th CPC.

Respected Sir,

BSNL was formed on 01.10.2000 in pursuance of National Telecom. Policy by corporatization of DOT/ DTS i.e. Deptt. Of Telecom. Operations and Deptt. Of Telecom. Services and more than 3.5 lakhs Govt employees were transferred to BSNL w.e.f. 01/10/2000 on as is where is basis.

2. Out of 3.5 lakh employees, 2 lakh have already retired from the service as on date. All of them got absorbed in BSNL based on the firm commitment from the Govt that they will be paid Govt pension on combined service rendered in DOT/ BSNL on IDA pay scales as per the provisions of CCS Pension Rules 1972. For this very purpose, Govt amended the CCS Pension Rules 1972 by inserting Rule 37A, specifically for BSNL Pensioners. Like other Central Govt pensioners, pension for the BSNL pensioners also to be paid by the Govt. of India.

3. The last pension revision for BSNL Pensioners was done w.e.f. 01.01.2007, co-terminus with the date of pay revision for the Executives and Non Executives of the CPSUs. Next pension revision for the BSNL pensioners is due from 01.01.2017.

4. **Pension revision for the BSNL pensioners was neither covered under the terms of reference of 7th CPC nor it was covered under the terms of reference of 3rd PRC dealing with pay revision of the serving CPSEs' Executives, including serving BSNL Executives and hence no recommendation is given by 3rd PRC in this regard. But it may however, be indicated that the pension revision of BSNL pensioners is in no way linked with the 3rd PRC or pay revision of the serving BSNL Executives due to the following reasons:**

4.1 BSNL Retirees are different from other CPSE retirees. According to DPE guidelines for other CPSE retirees, the superannuation benefit (Pension, Gratuity, PF etc.) are limited to 30% of emoluments drawn.. All the PRC recommendations are in conformity with that. Further CPSE retirees have defined contributory pension scheme. No PRC had 'Pension Revision' in their Terms of Reference because all the CPSEs have contributory Pension Scheme only. They are covered under Payment of Gratuity Act, 1972. The Government does not provide any budgetary support to these CPSEs for retirement benefits.

TRUE COPY

Regn. No. S/00108/NE-2017

CHQ ADDRESS: C-8/230, YAMUNA VIHAR, DELHI-110053, www.aibsnlretd.org

OFFICE BEARERS:

1. President
Rakesh Srivastava (Delhi)
M.: 09868876677
2. Vice President-I
Manas Roy (WB)
M.: 09434009002
3. Vice President-II
T. Ravindran (Kerala)
M.: 09447815400
4. General Secretary
Kishan Singh (Delhi)
M.: 09968270611
5. Asstt. General Secretary-I
Amit Kr. Gupta (Kolkata)
M.: 09433000088
6. Asstt. General Secretary-II
K. Jairam (AP)
M.: 09440000212
7. Asstt. General Secretary-III
Pradeep Goel (Lucknow)
M.: 09415315111
8. Asstt. General Secretary-IV
P. Mukharjee (Assam)
M.: 09433400560
9. Asstt. General Secretary-(HQ)
N.C. Jain (Ghaziabad)
M.: 09871915573
10. Finance Secretary
A.K. Jain (Delhi)
M.: 09868838466
11. Assistant Finance Secretary
P. Chandrasekhar (TN)
M.: 09486100045
12. Organising Secretary (East)
Swapan Mukharjee (Kolkata)
M.: 09433400210
13. Organising Secretary (West)
Amlendu Guha (Ahmedabad)
M.: 09426643434
14. Organising Secretary (South)
R.B. Athani (Karnataka)
M.: 09449858299
15. Organising Secretary (North)
D.N. Verma (UP East)
M.: 09415339696
16. Editor
J. Saibaba (AP)
M.: 09490667899
17. Auditor

4.2 PRC recommendations are applicable only for pay revision of the Executives unlike Central Pay Commission (CPC) where pay revision and pension revision of all cadres of Central Government Employees/ Pensioners i.e Group A / B/ C/ D are covered under the terms of reference of respective CPCs.

4.3 In contrast, BSNL Retirees, who were Government servants for most part of their service, are covered under CCS (Pension) Rules, 1972, and they draw their pension on combined service in DOT and BSNL, and the liability of paying Pension fully lies with the Government of India under statutory provision and not with BSNL. Pension for the BSNL Pensioners is governed by Rule 37A of the CCS Pension Rules, 1972. Since Pension is to be paid by the Govt. of India, affordability clause or the profitability clause of BSNL does not come into the picture, because BSNL is in no way responsible for payment / revision of the pension.

4.4 While revising the pension of BSNL IDA Pensioners, it is revised on the basis of Existing Pension+DA+Weightage as is done for the CG Pensioners. The lower and upper ceiling of Pension/Family Pension are at par with the Central Government Pensioners. 6th Pay Commision's recommendations like emoluments for the purpose of all pensionary benefits, Gratuity ceiling, DCRG, new Commutation table, enhanced family pension for 10 years for those who die in harness, age related pensionary benefits and minimum pensions etc. were implemented by DOT for all BSNL retirees/ IDA Pensioners after getting approval from DOP&PW on the lines of Central Government Pensioners.

4.5 Moreover, for the BSNL pensioners, the pension contribution as decided by the Govt. of India has already been paid in full by BSNL to the Govt. of India till their retirement and that too at the maximum of the scales instead of actual pay.

4.6 The last pension revision for BSNL pensioners w.e.f 01.01.2007 was done through a Union Cabinet decision. Pension revision for BSNL Pensioners becomes due w.e.f 01.01.2017 i.e 10 years after the earlier revision as in the case of Central Government retirees. It can be revised on the basis of 7th CPC formula.

4.6.1 The Fitment benefit given to Central Govt. Employees / Pensioners amounted to 32% benefit of Basic Pay/ Basic Pension. Multiplying factor with reference to Basic Pay/ Pension, under 7th CPC for Central Govt. Employees/ Pensioners amounted to 2.57 (i.e. Basic Pay/Pension + 125% DA as on 01-01-2016 + 32% of Basis Pay/Pension i.e. 1 + 1.25 + .32 = 2.57).

4.6.2 In case the same fitment benefit of 32% of Basic Pension given to Central Govt. Pensioners under 7th CPC is extended to IDA Pensioners of BSNL, the Multiplying factor for BSNL IDA Pensioners will work out to 2.515 (i.e. Basic Pension + 119.5% DA as on 01-01-2017 + 32% of Basis Pension i.e. 1 + 1.195 + .32 = 2.515). This amounts to Revised Pension = 2.515 * Old Basic Pension.

TRUE COPY

339.

Regn. No. S/00108/NE-/2010

ALL INDIA
RETIRED BHARAT SANCHAR NIGAM LIMITED EXECUTIVE'S WELFARE ASSOCIATION
CENTRAL HEAD QUARTERS, NEW DELHI
CHQ ADDRESS: C-8/230, YAMUNA VIHAR, DELHI-110053, www.aibsnlretd.org

OFFICE BEARERS:

1. President
Rakesh Srivastava (Delhi)
M.: 09868876677
2. Vice President-I
Manas Roy (WB)
M.: 09434009002
3. Vice President-II
T. Ravindran (Kerala)
M.: 09447815400
4. General Secretary
Kishan Singh (Delhi)
M.: 09968270611
5. Asstt. General Secretary-I
Amit Kr. Gupta (Kolkata)
M.: 09433000088
6. Asstt. General Secretary-II
K. Jairam (AP)
M.: 09440000212
7. Asstt. General Secretary-III
Pradeep Goel (Lucknow)
M.: 09415315111
8. Asstt. General Secretary-IV
P. Mukharjee (Assam)
M.: 09433400560
9. Asstt. General Secretary-(HQ)
N.C. Jain (Ghaziabad)
M.: 09871915573
10. Finance Secretary
A.K. Jain (Delhi)
M.: 09868838466
11. Assistant Finance Secretary
P. Chandrasekhar (TN)
M.: 09486100045
12. Organising Secretary (East)
Swapan Mukharjee (Kolkata)
M.: 09433400210
13. Organising Secretary (West)
Amlendu Guha (Ahmedabad)
M.: 09426643434
14. Organising Secretary (South)
R.B. Alhani (Karnataka)
M.: 09449858299
15. Organising Secretary (North)
D.N. Verma (UP East)
M.: 09415339696
16. Editor
J. Saibaba (AP)
M.: 09490667899
17. Auditor

4.6.3 The fitment multiplying factor of 2.515 as worked out in 4.6.2 above is even lesser than the multiplying factor approved by Union Cabinet under 3rd PRC at 15% fitment on IDA scales at 2.52425 [i.e. Basic Pay + 119.5% DA as on 01-01-2017 + (15% of Basis Pay + DA) i.e. {1+1.195 + (2.195 * 15%) = 2.52425)].

4.6.4 Even though fitment multiplying factor of 2.515 based on the formula given under 7th CPC is less beneficial to IDA Pensioners of BSNL as compared to fitment formula given under 3rd PRC with a multiplying factor of 2.52425, we are ready to accept the same for the sake of uniformity and comparability with 7th CPC so that our future Pension Revision shall be carried out based on the ratio provided by future CPCs and making the same applicable to us from the dates due for our Pension Revision.

4.6.5 7th CPC formula is applicable not only to CG pensioners but also to 69 CPSEs, wherein the pensioners were drawing pension following the CDA pattern and covered under CCS(Pension) Rules, 1972. Their scales of pay are not identical to CG Scales of pay. As per Apex Court judgment dated 03-05-1990, the appointees in CPSEs after 01-01-1989 should only have IDA pattern of pay scales and DA. So the fitment formula of CPC cannot be denied to BSNL retirees only because they are having IDA scales of pay.

In view of the above submissions, your kind personal intervention is solicited to take urgent steps to get the pension revision implemented for BSNL retirees, who are Central Service Pensioners drawing pension from Government of India on combined service rendered in DOT and BSNL, under Rule 37-A of CCS Pension Rules 1972. Pension revision for BSNL Pensioners needs to be implemented w.e.f. 01.01.2017 based on 7th CPC fitment formula with multiplying factor of 2.515, as illustrated in para 4.6.2 above, after the due approval of the Union Cabinet.

Thanking you,

Yours faithfully,

K Singh

(Kishan Singh)
General Secretary
M-9968270611

Copy for kind information and n/a to:-

1. Smt Aruna Sundararajan, Secretary(T), DOT, New Delhi-110001.
2. Shri Pradeep Kumar Sinha, Cabinet Secretary, New Delhi-110001
3. Shri R. K. Misra, Member(S), Sanchar Bhavan, New Delhi-110001
4. Smt Anuradha Mitra, Member(F), Sanchar Bhavan, New Delhi
5. Shri Anupam Srivatava, CMD, BSNL Corporate Office, New Delhi
6. Smt Sujata T Ray, DIR(HR), BSNLC.O., New Delhi-110001

K Singh

O/C

Central Administrative Tribunal

TRUE COPY

~~265~~

ANNEXURE-A-27

No. W-02/0028/2017-DPE (WC)-GL-XIII/17
Government of India
Ministry of Heavy Industries and Public Enterprises
Department of Public Enterprises

Public Enterprises Bhawan
Block No. 14, C. G. O. Complex,
Lodhi Road, New Delhi-110003
Dated: 3rd August, 2017

OFFICE MEMORANDUM

Subject:-Pay Revision of Board level and below Board level Executives and Non-Unionised Supervisors of Central Public Sector Enterprises (CPSEs) w.e.f. 01.01.2017.

The last revision of the scale of pay of Board level and below Board level Executives and Non-Unionized Supervisors of Central Public Sector Enterprises (CPSEs) was made effective from 01.01.2007 for a period of 10 years. As the next Pay Revision became due from 01.01.2017, the Government had set up the 3rd Pay Revision Committee (PRC) under the chairmanship of Justice Satish Chandra (Retd.) to recommend revision of pay and allowances for above categories of employees following IDA pattern of pay scales with effect from 01.01.2017. The Government, after due consideration of the recommendations of the 3rd PRC have decided as follows:

2. **Revised Pay Scales:** - The revised Pay scales for Board and below Board level executives would be as indicated in **Annexure-I**. There will be no change in the number and structure of pay scales and every executive has to be fitted into the corresponding new pay scale. In case of CPSEs which are yet to be categorized, the revised pay scales as applicable to the Schedule 'D' CPSEs would be applicable.

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

TRUE COPY

Fitment Benefit:

(i) In case additional financial impact in the year of implementing the revised pay-package of a CPSE is within 20% of average PBT of last 3 years, a uniform full fitment benefit of 15% would be provided.

(ii) If the additional financial impact in the year of implementing the revised pay-package is more than 20% of the average PBT of last 3 Financial Years (FYs), then the revised pay-package with recommended fitment benefit of 15% of BP+DA should not be implemented in full but only partly, as per the part-stages recommended below:-

Part stages	Additional financial impact of the full revised pay package as a % of average PBT of last 3 FYs	Fitment benefit (% of BP+DA)
I	More than 20% but upto 30% of average PBT of last 3 FYs	10%
II	More than 30% but upto 40% of average PBT of last 3 FYs	5%

No fitment or any other benefit of pay revision will be implemented in the CPSEs where the additional financial impact of the revised pay package is more than 40% of the average PBT of last 3 financial years.

(iii) At the time of implementation of pay revision, if the additional financial impact after allowing full / part fitment exceeds 20% of the average PBT of last 3 years, then PRP payout / allowances should be reduced so as to restrict impact of pay revision within 20%.

(iv) Subsequent to implementation of pay revision, the profitability of a CPSE would be reviewed after every 3 years and

a) if there is improvement in the average PBT of the last 3 years, then full pay package/ higher stage of pay package would be implemented while ensuring that total additional impact (sum total of previously implemented part pay package and proposed additional package) stays within 20% of the average of PBT of last 3 years

b) if the profitability of a CPSE falls in such a way that the earlier pay revision now entails impact of more than 20% of average PBT of last 3

Central Administrative Tribunal

TRUE COPY

year, then PRP/ allowances will have to be reduced to bring down impact

3. **Methodology for pay fixation:** To arrive at the revised Basic Pay as on 1.1.2017 fitment methodology shall be as under:

A		B		C		D [Revised BP as on 1.1.2017] *
Basic Pay + Stagnation increment(s) as on 31.12.2016 (Personal Pay / Special Pay not to be included)	+	Industrial Dearness Allowance (IDA) @119.5% as applicable on 1.1.2017 [under the IDA pattern computation methodology linked to All India Cumulative Price Index (AICPI) 2001=100 series]	+	15% /10%/5% of (A+B)	=	Aggregate amount rounded off to the next Rs.10/-.

* ***In case revised BP as on 1.1.2017 arrived so is less than the minimum of the revised pay scale, pay will be fixed at the minimum of the revised pay scale.***

4. **Pay revision in respect of Non-unionized Supervisors of CPSEs:** The revision of scales of pay for Non-unionized Supervisory staff would be decided by the respective Board of Directors.

5. The applicability of affordability clause in respect of certain types of CPSEs is given at **Annexure II**

6. **Increment:-** A uniform rate of 3% of BP will be applicable for both annual increment as well as promotion increment. The details regarding Stagnation Increment and Bunching of pay are given at **Annexure-III (A)**

7. **Dearness Allowance:** 100% DA neutralization would be continued for all the executives and non-unionised supervisors, who are on IDA pattern of scales of pay w.e.f. 01.01.2017. Thus, DA as on 01.01.2017 will become zero with link point of All India Consumer Price Index (AICPI) 2001=100, which is 277.33 (Average of AICPI for the months of September, October & November, 2016) as on 01.01.2017. The periodicity of adjustment will be once in three months as per the existing practice.

TRUE COPY

The quarterly DA payable from 01.01.2017 will be as per new DA given at Annexure-III(B).

8. **House Rent Allowance (HRA)/ Lease Accommodation and House Rent Recovery (HRR):** Separate guidelines would be issued later on these allowances. Till then, the existing allowance at the existing rate may be continued to be paid at pre-revised pay scales.

9 **Perks & Allowances:** The Board of Directors of CPSEs are empowered to decide on the perks and allowance admissible to the different categories of the executives, under the concept of 'Cafeteria Approach', subject to a ceiling of 35% of BP. Under the concept of 'Cafeteria Approach' the executives are allowed to choose from a set of perks and allowances. The recurring cost incurred on running and maintaining of infrastructure facilities like hospitals, colleges, schools etc. would be outside the ceiling of 35% of BP. As regards company owned accommodation provided to executives, CPSEs would be allowed to bear the Income Tax liability on the 'non-monetary perquisite' of which 50% shall be loaded within the ceiling of 35% of BP on perks and allowances.

10. **Certain other perks & Allowances:** Separate guidelines would be issued on location based Compensatory Allowance, Work based Hardship Duty Allowances and Non-Practicing Allowance. Till then, the existing allowances at the existing rate would continue to be paid at the pre-revised pay scales.

11. **Performance Related Pay (PRP):** The admissibility, quantum and procedure for determination of PRP has been given in Annexure- IV. The PRP model will be effective from FY 2017-18 and onwards. For the FY 2017-18, the incremental profit will be based on previous FY 2016-17. The PRP model will be applicable only to those CPSEs which sign Memorandum of Understanding (MOU), and have a Remuneration Committee (headed by an Independent Director) in place to decide on the payment of PRP within the prescribed limits and guidelines.

12. **Superannuation Benefits:** The existing provisions regarding superannuation benefits have been retained as per which CPSEs can contribute upto 30% of BP plus

Central Administrative Tribunal

TRUE COPY

DA towards Provident Fund (PF), Gratuity, Post-Superannuation Medical Benefits (PRMB) and Pension of their employees.

12.1 The ceiling of gratuity of the executives and non-unionised supervisors of the CPSEs would be raised from Rs 10 lakhs to Rs 20 lakhs with effect from 01.01.2017 and the funding for the entire amount of Gratuity would be met from within the ceiling of 30% of BP plus DA. Besides, the ceiling of gratuity shall increase by 25% whenever IDA rises by 50%.

12.2 The existing requirement of superannuation and of minimum of 15 years of service in the CPSE has been dispensed with for the pension.

12.3 The existing Post-Retirement Medical Benefits will continue to be linked to requirement of superannuation and minimum of 15 years of continuous service for other than Board level Executives. The Post-Retirement medical benefits shall be allowed to Board level executives (without any linkage to provision of 15 years of service) upon completion of their tenure or upon attaining the age of retirement, whichever is earlier

13 **Corpus for medical benefits for retirees of CPSEs:** The corpus for post – retirement medical benefits and other emergency needs for the employees of CPSEs who have retired prior to 01.01.2007 would be created by contributing the existing ceiling of 1.5% of PBT. The formulation of suitable scheme in this regard by CPSEs has to be ensured by the administrative Ministries/Departments.

14. **Club Membership:** The CPSEs will be allowed to provide Board level executives with the Corporate Club membership (upto maximum of two clubs), co-terminus with their tenure.

15. **Leave regulations/management:** CPSEs would be allowed to frame their own leave management policies and the same can be decided based on CPSEs operational and administrative requirements subject to the principles that:

a. Maximum accumulation of Earned Leave available are not permitted beyond 300 days for an employee of CPSE. The same shall not be permitted for encashment beyond 300 days at the time of retirement.

b. CPSEs should adopt 30 day's month for the purpose of calculating leave encashment.

Central Administrative Tribunal

TRUE COPY

c. Casual and Restricted Leave will continue to be lapsed at the end of the calendar year.

16. **Periodicity:** The next pay revision would take place in line with the periodicity as decided for Central Government employees but not later than 10 years.

17. **Financial Implications:** Expenditure on account of pay revision is to be entirely borne by the CPSEs out of their earnings and no budgetary support will be provided by the Government.

18. **Issue of Presidential directive, effective Date of implementation and payment of allowances.** The revised pay scales will be effective from 01.01.2017(except the allowances mentioned in the paras 8 and 10 above). The Board of Directors of each CPSE would be required to consider the proposal of pay revision based on their affordability to pay, and submit the same to the administrative Ministry for approval. The administrative Ministry concerned will issue the Presidential Directive with the concurrence of its Financial Adviser in respect of each CPSE separately. Similarly presidential directives would be issued by the administrative Ministry concerned based on the result of review which is to be done after every 3 years subsequent to implementation. A copy of the Presidential Directives, issued by the administrative Ministry/Department concerned may be endorsed to the Department of Public Enterprises.

19. **Issue of instructions/clarification and provision of Anomalies Committee:** The Department of Public Enterprises (DPE) will issue necessary instructions/clarifications wherever required, for implementation of the above decisions. An Anomalies Committee consisting of Secretaries of Department of Public Enterprises (DPE), Department of Expenditure and Department of Personnel & Training is being constituted for a period of two years to look into further specific issues/problems that may arise in implementation of the Government's Decision on 3rd pay revision. Any anomaly should be forwarded with the approval of Board of Directors to the administrative Ministry/Department who will examine the same and dispose of the same. However, if it is not possible for the administrative

Central Administrative Tribunal

TRUE COPY

Ministry/Department to sort out the issue, they may refer the matter to DPE, with their views for consideration of the Anomalies Committee.

(Rajesh Kumar Chaudhry)
Joint Secretary to the Government of India

Administrative Ministry / Department (Secretary by Name) of the Government of India

Copy to Chief Executives of CPSEs.

Copy also to:

i) Financial Advisors in the Administrative Ministry/Department
ii) Comptroller & Auditor General of India, 9 Deen Dayal Upadhyay Marg, New Delhi.
iii) Department of Expenditure, EV Branch, North Block, New Delhi
iv) Department of Personnel & Training (CPC Pay 1), North Block, New Delhi.
v) Chairman, PESB/Secretary, PESB, CGO Complex New Delhi

Copy also to

i) Prime Minister's Office (Shri Tarun Bajaj, Addl. Secretary)
ii) Cabinet Secretariat (Shri S.A.M. Rizvi, Joint Secretary)

Copy for information to

i) PS to Minister (HI&PE)
ii) PS to MoS (HI&PE)
iii) PS to Secretary, PE
iv) AS & FA (PE)
v) All Officers of DPE
vi) NIC Cell, DPE with the request to upload the OM on the DPE website.

(Samsul Haque)
Under Secretary to the Government of India

7

TRUE COPY

Annexure-I

(Para 2)

Grade	Existing(Rs)	Revised(Rs)
E0	12600-32500	30000-120000
E1	16400-40500	40000-140000
E2	20600-46500	50000-160000
E3	24900-50500	60000-180000
E4	29100-54500	70000-200000
E5	32900-58000	80000-220000
E6	36600-62000	90000-240000
E7	43200-66000	100000-260000
E8	51300-73000	120000-280000
E9	62000-80000	150000-300000
Grade	**Existing(Rs)**	**Revised(Rs)**
Director(Sch-D)	43200-66000	100000-260000
CMD(D)	51300-73000	120000-280000
Director(Sch-C)	51300-73000	120000-280000
CMD(C)	65000-75000	160000-290000
Director(Sch-B)	65000-75000	160000-290000
CMD(B)	75000-90000	180000-320000
Director(Sch-A)	75000-100000	180000-340000
CMD(A)	80000-125000	200000-370000

***E7 only in CPSEs of Schedule A, B & C**

***E8 only in CPSEs of Schedule A & B**

***E9 only in CPSEs of Schedule A**

Central Administrative Tribunal

TRUE COPY

Annexure II (Para 5)

Affordability to certain types of CPSEs:

a) In respect of Sick CPSEs referred to erstwhile Board for Industrial and Financial Reconstruction (BIFR) / Appellate Authority for Industrial and Financial Reconstruction (AAIFR), the revision of pay scales should be in accordance with rehabilitation packages approved by the Government after providing for the additional expenditure on account of pay revision in these packages.

b) The affordability condition shall also be applicable to the CPSEs registered under Section 25 of the Companies Act, 1956, or under Section 8 of the Companies Act, 2013 (which by the very nature of their business are not-for profit companies) for implementation of the revised compensation structure (including Performance Related Pay) as being recommended for other CPSEs.

c) There are also certain CPSEs which have been formed as independent Government companies under a statute to perform a specific agenda / regulatory functions. The revenue stream of such CPSEs are not linked to profits from the open market in a competitive scenario but are governed through the fees & charges, as prescribed and amended from time to time by the Government. There is no budgetary support provided by the Government to such CPSEs. In consideration that the impact of the revised compensation structure (including Performance Related Pay) would supposedly form the part of revenue stream for such CPSEs, the affordability condition shall not be applicable to these CPSEs; however the implementation of same shall be subject to the approval of Administrative Ministry upon agreeing and ensuring to incorporate the impact of the revised compensation structure into the revenue stream.

d) As regards the CPSEs under construction which are yet to start their commercial operations, the implementation of pay-revision would be decided by the Government based on the proposal of concerned Administrative Ministry and after consideration of their financial viability.

e) In case of Coal India Limited (CIL), the holding company and its subsidiaries would be considered as a single unit for the affordability clause as per past precedent.

Central Administrative Tribunal

TRUE COPY

Annexure-III (A)

(Para 6)

Stagnation Increment: In case of reaching the end point of pay scale, an executive would be allowed to draw stagnation increment, one after every two years upto a maximum of three such increments provided the executives gets a performance rating of 'Good' or above.

Bunching of Pay: - In CPSEs where a lower fitment benefit (i.e. 10% or 5%) is granted due to affordability, there is a possibility of bunching at different grades due to revised Basic Pay falling short of reaching starting point of revised pay-scale. The revised BP due to bunching of pay in these cases would be the higher of the followings -

- Adding the difference between the 'pre-revised Basic Pay' and 'the minimum of the pre-revised pay scale' to the starting point of revised pay scale.
- The revised BP as arrived after applying the fitment benefit (ie 10% or 5% of BP plus DA).

[Example for Basic Pay revision in cases of bunching in a Grade/level]

Sl. No.	Parameters		Pre-revised pay-scale of E-6 level (in Rs.)			
			Minimum / Starting of pay-scale	Minimum + 1 increment @3%	Minimum + 2 increments @3%	Minimum + 3 increments @3%
			(A)	(B)	(C)	(D)
1.	E-6 level:Pre-revised BP	(31.12.16)	36600	37700	38840	40010
2.	DA (1.1.2017)	Say: 120%	43920	45240	46608	48012
3.	Total	(1) + (2)	80520	82940	85448	88022
4.	Fitment benefit	% of BP+DA	5%	5%	5%	5%
5.	Fitment benefit amount	(4) x (3)	4026.0	4147.0	4272.4	4401.1
6.	Net amount to arrive at revised BP	(3) + (5)	84546.0	87087.0	89720.4	92423.1
7.	Rounded off	Next Rs.10/-	**84550**	**87090**	**89730**	**92430**
8.	Minimum of E-6's revised pay-scale	Starting point	90000	90000	90000	90000

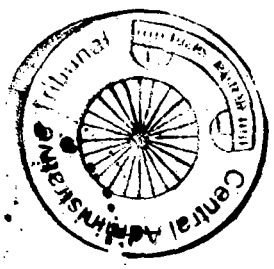
TRUE COPY

Central Administrative Tribunal

850

275

9.	Difference between the 'pre-revised Basic Pay' and the 'minimum of the pre-revised pay scale'	Linked to figure at Column (A) mentioned at Sl. No.1.	(A) - (A) i.e.36600 - 36600	(B) - (A) i.e.37700 - 36600	(C) - (A) i.e.38840 - 36600	(D) - (A) i.e.40010 - 36600
10.	Difference amount	=	0	1100	2240	3410
11.	Net of difference added to starting point of revised pay-scale	(8) + (10)	**90000**	**91100**	**92240**	**93410**
12.	***Revised Pay-scale***	***Higher of (7) or (11)***	***90000***	***91100***	***92240***	***93410***



TRUE COPY

Annexure-III (B)

(Para 7)

Rates of Dearness Allowances for the employees of CPSEs following IDA pattern

Effective Date	Rate of Dearness Allowance(in percentage)
01.01.2017	0
01.04.2017	-1.1
01.07.2017	-0.2

TRUE COPY

Central Administrative Tribunal

Annexure-IV

(para 11)

Performance Related Pay

(I) Allocable profits:

a. The overall profits for distribution of PRP shall be limited to 5% of the year's profit accruing only from core business activities (without consideration of interest on idle cash / bank balances), which will be exclusively for executives and for non-unionized supervisors of the CPSE. The ratio of break-up of profit accruing from core business activities for payment of PRP between relevant year's profit to Incremental profit shall be 65:35 to arrive at the Allocable profits and the Kitty factor.

(I) PRP differentiator components:

(A) PRP payout is to be distributed based on the addition of following parts / components:-

Part-1 : CPSE's performance component:-

(a) **Weightage = 50% of PRP payout**

(b) **Based on CPSE's MOU rating:**

MOU rating	%age eligibility of PRP
Excellent	100%
Very Good	75%
Good	50%
Fair	25%
Poor	Nil

Part-2 : Team's performance component:- *

(a) **Weightage = 30% of PRP payout**

(b) **Based on Team rating** (i.e. linked to Plant / Unit's productivity measures and operational / physical performance):

TRUE COPY

Team rating	%age eligibility of PRP
Excellent	100%
Very Good	80%
Good / Average	60%
Fair	40%
Poor	Nil

* In case of a CPSE not having Plants/Units and if there is a no Team Performance areas/rating, then the PRP for such CPSE will be determined based specifically on MoU rating after merging the weightage of Team performance component to the Company's performance component.

(c) The Team rating shall be linked to individual Plant / Unit's productivity measures and operational / physical performance, as primarily derived from CPSEs' MOU parameters and as identified by CPSE depending on the nature of industry / business under the following suggested performance areas:-

- 'Achievement Areas', in which performance has to be maximized (e.g. market shares, sales volume growth, product output / generation, innovations in design or operation, awards and other competitive recognition, etc.); and

- 'Control Areas' in which control has to be maximized (e.g. stock / fuel loss, operating cost control, litigation cost, safety, etc.).

(d) For office locations of CPSEs, the Team rating should be linked to the Plant / Unit as attached to the said office; and if there is more than one Plant / Unit attached to an office or in case of Head Office / Corporate Office of the CPSE, the Team rating shall be the weighted average of all such Plants / Units. The weighted average shall be based on the employee manpower strength of the respective Plants / Units.

[Plants/Units shall primarily mean the work place where industry's manufacturing process is carried out and in case of a CPSE not having any manufacturing process, it shall mean the work place where the main business is carried out. The individual department/section within a work place shall not be recognized as a Plant/Unit].

TRUE COPY

Part-3 : Individual's performance component:-

(a) **Weightage = 20% of PRP payout**

(b) **Based on Individual performance rating** (i.e. as per the CPSE's Performance Management System):

Individual performance rating	%age eligibility of PRP
Excellent	100%
Very Good	80%
Good / Average	60%
Fair	40%
Poor	Nil

(c) The forced rating of 10% as below par / Poor performer shall not be made mandatory. Consequently, there shall be discontinuation of Bell-curve. The CPSEs are empowered to decide on the ratings to be given to the executives; however, capping of giving Excellent rating to not more than 15% of the total executive's in the grade (at below Board level) should be adhered to.

(II) Percentage ceiling of PRP (%age of BP):

(a) The grade-wise percentage ceiling for drawal of PRP within the allocable profits has been rationalized as under:-

Grade	Ceiling (% of BP)
E0	40%
E1	40%
E2	40%
E3	40%
E4	50%
E5	50%
E6	60%
E7	70%
E8	80%

TRUE COPY

E9	90%
Director (C&D)	100%
Director (A&B)	125%
CMD / MD (C&D)	125%
CMD / MD (A&B)	150%

Note:
1.For Non- Unionized supervisors, the PRP as percentage of BP will be decided by the respective Board of Directors of the CPSE.

(III) **Kitty factor**: After considering the relevant year's profit, incremental profit and the full PRP payout requirement (computed for all executives based on Grade-wise ceilings, CPSE's MOU rating, Team rating & Individual performance rating), there will be two cut-off factors worked out based on the PRP distribution of 65:35. The first cut-off shall be in respect of PRP amount required out of year's profit, and the second cut-off shall be in respect of PRP amount required out of incremental profit, which shall be computable based on the break-up of allocable profit (i.e. year's 5% of profit bifurcated into the ratio of 65:35 towards year's profit and incremental profit).

The sum of first cut-off factor applied on 65% of Grade PRP ceiling ***and*** the second cut-off factor applied on 35% of Grade PRP ceiling will result in Kitty factor. The Kitty factor shall not exceed 100%.

(IV) **Based on the PRP components specified above, the PRP pay-out to the executives should be computed upon addition of the following three elements:-**

(a) **Factor-X (% of BP):**

Weightage of 50% ***Multiplied with*** Part-1 (CPSE's MOU rating) ***Multiplied with*** Kitty factor

(b) **Factor-Y (% of BP):**

Weightage of 30% ***Multiplied with*** Part-2 (Team's performance) ***Multiplied with*** Kitty factor.

(c) **Factor-Z (% of BP):**

Weightage of 20% ***Multiplied with*** Part-3 (Individual's performance) ***Multiplied with*** Kitty factor.

(d) **Net PRP= Factor X + Factor Y + Factor Z =Net %age of Annual BP**

TRUE COPY

Central Administrative Tribunal

EXAMPLES

Performance Related Pay (PRP): Examples for calculating Kitty factor/Allocable profit

- **PRP Kitty Distribution: within 5% of profit accruing from core business activities** (hereinafter, for brevity, referred to as Profit).
- **Ratio of relevant year's profit : incremental profit = 65 : 35**

Example – 1:

Sl.	Parameters	Amount (Rs.)/ %age
1	FY 2016-17	Profit = 5000 crore
2	FY 2017-18 [for which PRP is to be distributed]	Profit = 6000 crore
3	Incremental profit	1000 crore
4	5% of the year's profit	300 crore
5	*Allocable profit out of current year's 5% of profit based on distribution in the ratio of 65:35 towards the year's profit and incremental profit:*	
a.	PRP payout from year's profit	195 crore [i.e. 65% out of 300 crore]
b.	PRP payout from incremental profit	105 crore [i.e. 35% out of 300 crore]: [105 crore can be fully utilized as incremental profit is 1000 crore.]
6	Full PRP Payout requirement (computed for all executives based on Grade-wise ceilings, CPSE's MOU rating, Team rating & Individual performance rating) – *but without applying kitty factor related to year's profit or Incremental profit*	500 crore
7	*PRP payout break-up based on 65:35 distribution out of year's profit and incremental profit*	
a	PRP amount required out of year's profit (i.e. 65% of Sl. No. 6)	65% of 500 crore = 325 crore
a1	Cut-off factor(1) (in %age) for year's PRP payout with reference to Sl. No. 5(a) & 7(a)	195 crore / 325 crore = 60.00%
b	PRP amount required out of incremental profit (i.e. 35% of Sl. No. 6)	35% of 500 crore = 175 crore
b1	Cut-off factor(2) (in %age) for incremental	105 crore / 175 crore = 60.00%

TRUE COPY

	PRP payout with reference to Sl. No. 5(b) & 7(b)	
8	Thus, total Profit amount allocated for PRP distribution	195 crore + 105 crore = 300 crore [i.e. 5% of Core business / operating profit]
9	Kitty factor for respective Grade (in %age)	[65% x Grade PRP ceiling (%) x Cut-off factor(1)] ***Plus (+)*** [35% x Grade PRP ceiling x Cut-off factor(2)] = **Kitty factor**

COPY

PRP Payout to Individual Executives
Example – 1 : For Grade E-1

Sl	Parameter	Amount (Rs.)/ %age payout
A	CPSE's MOU rating [Weightage = 50%]	75% (Very Good)
B	Team's rating [Weightage = 30%]	100% (Excellent)
C	Individual's performance rating [Weightage = 20%]	60% (Good/Average)
D	Grade ceiling (E1) (Max. of 40% of BP)	40% of BP
E	Cut-off factor (1)	60.0%
F	Cut-off factor (2)	60.0%
G	Kitty Factor for Grade E1 i.e. [65% x D (Grade PRP ceiling) x E (Cut-off factor(1))] *Plus (+)* [35% x D (Grade PRP ceiling) x F (Cut-off factor(2))]	[65% x 40% x 60.00%] + [35% x 40% x 60.00%] = 15.60% + 8.40% = 24.00%
E	Net PRP	
i	Factor-X [Company's performance component]	Wtg.(50%) x A x G
	i.e.	50% x 75% x 24.0% = 9.00%
ii	Factor-Y [Team's performance component]	Wtg.(30%) x B x G
	i.e.	30% x 100% x 24.00% = 7.20%
iii	Factor-Z [Individual's performance component]	Wtg.(20%) x C x G
	i.e.	20% x 60% x 24.00% = 2.88%
H	**PRP payout distribution**	**Factor X + Factor Y + Factor Z = 19.08% of Basic Pay**

TRUE COPY

Performance Related Pay (PRP): Examples for calculating Kitty factor/Allocable profit

- **PRP Kitty Distribution : within 5% of profit accruing from core business activities** (hereinafter, for brevity, referred to as Profit).
- **Ratio of relevant year's profit : incremental profit = 65 : 35**

Example – 2:

Sl.	Parameters	Amount (Rs.)/ %age
1	FY 2016-17	PBT - 7000 crore
2	FY 2017-18 [for which PRP is to be distributed]	PBT - 6000 crore
3	Incremental profit	Nil
4	5% of the year's profit	300 crore
5	*Allocable profit out of current year's 5% of profit based on distribution in the ratio of 65:35 towards the year's profit and incremental profit:*	
a.	PRP payout from year's profit	195 crore [i.e. 65% out of 300 crore]
b.	PRP payout from incremental profit	105 crore [i.e. 35% out of 300 crore]: [Nil amount to be allocated as profit is Nil.]
6	Full PRP Payout requirement (computed for all executives based on Grade-wise ceilings, CPSE's MOU rating, Team rating & Individual performance rating) – *but without applying kitty factor related to year's profit or Incremental profit*	500 crore
7	*PRP payout break-up based on 65:35 distribution out of year's profit and incremental profit:*	
a	PRP amount required out of year's profit (i.e. 65% of Sl. No. 6)	65% of 500 crore = 325 crore
a1	Cut-off factor(1) (in %age) for year's PRP payout with reference to Sl. No. 5(a) & 7(a)	195 crore / 325 crore = 60.00%
b	PRP amount required out of incremental profit (i.e. 35% of Sl. No. 6)	35% of 500 crore = 175 crore
b1	Cut-off factor(2) (in %age) for incremental PRP payout with reference to Sl. No. 5(b) & 7(b)	Nil / 175 crore = 0.00%
8	Thus, total Profit amount allocated for PRP distribution	195 crore + 0 crore = 195 crore [i.e. 3.25% of Core business/operating profit]
9	Kitty factor for respective Grade (in %age)	[65% x Grade PRP ceiling (%) x Cut-off factor(1)] ***Plus (+)*** [35% x Grade PRP ceiling x Cut-off factor(2)] = **Kitty factor**

TRUE COPY

Central Administrative Tribunal

360.

285

PRP Payout to Individual Executives
Example – 2 : For Grade E-1

Sl	Parameter	Amount (Rs.)/ %age payout
A	CPSE's MOU rating [Weightage = 50%]	75% (Very Good)
B	Team's rating [Weightage = 30%]	100% (Excellent)
C	Individual's performance rating [Weightage = 20%]	60% (Good/Average)
D	Grade ceiling (E1) (Max. of 40% of BP)	40% of BP
E	Cut-off factor (1)	60.0 %
F	Cut-off factor (2)	00.0%
G	Kitty Factor for Grade E1 i.e. [65% x D (Grade PRP ceiling) x E (Cut-off factor(1))] *Plus (+)* [35% x D (Grade PRP ceiling) x F (Cut-off factor(2))]	[65% x 40% x 60.00%] + [35% x 40% x 0.00%] = 15.60% + 0.00% = 15.60%
E	Net PRP	
i	Factor-X [Company's performance component]	Wtg.(50%) x A x G
	i.e.	50% x 75% x 15.60% = 5.85%
ii	Factor-Y [Team's performance component]	Wtg.(30%) x B x G
	i.e.	30% x 100% x 15.60% = 4.68%
iii	Factor-Z [Individual's performance component]	Wtg.(20%) x C x G
	i.e.	20% x 60% x 15.60% = 1.87%
H	**PRP payout distribution**	**Factor X + Factor Y + Factor Z = 12.40% of Basic Pay**

Central Administrative Tribunal

TRUE COPY

ANNEXURE-A-28(colly)

मनोज सिन्हा
MANOJ SINHA

संचार राज्य मंत्री (स्वतंत्र प्रभार)
एवं
रेल राज्य मंत्री, भारत सरकार
Minister of State (Independent Charge)
for Communications
and
Minister of State for Railways
Government of India

D.O. No:40-16/2017-Pen(T)

Dear Shri Ajay Nishad Ji,

Kindly refer to your D.O. letter No.738/MP/AN/17 dated 28/08/2017 regarding revision of pension of BSNL pensioners/family pensioners who were permanently absorbed in BSNL from DoT and are getting pensions/family pensions from the Government of India, in terms of the OM No. 38/37/2016-P&PW(A) dated 12/05/2017.

The case was sent for examination. After examination, it has been found that the OM dated 12/05/2017 is in continuation of the OM of even number dated 04/08/2016. Para 7 (a) of the letter clearly states that when the Government servants on permanent absorption in PSUs continue to draw pension separately from the Government, 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 on CDA pattern based on their service in Government only.

On the other hand, the employee who were permanently absorbed in BSNL from DoT are getting pension on the basis of combined service in DoT and BSNL on IDA pattern in terms of Sub-Rule (10) of Rule 37-A of CCS (Pension) Rules, 1972. It is stated that pension revision follows pay revision. Earlier also, pension of permanent absorbees in BSNL drawing pension in IDA pattern has been revised on implementation of 2nd PRC in 2007.

Accordingly, case of pension revision of the employees permanently absorbed in BSNL will be taken up as and when 3rd PRC is implemented in BSNL.

With regards.

Yours sincerely,

ISSUED

(MANOJ SINHA)

Shri Ajay Nishad
Member of Parliament (Lok Sabha),
197, North Avenue,
New Delhi - 110001

Room No. 105, Sanchar Bhawan, 20 Ashoka Road, New Delhi - 110 001
Phone 91-11-23739191, 23372177 Fax 91-11-23725330

Central Administrative Tribunal

TRUE COPY

362.

मनोज सिन्हा
MANOJ SINHA

सत्यमेव जयते

संचार राज्य मंत्री (स्वतंत्र प्रभार)
एवं
रेल राज्य मंत्री, भारत सरकार
Minister of State (Independent Charge)
for Communications
and
Minister of State for Railways
Government of India

13 June 2018

D.O.No.34-19/2018-Pen(T)

Dear Shri Gopal Shetty Ji,

Kindly refer to your letter dated 12/03/2018 regarding revision of pension of MTNL retirees who are Central Service Pensioners drawing pension from GoI on combined service rendered in DoT and MTNL under Rule 37-A of CCS(Pension) Rules, 1972, in accordance with fitment formula given by 7th CPC.

The case was sent for examination and it has been found that pension revision follows pay revision. Earlier also, pension of similarly placed combined service pensioners, who had retired before 2nd PRC, was revised after implementation of 2nd PRC in BSNL/MTNL in 2007.

Accordingly, case of pension revision of the concerned employees in MTNL will be taken up as and when the 3rd PRC is implemented in MTNL.

With regards,

Yours sincerely,

(MANOJ SINHA)

Shri Gopal Shetty
Member of Parliament (Lok Sabha)
89, South Avenue
NEW DELHI-110011.

Central Administrative Tribunal

Room No. 105, Sanchar Bhawan, 20 Ashoka Road, New Delhi - 110 001
Phone : 91-11-23739191, 23372177 Fax : 91-11-23723330

TRUE COPY

Typed Copy

ANNEXURE-A-28 (Colly.)

MANOJ SINHA

Minister of state (Independent Charge)
for communications
and
Minister of State for Railways
Government of India

23 OCT 2017

D.O. No.40-16/2017-Pen(T)

Dear Shri Ajay Nishad Ji,

Kindly refer to your D.O. letter No.738/MP/AN/17 dated 28/08/2017 regarding revision of pension of BSNL pensioners/family pensioners who were permanently absorbed in BSNL from DoT and are getting pensions/family pensions from the Government of India, in terms of the OM No.38/37/2016-P&PW(A) dated 12/05/2017.

The case was sent for examination. After examination, it has been found that the OM dated 12/05/2017 is in continuation of the OM of even number dated 04/08/2016. Para 7(a) of the letter clearly states that when the Government servants on permanent absorption in PSUs continue to draw pension separately from the Government, 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

TRUE COPY

Central Administrative Tribunal

absorption in PSUs on pro-rata basis on CDA pattern based on their service in Government only.

On the other hand, the employee who were permanently absorbed in BSNL from DoT are getting pension on the basis of combined service in DoT and BSNL on IDA pattern in terms of Sub-Rule (10) of Rule 37-A of CCS (Pension) Rules, 1972. It is stated that pension revision follows pay revision. Earlier also, pension of permanent absorbees in BSNL drawing pension in IDA pattern has been revised on implementation of 2nd PRC in 2007.

Accordingly, case of pension revision of the employees permanently absorbed in BSNL will be taken up as and when 3rd PRC is implemented in BSNL.

With regards,

Yours sincerely,

Sd/-

(MANOJ SINHA)

Shri Ajay Nishad
Member of Parliament (Lok Sabha)
197, North Avenue,
New Delhi

Room No.105, Sanchar Bhawan, 20 Ashoka Road, New Delhi-110 001
Phone 91-11-23739191 23372177 Fax 91-11-23723330

// TRUE TYPED COPY //

365

MANOJ SINHA

Minister of state (Independent Charge)
for communications
and
Minister of State for Railways
Government of India

13 JUN 2018

D.O.No.34-19/2018-Pen(T)

Dear Shri Gopal Shetty Ji,

Kindly refer to your letter dated 13/03/2018 regarding revision of pension of MTNL, retirees who are Central Service Pensioners drawing pension from GoI on combined service rendered in DoT and MTNL under Rule 37-A of CCS (Pension) Rules, 1972, in accordance with fitment formula given by 7th CPC.

The case was sent for examination and it has been found that pension revision follows pay revision. Earlier also, pension of similarly placed combined service pensioners, who had retired before 2nd PRC, was revised after implementation of 2nd PRC in BSNL/MTNL in 2007.

Accordingly, case of pension revision of the concerned employees in MTNL will be taken up as and when the 3rd PRC is implemented in MTNL.

With regards,

Yours sincerely,
Sd/-
(MANOJ SINHA)

Shri Gopal Shetty
Member of Parliament (Lok Sabha)
197, North Avenue,
New Delhi

ISSUED
Sd/-

Room No.105, Sanchar Bhawan, 20 Ashoka Road, New Delhi-110 001
Phone 91-11-23739191 23372177 Fax 91-11-23723330

// TRUE TYPED COPY //

Central Administrative Tribunal

ANNEXURE-A-29

291

RTI MATTER/ SPEED POST

No.4/ 1 /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 the 04th July, 2018

To

Amit Kumar Gupta,
1/4 , Rajendra Banerjee Road,
Behala, Kolkata-700034

Subject: - Orders of Central Information Commission vide file No. CIC/DP&PW/A/2017/ 121215 dated 27-06-2018

Sir,

Kindly refer to the Order of Central Information Commission issued vide File No. CIC/DP&PW/A/2017/121215 dated 27-06-2018 (Copy enclosed) .

2. The revised point-wise reply in respect of the points raised by Shri Amit Kumar Gupta in his RTI application dated 07-09-2016 is as under:

S.No	Query	Response
1.	The Pensioners of which Departments/PSUs will be covered under the provisions of above two paras 2.1 & 7(a) of DoP&PW vide O.M. F.No. 38/37/2016-P&PW(A)(ii) dated 04-08-2016.	This Department had issued OM No. 38/37/2016-P&PW(A)(ii) dated 04-08-2016 (Copy enclosed) for revision of pension of pre-2016 Central Government Civilian Pensioners who had retired in CDA pay scales before 01-01-2016. Para 2.1 of this OM provided that these Orders shall apply to all pensioners/family pensioners who were drawing pension/family pension before 01-01-2016 under the Central Civil Services (Pension) Rules, 1972. Further, Para 7(A) of this OM provided that the Government servants who were absorbed in PSUs, etc. and were getting monthly pension from Government were also eligible for revision of pension under this order. However, those who were absorbed in PSUs, etc. and who were entitled to pension in IDA pattern based on the combined service in Government and PSU are not covered by these Orders. In their cases, the

TRUE COPY

		concerned PSU/Administrative Ministry has to issue orders for revision of pension, if any. 2. The RTI was also transferred to CPIO, Department of Telecommunication (DoT) vide letter no. 4/1/2016-P&PW(D) dated 31-10-2016/25-11-2016. CPIO, DoT vide their letter no. 47-35/2014-Pen(T) dated 27-12-2016 (Copy enclosed) replied as under: "It is mentioned that in pursuance of Government's decision on the recommendation of the Seventh Central Pay Commission, DOP&PW vide its OM No. 38/37/2016-P&PW(A)(ii) dated 04-08-2016. As per Para 2.1 of the said OM, "These orders shall apply to all pensioners/family pensioners who were drawing pension/family pension before 01-01-2016 under the Central Civil Services (Pension) Rules, 1972". As per Para 7(a) of the said OM, "Where the Government servants on permanent absorption in public sector undertaking/ autonomous bodies continue to draw pension separately from the Government, the pension of such absorbee 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". As such DOP&PW's OM dated 04-08-2016 is applicable to Govt. Servant permanently absorbed in PSU/AB and drawing pro-rata pension only.
2.	Whether the absorbee pensioners of BSNL, who fulfil conditions mentioned in para 2.1 & 7 (a) of the said order are covered by the said order and their pension will be revised from 1-1-2016 in terms of the said order DoP&PW O.M. F.No. 38/37/2016-P&PW(A)(ii) dated 04-08-2016.	As mentioned in the reply dated 31-10-2016 of this CPIO, orders for revision of pension of absorbee pensioners of BSNL/MTNL who are getting pension under IDA pattern are issued by Department of Telecommunications (DoT). Therefore, a copy of his RTI application was transferred to CPIO, Department of Telecommunications for providing the requisite information to the applicant. The CPIO, DoT in

TRUE COPY

3.	Whether the absorbee pensioners of MTNL, who fulfil the conditions mentioned in para 2.1 & 7(a) of the said order are covered by the said order and their pension will be revised from 01-01-2016 in terms of the said order dated 4-8-2016.	her reply dated 27-12-2016 has informed the applicant/appellant that DoP&PW OM dated 04-08-2016 is applicable to Government servants permanently absorbed in Public Sector Undertakings/ Autonomous Bodies and drawing pro-rata pension only (Copy enclosed). 2. It may be mentioned that after 6th Central Pay Commission also, the Orders for revision of pension of Government pensioners were not applicable for revision of pension of the absorbee pensioners of BSNL/MTNL drawing pension under IDA pattern. DoT had issued one such separate Order for revision of pension of pre-2007 pensioners/family pensioners of BSNL vide OM No. 40-17/2008-Pen(T)-Vol.III dated 15-03-2011 (Copy enclosed). 3. Therefore, further action for revision of pension of BSNL/MTNL combined service absorbee pensioners after 7th Central Pay Commission is required to be taken by DoT. A copy of this reply is also being endorsed to the CPIO, DoT to directly inform you in regard to the action taken, if any, for revision of pension of BSNL/MTNL absorbee pensioners after 7th Central Pay Commission.
4.	If the answer to the questions 2 above is negative, then kindly furnish the information on BSNL absorbees ineligibility of getting covered under the order dated 4-8-2016 in spite of fulfilling the conditions laid down in para 2.1 & 7(a) of the said order DoP&PW O.M. F.No. 38/37/2016-P&PW(A)(ii) dated 04-08-2016.	
5.	If the answer to the questions 3 above is negative, then kindly furnish the information on MTNL absorbees ineligibility of getting covered under the order dated 04-08-2016 in spite of fulfilling the conditions laid down in para 2.1 & 7(a) of the said order DoP&PW O.M. F.No. 38/37/2016-P&PW(A)(ii) dated 04-08-2016.	

Yours faithfully,

Encl: As above.

(Subhash Chander)
Under Secretary to the Govt. of India/ CPIO
Tel. No. 24644632

Copy to:

(1) Sh. Sanjay Agarwal, Director & CPIO, Department of Telecommunications, Sanchar Bhawan, 20, Ashoka Road, New Delhi-110001. Further action for revision of pension of BSNL/MTNL combined service absorbee pensioners after 7th Central Pay Commission is required to be taken by DoT. It is requested to directly inform Sh. Amit Kumar Gupta in regard to the action taken, if any, for revision of pension of BSNL/MTNL absorbee pensioners after 7th Central Pay Commission.

(2) US(RTI), Department of Pension and Pensioners' Welfare, Lok Nayak Bhawan, New Delhi.

TRUE COPY

True Typed Copy

ANNEXURE-A-29

RTI MATTER / SPEED POST

No.4/1/2018-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 the 04th July, 2018

To

Amit Kumar Gupta

1/4, Rajendra Banerjee Road,

Behala, Kolkata-700034

Subject:- **Orders of Central Information Commission vide File No.CIC/DP&PW/A/201/121215 dated 27.06.2018**

Sir,

Kindly refer to the Order of Central Information Commission issued vide File No.CIC/DP&PW/A/2017/121215 dated 27.06.2018 (Copy enclosed).

2. The revised point-wise reply in respect of the points raised by Shri Amit Kumar Gupta in his RTI application dated 07.09.2016 is as under.

S.No.	Query	Response
1.	The pensioners of which Departments/PSUs will	This Department had issued OM No.38/37/2016-P&PW(A)(ii)

Central Administrative Tribunal

TRUE COPY

	be covered under the provisions of above two paras 2.1 & 7(a) of DoP &PW vide O.M. F.No.38/37/2016-P&PW(A)(ii) dated 04.08.2016.	dated 04.08.2016 (Copy enclosed) for revision of pension of pre-2016 Central Government Civilian Pensioners who had retired in CDA pay scales before 01.01.2016. Para 2.1 of this OM provided that these Orders shall apply to all pensioners/family pensioners who were drawing pension/ family pension before 01.01.2016 under the Central Civil Services (Pension) Rules, 1972. Further Para 7(A) of this OM provided that the Government servants who were absorbed in PSUs, etc. and were getting monthly pension from Government were also eligible for revision of pension under this order. However, those who were absorbed in PSUs, etc. and who were entitled to pension in IDA pattern based on combined

Central Administrative Tribunal

TRUE COPY

		service in Government and PSU are not covered by these Orders. In their cases, the concerned PSU/Administrative Ministry has to issue orders for revision of pension, if any. 2. The RTI was also transferred to CPIO, Department of Telecommunication (DoT) vide letter no.4/1/2016-P&PW(D) dated 31.10.2016/25-11-2016. CPIO DoT vide their letter no.47-35/2014-Pen(I) dated 27.12.2016. (Copy enclosed) replied as under. "It is mentioned that in pursuance of Government's decision on the recommendation of the Seventh Central Pay Commission, DOP&PW vide its OM

Central Administrative Tribunal

TRUE COPY

		No.38/37/2016-P&PW(A)(ii) dated 04.08.2016. As per Para 2.1 of the said OM, "These orders shall apply to all pensioners / family pensioners who were drawing pension / family pension before 01.01.2016 under the Central Civil Services (Pension) Rules, 1972". As per Para 7(a) of the said OM, "Where the Government servants on permanent absorption in public sector undertaking / autonomous bodies continue to draw pension separately from the Government, the pension of such absorbee 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

Central Administrative Tribunal

TRUE COPY

	P&PW(A)(ii) dated 04.08.2016.	Telecommunications for providing the requisite information to the applicant. The CPIO, DoT in her reply dated 27.12.2016 has informed the applicant/appellant that DoP&PW OM dated 04.08.2016 is applicable to Government servants permanently absorbed in Public Sector Undertakings / Autonomous Bodies and drawing pro-rata pension only (Copy enclosed). 2. It may be mentioned that after 6th Central Pay Commission also, the Orders for revision of pension of Government pensioners were not applicable for revision of pension of the absorbee pensioners of BSNL/MTNL, drawing pension under IDA pattern. DoT had issued on such separate Order for revision
3.	Whether the absorbee pensioners of MTNL, who fulfil the conditions mentioned in para 2.1 & 7(a) of the said order are covered by the said order and their pension will be revised from 01.01.2016 in terms of the said order dated 04.08.2016.	
4.	If the answer to the questions 2 above is negative, then kindly furnish the information on BSNL absorbees ineligibility of getting covered under the order dated 04.08.2016 in spite of fulfilling the conditions laid down in	

Central Administrative Tribunal

TRUE COPY

		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". As such DOP&PW's OM dated 04.08.2016 is applicable to Govt. Servant permanently absorbed in PSU/AB and drawing pro-rata pension only.
2.	Whether the absorbee pensioners of BSNL, who fulfil conditions mentioned in para 2.1 & 7(a) of the said order are covered by the said order and their pension will be revised from 01.01.2016 in terms of the said order DoP&PW O.M. F.No.38/37/2016-	As mentioned in the reply dated 31.10.2016 of this CPIO, orders for revision of pension of absorbee pensioners of BSNL/MTNL who are getting pension under IDA pattern issued by Department of Telecommunications (DoT). Therefore, a copy of his RTI application was transferred to CPIO, Department of

Central Administrative Tribunal

TRUE COPY

	para 2.1 & 7(a) of the said order DoP&PW O.M. F.No.38/37/2016-P&PW(A)(ii) dated 04.08.2016.	of pension of pre-2007 pensioners/family pensioners of BSNL, vide OM No.40-17/2008-Pen(T)-Vol.III dated 15.03.2011 (Copy enclosed).
5.	If the answer to the questions 3 above is negative, then kindly furnish the information on MTNL absorbees ineligibility of getting covered under the order dated 04.08.2016 in spite of fulfilling the conditions laid down in para 2.1 & 7(a) of the said order DoP&PW O.M. F.No.38/37/2016-P&PW(A)(ii) dated 04.08.2016.	3. Therefore, further action for revision of pension of BSNL / MTNL combined service absorbee pensioners after 7th Central Pay Commission is required to be taken by DoT. A copy of this reply is also being endorsed to the CPIO, DoT to directly inform you in regard to the action taken, if any, for revision of pension of BSNL/MTNL, absorbee pensioners after 7th Central Pay Commission.

Central Administrative Tribunal

Yours faithfully,

Sd/-

Encl: As above

TRUE COPY

(Subhash Chander)
Under Secretary to the Govt. Of India / CPIO
Tel. No.24644632

Copy to:

(1) Sh. Sanjay Agarwal, Director &CPIO, Department of Telecommunications, Sanchar Bhawan 20, Ashoka Road, New Delhi-110001. Further action for revision of pension of BSNL / MTNL combined service absorbee pensioners after 7th Central Pay Commission is required to be taken by DoT. It is requested to directly inform Sh. Amit Kumar Gupta in regard to the action taken, if any, for revision of pension of BSNL / MTNL absorbee pensioners after 7th Central Pay Commission.

(2)US(RT), Department of Pension and Pensioners' Welfare, Lok Nayak Bhawan, New Delhi.

// TRUE TYPED COPY //

ANNEXURE-A-30

No.W-02/0036/2018-DPE (WC)-GL-XIX/18
Government of India
Ministry of Heavy Industries & Public Enterprises
Department of Public Enterprises

.....

Public Enterprises Bhawan,
Block No.14, CGO Complex,
Lodhi Road, New Delhi-110003.
Dated, the 10th July, 2018

OFFICE MEMORANDUM

Subject:- Payment of Gratuity to the employees of CPSEs-Clarification-regarding.

The undersigned is directed to refer to DPE's OM No W-02/0028/2017-DPE(WC)-GL-XIII/17 dated 03.08.2017 which, inter-alia, stipulates the increase of ceiling of gratuity from Rs. 10 lakhs to Rs 20 lakhs w.e.f. 01.01.2017 for Executives and Non-Unionised Supervisors of CPSEs on IDA pattern of Pay and DPE's OM No W-02/0020/2018-DPE(WC)-GL-XII/18 dated 11.04.2018, informing about the amendment in the Payment of Gratuity Act, 1972, regarding enhancement of ceiling of gratuity from Rs. 10 lakhs to Rs. 20 lakhs and effective date i.e. 29.03.2018.

2. This Department has received various representations from different stakeholders seeking clarification on the effective date of the enhancement of ceiling of Gratuity. Accordingly, the issue has been considered & clarified as follows:

a) The payment of Gratuity under DPE guidelines dated 03.08.2017, is subject to ***affordability*** of the CPSEs concerned effective for the period from 01.01.2017 till 28.03.2018, in respect of Executives and Non-Unionised Supervisors of CPSEs on IDA pay pattern, where, pay has been revised w.e.f. 01.01.2017

b) Whereas, on and after 29.03.2018, the payment of gratuity of Rs 20 lakhs is ***mandatory*** for all the CPSEs irrespective of their affordability as it is ***a statutory provision*** in light of the amendment in the Payment of Gratuity Act, 1972. This provision is applicable to all employees of all CPSEs.

c) Further, the Government decision on the basis of the recommendations of the 7th Central Pay Commission (CPC), regarding raising the Gratuity ceiling from Rs 10 lakhs to Rs 20 lakhs w.e.f. 01.01.2016 is ***not*** applicable to the employees of CPSEs.

Tribunal

TRUE COPY

3. All administrative Ministries/Departments are requested to bring these clarification to the notice of CPSEs (except Banking & Insurance Sector) under their administrative control for strict compliance.

4. This issues with the approval of the Competent Authority.

(Samsul Haque)
Under Secretary

To

All administrative Ministries/Departments of the Government of India.

Copy to:

1. The Chief Executive Officers of Central Public Sector Enterprises.
2. The Comptroller & Auditor General of India, 9 Dean Dayal Upadhayay Marg, New Delhi.
3. Financial Advisers in the Administrative Ministries.
4. Joint Secretary, Department of Expenditure, North Block, New Delhi.
5. Joint Secretary, Department of Personnel & Training, North Block, New Delhi.
6. NIC, DPE with a request to upload this OM on the DPE website.

(Samsul Haque)
Under Secretary

Central Administrative Tribunal

378

ANNEXURE-A-31

No. 47-35/2014-Pen (T)
Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20 – Ashoka Road
New Delhi – 110 001

Dated the 13th July, 2018

Sh. Amit Kumar Gupta,
1/4 Rajendra Banerjee Road,
Behala, Kolkata-700034.

Subject: Orders of Central Information Commission vide file No.CIC/DP&PW/A/2017/121215 dated 27.06.2018 – reg.

Kindly refer to DOP&PW letter No.4/1/2018-P&PW(D) dated 04.07.2018 on the above mentioned subject received in this office on 06.07.2018 alongwith a copy of the CIC order dated 27.06.2018 requesting this office to inform you regarding the action taken for revision of pension of BSNL/MTNL absorbee pensioners after 7th CPC.

2. Regarding the revision of pension of BSNL/MTNL pensioners/family pensioners who were absorbed permanently in BSNL/MTNL from DoT as per 7th CPC in terms of DOP&PW OM dated 04.08.2016 & 12.05.2017, it is stated that these orders are applicable to CDA pensioners only. Further, these orders are applicable for the pensioners who are drawing monthly pension from Government on permanent absorption in PSUs on pro-rata basis on CDA pattern based on their service in Government only. However, these order are not applicable for revision of pension of the employees who were permanently absorbed in BSNL/MTNL from DoT and are getting pension on the basis of combined service in DoT & BSNL/MTNL on IDA pattern in terms of Rule 37-A of CCS (Pension) Rules, 1972. It is stated that the pension revision follows pay revision. Earlier also, pension of permanent absorbees in BSNL drawing pension in IDA pattern has been revised on implementation of 2nd PRC in 2007. Accordingly, case of pension revision of the permanent absorbees in BSNL/MTNL will be taken up as and when 3rd PRC is implemented in BSNL/MTNL.

3. Moreover, it is mentioned that the above explained position & facts w.r.t. the revision of pension of BSNL/MTNL absorbee pensioners have also been conveyed to Sh. Ajay Nishad, Hon'ble MP(LS) and Sh. Gopal Shetty, Hon'ble MP(LS) by the Hon'ble MoSC(IC) vide DO letters dated 28.10.2017 & 13.06.2018 respectively. Copies of the DO letters dated 28.10.2017 & 13.06.2018 are enclosed herewith for information.

Encl: As above.

(Sanjay Agrawal)
Director (Estt.II) & CPIO
Tel: 2303 6509

Copy to: Sh. Subhash Chander, CPIO/Under Secretary, DOP&PW, Ministry of Personnel, PG Pension, 3rd Floor, Lok Nayak Bhawan, Khan Market, New Delhi w.r.t. letter No. 4/1/2018-P&PW(D) dt. 04.07.2018.

Central Administrative Tribunal

COPY

305 379.

True Typed Copy

ANNEXURE-A-31

No.47-35/2014-Pen(T)
Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20 – Ashoka Road
New Delhi-110 001

Dated 13th July, 2018

Sh. Amit Kumar Gupta,
1/4, Rajendra Banerjee Road,
Behala, Kolkata-700034

Subject: Orders of Central Information Commission vide file No.CIC/DP&PW/A/2017/121215 dated 27.06.2018 – reg.

Kindly refer to DOP&PW letter No.4/1/2018-P&PW(D) dated 04.07.2018 on the above mentioned subject received in this office on 06.07.2018 alongwith a copy of the CIC order dated 27.06.2018 requesting this office to inform you regarding the action taken for revision of pension of BSNL/MTNL absorbee pensioners after 7th CPC.

2. Regarding the revision of pension of BSNL/MTNL pensioners/family pensioners who were absorbed permanently in BSNL/MTNL from DoT as per 7th CPC in terms of DOP&PW OM

Central Administrative Tribunal

TRUE COPY

dated 04.08.2016 & 12.05.2017, it is stated that these orders are applicable to CDA pensioners only. Further, these orders are applicable for the pensioners who are drawing monthly pension from Government on permanent absorption in PSUs on pro-rata basis on CDA pattern based on their service in Government only. However, these orders are not applicable for revision of pension of the employees who were permanently absorbed in BSNL/MTNL from DoT and are getting pension on the basis of combined service in DoT & BSNL/MTNL on IDA pattern in terms of Rule 37-A of CCS (Pension) Rules, 1972. It is stated that the pension revision follows pay revision. Earlier also, pension of permanent absorbees in BSNL drawing pension in IDA pattern has been revised on implementation of 2nd PRC in 2007. Accordingly, case of pension revision of the permanent absorbees in BSNL/MTNL will be taken up as and when 3rd PRC is implemented in BSNL/MTNL.

3. Moreover, it is mentioned that the above explained position & facts w.r.t. the revision of pension of BSNL/MTNL absorbee pensioners have also been conveyed to Sh. Ajay Nishad, Hon'ble MP(LS) and Sh. Gopal Shetty, Hon'ble MP(LS) by the Hon'be MoSC(IC) vide DO letters dated 28.10.2017 & 13.06.2018 respectively. Copies of the DO letters dated 28.10.2017 & 13.06.2018 are enclosed herewith for information.

Central Administrative Tribunal

Encl: As above

Sd/-

(Sanjay Agrawal)

Director (Estt.II) & CPIO

Tel: 2303 6500

Copy to: Sh. Subhash Chander, CPIO/Under Secretary, DOP&PW, Ministry of Personnel, PG Pension, 3rd Floor, Lok Nayak Bhawan, Khan Market, New Delhi w.r.t. letter No.4/1/2018-P&PW(D) dt. 04.07.2018

// TRUE TYPED COPY //

Central Administrative Tribunal

382

ANNEXURE-A-32

Regn. No. S/00108/NE-/2010

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

CHQ ADDRESS: C-8/230, YAMUNA VIHAR, DELHI-110053, www.aibsnlretd.org

OFFICE BEARERS:

1. President
   Rakesh Srivastava (Delhi)
   M.: 09868876677
2. Vice President-I
   Manas Roy (WB)
   M.: 09434009002
3. Vice President-II
   T. Ravindran (Kerala)
   M.: 09447815400
4. General Secretary
   Kishan Singh (Delhi)
   M.: 09968270611
5. Asstt. General Secretary-I
   Amit Kr. Gupta (Kolkata)
   M.: 09433000088
6. Asstt. General Secretary-II
   K. Jairam (AP)
   M.: 09440000212
7. Asstt. General Secretary-III
   Pradeep Goel (Lucknow)
   M.: 09415315111
8. Asstt. General Secretary-IV
   P. Mukherjee (Assam)
   M.: 09433400560
9. Asstt. General Secretary-(HQ)
   N.C. Jain (Ghaziabad)
   M.: 09871915573
10. Finance Secretary
    A.K. Jain (Delhi)
    M.: 09868838466
11. Assistant Finance Secretary
    P. Chandrasekhar (TN)
    M.: 09486100045
12. Organising Secretary (East)
    Swapan Mukherjee (Kolkata)
    M.: 09433400210
13. Organising Secretary (West)
    Amiendu Guha (Ahmedabad)
    M.: 09426643434
14. Organising Secretary (South)
    R.B. Athani (Karnataka)
    M.: 09449858299
15. Organising Secretary (North)
    D.N. Verma (UP East)
    M.: 09415339696
16. Editor
    J. Saibaba (AP)
    M.: 09490667899
17. Auditor

To
Ms Aruna Sundararajan
Secretary & Chairman TC
Department of Telecommunication
20 Ashoka Road New Delhi.

Dept. of Telecommunications
Central Registry
05 SEP 2018
RECEIVED LETTER

No: AIRBSNLEWA/CHQ/2018 Dated.. 04/09/2018

Sub: Pension Revision of BSNL absorbed DOT pensioners on IDA

Respected Madam,

Kindly refer our earlier communications on the subject. In spite of our repeated submission, DOT is maintaining its stand that

1) CPC recommendations on pension revision is not for BSNL IDA pensioners

2) Pension Revision of BSNL Pensioners will be only after pay revision of BSNL employees as per 3rd PRC.

At the time of formation of BSNL, in the year 2000, Department of Telecommunication (DOT) has promised vide 36-15/2000-Pen(T) dated 09-11-2000 the following to its employees. (copy enclosed)

> "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 Govt scheme of pension/family pension even after their absorption in BSNL."

The words "Govt scheme of pension" obviously means the complete pension and Pensionary benefits including periodical pension revision. Accordingly all the elements of pension and Pensionary benefits of other Govt. pensioners were made applicable for BSNL pensioners also. The only exception is the pension revision which is denied because they are in IDA scale. If all the benefits of other Govt pensioners as per the CPC recommendations can be applied to BSNL IDA pensioners, how the factor "IDA" coming in the way only for pension revision as per CPC recommendations is not understood. Kindly see the attached note and table which describes the status at a glance.
We therefore request you to issue the order of Pension Revision immediately as per the pension revision memo of DOP&PW dated 04-08-2016 as per the commitment made at the time of absorption.

With Regards

Kishan Singh
General Secretary
Mob. 9968270611

Copy to : Member(Finance) / Member (Services) DOT for kind necessary action

Enclosure: As above

Central Administrative Tribunal

TRUE COPY

383-

309

ANNEXURE-A-33

Regn. No. S/00108/NE-/2010

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

CHQ ADDRESS: C-8/230, YAMUNA VIHAR, DELHI-110053, www.aibsnlretd.org

OFFICE BEARERS:

1. President
   Rakesh Srivastava (Delhi)
   M.: 09868876677
2. Vice President-I
   Manas Roy (WB)
   M.: 09434009002
3. Vice President-II
   T. Ravindran (Kerala)
   M.: 09447815400
4. General Secretary
   Kishan Singh (Delhi)
   M.: 09968270611
5. Asstt. General Secretary-I
   Amit Kr. Gupta (Kolkata)
   M.: 09433000088
6. Asstt. General Secretary-II
   K. Jairam (AP)
   M.: 09440000212
   Asstt. General Secretary-III
   Pradeep Goel (Lucknow)
   M.: 09415315111
   Asstt. General Secretary-IV
   P. Mukharjee (Assam)
   M.: 09433400560
9. Asstt. General Secretary-(HQ)
   N.C. Jain (Ghaziabad)
   M.: 09871915573
10. Finance Secretary
    A.K. Jain (Delhi)
    M.: 09868830466
11. Assistant Finance Secretary
    P. Chandrasekhar (TN)
    M.: 09486100045
12. Organising Secretary (East)
    Swapan Mukharjee (Kolkata)
    M.: 09433400210
13. Organising Secretary (West)
    Amtendu Guha (Ahmedabad)
    M.: 09426643434
14. Organising Secretary (South)
    R.B. Athani (Karnataka)
    M.: 09449858299
15. Organising Secretary (North)
    D.N. Verma (UP East)
    M.: 09415339696
16. Editor
    J. Saibaba (AP)
    M.: 09490687699
17. Auditor

To
Shri Manoj Sinha
Hon'ble Minister of State (C.) Independent Charge
Sanchar Bhawan, 20 Ashoka Road New Delhi.

No AIRBSNLEWA/CHQ/2018 Dated: 17/9/2018

Sub: Denial of Pension Revision of BSNL Retirees drawing pension from DOT on IDA,Govt Pension as per CCS (Pension) Rules 1972 from consolidated fund of India

Honble' Sir

We the Pensioners and Family Pensioners of DOT on IDA, who were DOT employees and permanently absorbed in BSNL with the commitment that "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 Govt scheme of pension/family pension even after their absorption in BSNL" , are now being denied pension revision by DOT on following grounds

1) CPC recommendations on pension revision is not for BSNL IDA pensioners

2) Pension Revision of BSNL Pensioners will be only after pay revision of BSNL employees as per 3rd PRC.

The details status of these Pensioners/Family Pensioners are described in the attached note and table. Although most of the recommendations of CPCs are implemented for us but Pension Revision and Minimum pension is not being implemented as we are IDA pensioners. Moreover our pension revision is being linked with pay revision of BSNL employees which is in turn depended on profitability of BSNL. Our pension is paid by Govt of India and BSNL has no role in it. Further during our service period, full pension contribution is paid to DOT on the maximum of the scale.

We the pensioners and family pensioners request you to kindly instruct DOT for revision of pension/ family pension as per 7th CPC recommendations by delinking it from pay revision of BSNL employees so that we may get justice being denied by DOT. We are sure that you good self will certainly help these helpless pensioners & family pensioner in this regard.

With Kind Regards.
Yours Faithfully

Kishan Singh
General Secretary
Mob : 9968270611
Enclosure: As above

Central Administrative Tribunal

TRUE COPY

384

ANNEXURE-A-34

No. 4/02/2019-P&PW(D)/40504
Govt. of India
Ministry of Personnel, P.G & Pensions
Department of Pension & Pensioners Welfare

3rd Floor, Lok Nayak Bhavan,
Khan Market, New Delhi-110003
Date:- 08th March,2019

OFFICE MEMORANDUM

Sub:- Revision of pension of the absorbed combined service pensioners of BSNL/MTNL from 01.01.2017- reg.

The undersigned is directed to forward herewith a copy of representation dated 12.2.2019 from Committee of BSNL/MTNL Pensioners' Association on the above subject and to invite the attention of the DoT to this Department's ID Note of even no. dated 14.01.2019.

2. This Department has made the following observations on the proposal of DoT for revision of pension of the combined service absorbee pensioners of BSNL/MTNL :-

(i) DoT has not clearly brought out as to what would be the formula for revision of pension on pre-2017 absorbee pensioners and what would be financial implications on revision of pension as per that formula.

(ii) It has been stated by DoT that pay of the serving employees has not been revised in implementation of recommendations of 3rd PRC, since these entities had not fulfilled the pre-conditions for grant of the facility to these serving employees. This means that serving employees of BSNL/MTNL continue to be on the same pay which they were getting 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 will create an anomalous situation in BSNL/MTNL as the past pensioners would be getting more pension than the freshly retired pensioners. DoT, therefore, needs to bring about as to how they propose to resolve this anomaly.

3. DoT was requested to reconsider the matter and provide information/comments on the above observations. However, the requisite clarifications/proposal has not been received from DoT so far.

4. It is requested that the issues raised in the representation dated 12.02.2019 from Committee of BSNL/MTNL Pensioners' Association may be examined by DoT, and the comments of DoT thereon, may be sent to this Department alongwith the clarifications sought in this Department's ID Note dated 14.01.2019.

Encl: as above

(Charanjit Taneja)
Under Secretary to the Govt. of India

DDG(Estt)
Department of Telecom,
Sanchar Bhawan, New Delhi

Copy to:-

S.No.-1688
11/03/2019

1. Shri P Gangadhara Rao, Convener, Committee of BSNL/MTNL Pensioners' Association, H NOo.6, G No. 12th Stree, Jogupaiya, Halasuru, Bangalore-560008

Central Administrative Tribunal

TRUE COPY

385

311

ANNEXURE-A-35

ALL UNIONS AND ASSOCIATIONS OF BSNL (AUAB)

No: UA/2019/ **31.01.2019**

To

The Secretary (Telecom),
Department of Telecommunications,
Ministry of Communications,
Sanchar Bhavan, 20, Ashoka Road,
New Delhi-110 001.

Sub: **Delinking of Pension Revision for the Pre-2017 BSNL retirees from the Pay Revision of BSNL employees reg:**

Ref: **Assurance given by the Hon Minister and Secretary, DoT in the meetings held on 02.12.2018 and 03.12.2018 that Govt decided to delink the pension revision of BSNL pensioners from the pay revision.**

Respected Madam / Sir,

On the formation of BSNL, the employees working in DoT were absorbed in BSNL w.e.f 01.10.2000 with the assurance of better career prospects and payment of pension by the Government of India. Accordingly Rule-37A was incorporated in CCS Pension Rules, 1972 to ensure payment of pension on the combined service rendered in DoT and BSNL, on IDA scales. On absorption, the employees were granted IDA pay scales w.e.f 01.10.2000.

Sub-rule 10 of Rule 37A of CCS (Pension) Rules, 1972, provides that "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". Again as per Sub-rule 22 of Rule 37A of CCS (Pension) Rules, 1972, the pensionary benefits, including family pension shall be paid by the Government.

In accordance with the above provisions, DoT revised the pension of pre-2007 pensioners/family pensioners of BSNL on 15.03.2011, who retired during 01.10.2000 to 31.12.2006. The pension revision followed the pay revision in BSNL as pay revision implemented immediately after the DPE guidelines issued on 26.11.2008. Pension revision implemented through Cabinet decision with 30% fitment, which took time with the fitment allowed by the DPE for CPSUs.

The pension/family pension of the pre-2007 BSNL pensioners were revised w.e.f. 01.01.2007 as follows by adding together:

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

ii) IDA 78.2% as on 31.12.2006.

iii) Fitment of 30%, as per DPE guidelines.

On 03.08.2017, DPE issued guidelines for 3rd Pay revision with 15% fitment. Para 3 of the OM under the heading Affordability provides that the revised pay scales would be implemented by the CPSEs subject to the affordability of CPSE. BSNL and MTNL are unique CPSUs where the retirees are paid pension by the Govt of India as per Rule 37A of CCS (Pension) Rules, 1972. In BSNL, the pay revision is not implemented due to the affordability clause.

The pension Revision of Govt pensioners retired from BSNL cannot be linked with the pay revision of the serving employees due to the following reasons:

1. All the BSNL retirees were Govt servants, recruited by DoT and absorbed in BSNL. Their pension is covered by CCS Pension Rules, 1972 as in the case of Central Govt employees.

2. Pension revision for Central Govt pensioners already implemented.

(3)

TRUE COPY

3. As per the terms and condition for absorption, BSNL absorbed employees would continue to get pension from DoT irrespective of the status of BSNL. As per para 2(b) of DoT order No: 40-13/2013-Pen(T) dated 20.07.2016, it has been clarified that ***"The liability towards pensionary benefits including family pension to the BSNL employees (except those recruited after 01.10.2000), as per sub rule 22 of Rule 37A of CCS (pension) Rules, 1972, lies with the Government of India".***

4. The Affordability clause mentioned in DPE guidelines is applicable only for the pay revision of the serving employees, not for the Pension Revision.

5. Pension revision has to happen even in the cases of:

i) If BSNL is not there?

ii) If BSNL is not profitable and No Pay Revision is implemented in BSNL?

iv) 3rd PRC given different fitment for the serving employees depends on its affordability. This fitment will be reviewed after every 3 years. If the fitment varies, it will create anomaly among pensioners.

v) Non-Executives are not covered by the fitment and the pay scales notified by DPE vide OM dated 03.08.2017. Non-Executives wage revision is as per the negotiated settlement. In Coal India, Non-Executives signed wage revision agreement with 20% fitment for 5 years period where as DPE guidelines stipulates that if 5 year wage settlement is made, the fitment has to be proportionately reduced. However for the purpose of uniformity, Non Executives as well as Executives in BSNL are extended the same fitment from 2nd PRC period onwards. BSNL is a unique CPSU in that respect also.

6. BSNL retirees are no way connected with the affordability or paying capacity of BSNL. Their pension is to be paid by the Govt of India, not by BSNL.

7. BSNL has already paid the pension contribution in full to the Govt of India, for their entire service period in BSNL.

Since the matter of pay revision of BSNL employees pursuant to 3rd PRC recommendation is yet to be settled, the issue of revision of pension for the pre-2017 BSNL pensioners is required to be delinked from the pay revision of BSNL serving employees. It is already assured and announced by Hon MoSC and Secretary, DoT in the meetings held on 02.12.2018 and 03.12.2018 that Govt decided to delink the pension revision of BSNL pensioners from the pay revision.

However DoT letter to DoP&PW does not reflect this decision and lack recommendation or proposal of DoT for delinking pension revision from pay revision. Without a proposal from DoT, DoP&PW is unlikely to give any opinion in this regard. As per DoP&PW, the methodology is to be worked out and suggested by DoT.

The methodology may be recommended to DoP&PW for giving its approval on the subject. To avoid an anomaly between serving and the retired employees prior to 01.01.2017, the following method suggested.

a) The pension/family pension of the pre-2017 BSNL pensioners will be revised w.e.f 01.01.2017 as follows by adding together:

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

ii) IDA as on 31.12.2016.

iii) Fitment of 15%.

b) For the serving employees, fitment will be calculated as 15% w.e.f. 01.01.2017 itself and pension contribution will be paid accordingly by BSNL. However, payment of pay, allowances and perks will be made by BSNL depending upon its affordability. In the

Central Administrative Tribunal

TRUE COPY

month of retirement, the payment will be made based on full 15% fitment (Atleast in the last month, payment will be made based on full 15% fitment).

Anomaly which may arise if pension revision is done with 15% fixation and pay revision is done with lesser fitment.

A pensioner retired on Oct 2016 with Rs 50,000 last basic pay is getting Rs 25,000 as basic pension as on 1-1-2017. Now if his basic pension is revised as per PRC with 15% the revised basic pension will be Rs 63,100 [i.e. Basic Pension+119.5% DA as on 1-1-07 + 15% fitment]

His batch mate retired on March 2017. His basic pay was also Rs 50,000 on 1-1-17 and last basic pay on March was also Rs 50,000. Now his pay on 1-1-17 is revised as per PRC with 10% (say) fitment. So his revised pay on 1-1-17 will be Rs 1,20,700. Accordingly his last basic pay on March would also be Rs 1,20,700 and pension will be 50% of Rs 1,20,700 i.e. Rs 60,350. Thus he will be getting Rs 63,100 - Rs 60,350 = Rs 2750/- less pension compared to his batch mate retired before 1-1-17 whose pension is revised to Rs 63,100 as per 15% fixation.

How to solve this anomaly:

Method 1

Fix the pay of 2nd person notionally with 15% fitment but actually with fitment of 10% (say) till last month of his retirement. The Basic Pay of the last month of his retirement may be restored as per 15% fixation and pension will be paid on last pay drawn actually. Hence for January and February his basic pay will be Rs1,20,700 and for March it will be Rs 1,26,200 and accordingly pension fixed at Rs 63,100 which is equal to his batch mate retired before 1-1-2017.

Method 2:

Fix the pay of 2nd person notionally with 15% fitment but actually with fitment 10%(say). Hence at the time of retirement his actual Basic Pay will be Rs 1,20,700 and notional Basic Pay will be 1,26,200. Now calculate his Pension as per his last drawn notional pay and his pension will be 50% of 1,26,200 i.e Rs 63,100/- which is equal to his batch mate retired before 1-1-2017.

NOTE: This system of fixing pension on notional last pay drawn is already in vogue for BSNL pensioners retired between 1-1-2007 and 9-06-2013 while extending the benefit of 78.2 IDA Merger. Their Pay has been notionally revised by merging 78.2% IDA from 1-1-2007 and Revised pension is being paid on revised notional last pay drawn from 10-06-2013.

Central Administrative Tribunal

Yours Sincerely,

(P. ABHIMANYU)
O/S, NFTE CELL

(C. SINGH)
G.S. NFTE

Copy to: (1) The PS to Hon Minister of State for Communications, New Delhi – 01.
(2) Member (Fin), Telecom Commission, DoT, New Delhi – 110001.
(3) Additional secretary, DoT, New Delhi – 110001.
(4) The Chairman & Managing Director, BSNL, New Delhi – 110001.
(5) The Director (HR), BSNL Board, New Delhi – 110001.
(6) The GM (SR), BSNL Corporate Office, New Delhi – 110001.

TRUE COPY

BSNL Corporate Office
Establishment Branch,
PAT Section, 5th floor,
Bharat Sanchar Bhawan
H.C. Mathur Lane,
New Delhi-110001

भारत संचार निगम लिमिटेड
(भारत सरकार का उपक्रम)
BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India Enterprise)

No. 1-15/2019-PAT(BSNL) Dated 04.11.2019

To

All Heads of Telecom Circles
BSNL

Sub: BSNL Voluntary Retirement Scheme- 2019 – Notification of the scheme and circulation of guidelines to facilitate the exercise of option by employees.

Sir,

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

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

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

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

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

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

TRUE COPY

Central Administrative Tribunal

b. The Controlling Officers at respective levels (Circle/SSA/Smaller Units) be asked to make the employees, under their administrative control, aware of this scheme, and assistance be provided in exercising the options for VRS within the prescribed time period.

c. The employees who are on deputation to other organizations or on authorized long leave or deputed for training in other organization, may be communicated with a copy of this Scheme. Such officersmay be provided with necessary assistance for exercising options for this Scheme within the time period and they may be asked to submit duly signed hard copies (in triplicate) of their option to their Administrative Unit. The respective Administrative Unit, in turn, will process their case and intimate the concerned borrowing organizations to repatriate the officer latest by 31.12.2019 who opts for this Scheme.

d. The Administrative Office of the employee will acknowledge the receipt of hard copy of VRS application to the optee under signature of an officer not below the rank of SDE / AO level.

e. The Officer in charge of Service Books is required to verify the correctness and completeness of the entries made by the employees on the VRS option form. If any discrepancy is found, the same may be rectified by the HR administrator in consonance with the service book record, both on ERP as well as the hard copy.

f. Upon successful completion of verification of Option form, the process for vigilance clearance be initiated online by the Administrative Office within two days, and the Vigilance Branch will intimate VC status to the Administrative Office, also within two days.

g. On receipt of vigilance status, Administrative Office will process the case for acceptance of VRS by the Competent Authority, who will decide the case within a week's time keeping in view the provisions as mentioned in clause 7 (ii) of the VRS Scheme 2019.

h. The employees who are on unauthorized absence and/or absconding are not to be allowed to exercise the options for this Scheme. Disciplinary action may be initiated against such employees immediately, or complete the proceedings, if ongoing.

6. Additionally, you are also required to arrange to place Bill Boards at Circle Office, Zonal Office, District Office or any other prominent locations indicating the salient features of VRS.

TRUE COPY

7. You are requested to conduct open house sessions at Circle/SSA/SDCA levels to provide maximum awareness to the employees enabling them to take an informed decision.

8. You are requested to make team of members who will drive this scheme to the lowest level. A copy of Step by Step guide for exercising option by the eligible employees for this scheme is enclosed as Annexure-II.

Encl: As above (Annexure-I and II)
Pages 8

Yours faithfully,

[Sheo Shankar Prasad]
Deputy General Manager [Estt. I]
Tel: 011-23715155

Copy to:

1. PPS to CMD, BSNL.
2. PPS to all Directors BSNL Board / CVO/ CS.
3. All CGMs / PGMs / Sr.GMs/GMs/GMs(Vig) BSNL C.O.
4. Director(PSU Affairs), DOT, Sanchar Bhawan – For kind information pl.
5. BSNL Intranet / Guard file / Notice Board.

TRUE COPY

Central Administrative Tribunal

317 391.

File No. 1-15/2019-PAT(B)

VOLUNTARY RETIREMENT SCHEME FOR BSNL EMPLOYEES

1. SHORT TITLE

This scheme shall be called the 'BSNL Voluntary Retirement Scheme -2019'.

2. OBJECTIVE

The scheme aims at optimising and right-sizing of Human Resource of BSNL by providing attractive benefits to the eligible employees opting for voluntarily retiring before the normal date of superannuation.

3. DEFINITIONS

In this scheme, unless the context otherwise requires.

(a) "Absorbed employee" means a Government servant permanently absorbed in BSNL.

(b) "Controlling Officer" means the officer of the rank of SDE/Dy. Manager (or equivalent) or above under whom the employee is posted.

(c) "Competent Authority" means appointing authority for respective category of employee as per rules of BSNL.

(d) "Date of Superannuation" for purpose of this scheme means the date of Superannuation as per existing rules considering 60 years as the age of superannuation.

(e) "Direct Recruitee" means an employee directly recruited by BSNL on or after 01.10.2000.

(f) "Effective date of Voluntary retirement" means the date as stated in Clause 4.

(g) "Eligible Employee" means an employee who is eligible to opt for voluntary retirement as per the eligibility criteria of this Scheme as defined in Clause 5 and shall include all eligible BSNL employees on deputation to other organisation or posted outside BSNL on loan basis on the date of notification of the Scheme.

(h) "Existing Rules" means BSNL Rules in force as on the date of notification of this Scheme or GoI Rules as applicable to BSNL employee.

(i) "Family" means family as defined in the CCS(Pension)Rules, 1972.

(j) "Salary" means Basic Pay plus Dearness allowance thereon as applicable on the effective date of Voluntary retirement.

(k) "Service" means the length of qualifying service for the purpose of CCS Pension Rules 1972 and, further as defined in clause 6 of this Scheme for respective categories of employee(s).

(l) "Scheme" means 'BSNL Voluntary Retirement Scheme -2019'.

Central Administrative Tribunal

TRUE COPY

4. OPERATION OF THE SCHEME:

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

(a) Date of start of option: 04-11-2019
(b) Date of closing of option: 03-12-2019 up to 05:30PM.

5. ELIGIBILITY CRITERIA:

All regular and permanent employees (both absorbed employees and direct recruits) of BSNL, including those on deputation to other organisation or posted outside BSNL on loan/informal/deputation basis on the date of notification of the option for voluntary retirement under the Scheme, who has attained the age of 50 years or above as on the notified effective date of voluntary retirement scheme shall be eligible to seek voluntary retirement under this Scheme.

Explanation: Employees belonging to the following categories shall not be eligible to seek voluntary retirement under the Scheme:

(i) Government employees/ employees of other organisations working in BSNL on deputation/ deemed deputation/ loan basis.
(ii) Employees whose services are permanently transferred in public interest to Central/ State Government/ Autonomous Bodies/ Public Sector Undertakings or other entities.
(iii) Employees permanently absorbed in other organisation before the Scheme comes into force
(iv) Casual Workers and Contractual employees.
(v) Employees retired/ retiring on superannuation/ resigned from service/ voluntarily retired under existing rules on or before effective date of voluntary retirement notified under the Scheme.

6. BENEFITS

An eligible employee(s) voluntarily retiring under the Scheme shall be entitled to the following benefits and no other:

6.1 Lump-sum compensation or Ex-Gratia

(a) The amount of Ex-Gratia for any eligible employee will be equal to 35 days salary of such employee for each completed year of service plus 25 days salary of such employee for every year of service left, until superannuation.

Provided further that this Ex-Gratia compensation shall not exceed the sum of salary that such employee would draw at the existing level (i.e. Basic Pay plus Dearness Allowance on the effective date of Voluntary retirement) during the service period left till superannuation from the effective date of VRS.

Provided further that this Ex-Gratia compensation shall be subject to provisions in clause 6.1(c) & 6.1(d).

Central Administrative Tribunal

TRUE COPY

(b) For the purpose of calculation, the salary per day shall be equal to monthly salary of such employee divided by 30 days. For fraction of a year of service rendered / left, calculation of Ex-Gratia will be made on pro-rata basis.

(c) **Payment of Ex-gratia to combined service pensioners absorbed in BSNL under rule 37A**: The amount of Ex-Gratia payable to the eligible employee(s) entitled to pension for combined service rendered in DoT and BSNL under Rule 37-A of CCS Pension Rules, 1972 shall be further restricted to the amount which would be ascertained after taking together with total amount of pension (Basic Pension without commutation plus Dearness Relief as on the date following the effective date of voluntary retirement) that such eligible employee would be drawing for the balance period left till date of superannuation.

In case of employees regularised through TSM scheme, for ex-gratia calculation, 50% of their total length of service as TSM will be counted.

Provided further that amount of Ex-Gratia payable to the eligible employee(s) does not exceed 125% of the sum of salary at prevailing level that the employee would have drawn till superannuation from the effective date of VRS.

(d) **Payment of Ex-gratia to Direct Recruit Employees, recruited by BSNL on or after 01.10.2000 including those appointed under Rule 37:** In respect of the employee(s) directly recruited by BSNL on or after 01/10.2000, the amount of Ex-gratia will be calculated in terms of para 6.1 (a) and (b) for the service rendered after their appointment in BSNL.

Provided further that the provision with respect to further restricting the Ex-Gratia as per clause 6.1 (c) shall not apply in the case(s) of said employee(s).

(e) An employee retiring voluntarily under the scheme shall be paid the amount of Ex-gratia in two equal instalments of 50% each. The first instalment shall be paid in FY 2019-20 and the second instalment in first quarter of FY 2020-21.

(f) Payment of the amount of Ex-Gratia and Gratuity shall be subject to recovery of dues outstanding against the employee and deduction of tax at source as per provisions of Income Tax Act, 1961, in force, on the date payment.

6.2 TERMINAL BENEFITS:

In addition to the lump-sum compensation or the amount of Ex-gratia as per Clause 6.1 of the Scheme, the employee(s) voluntarily retiring under the Scheme shall be entitled to terminal and other benefits, as applicable to the said employee(s) under existing rules. The payment of such benefits shall be made in the following manner:

(a) **Pension/ Family pension**: The employee(s) retiring under the Scheme shall be entitled to Pension/ Family pension, as applicable, with effect from

TRUE COPY

the date following the effective date of voluntary retirement and shall be authorised as per existing procedure.

Provided that the employee(s) governed by the EPF and Miscellaneous Provisions Act 1952 and EPS 1995, the pension shall be administered as per applicable rules.

(b) **Retirement Gratuity** :

(i) **Payment of deferred Gratuity to employee(s) who opted for combined service pension and were absorbed in BSNL under rule 37A:** The gratuity payable to the employee(s) who were absorbed from Central Government to BSNL and opted for Combined Service Pension, shall be calculated based on combined qualifying service rendered in Central Government and BSNL, till the effective date of voluntary retirement:

Provided that for the employee(s) who have attained more than 55 years of age on the effective date of Voluntary retirement, the payment of gratuity will be made after such employee attains the age of 60 years (superannuation age on the date of offer of VRS):

Provided that such payment of gratuity shall be made within one month from date of attaining 60 years.

Provided further that for the employees, currently aged 55 years or less, on the effective date of Voluntary retirement, the gratuity shall be paid in month of February, 2025.

(ii) **Payment of Gratuity to directly recruited employees and those appointed under Rule 37:** The gratuity payable to the employee(s) directly recruited by BSNL, shall be calculated based on qualifying service rendered after their appointment in the BSNL till the date of voluntary retirement.

Provided that the service rendered in previous organisation(s) before joining BSNL by such employee(s) shall not be taken into account for calculation of Gratuity benefit.

Provided that the gratuity shall be paid to such employee(s) by BSNL after voluntary retirement under this scheme without any deferment and within the existing prescribed time limit as per existing rules and procedures applicable to them.

(iii) Simple interest at the prevailing GPF rates (currently 7.9%), from the date of voluntary retirement under this scheme till the gratuity is released, shall be paid on the deferred gratuity amount for employees covered under clause 6.2 (b) (i).

(iv) In the event of death of the employee(s) retired under the Scheme before the due date of payment, the deferred gratuity amount will be released immediately to the family of such pensioner or to the nominee/ legal heir (in the absence of family pensioner), as the case may be, along with applicable interest till the date of payment as per Clause 6(b) (iii) of this Scheme.

Central Administrative Tribunal

TRUE COPY

(v) The amount of Gratuity payable to the employee on the effective date of voluntary retirement under the scheme shall be communicated to the employee by the concerned pension sanctioning authority.

(c) **Commutation of Pension**:

The absorbed employees who have attained more than 55 years of age on the effective date of voluntary retirement and had opted for pension on the basis of combined service in DOT and BSNL, on opting for voluntary retirement, will be eligible for commutation of pension only when such employee(s) attains the age of 60 years (superannuation age on the date of offer of VRS).

Provided that other employees currently aged 55 years or less, on the effective date of voluntary retirement, the commutation of pension shall be permitted with effect from 01-02-2025, in partial relaxation to extant rules of CCS (Commutation of pension) Rules, 1981. For commutation of pension, the retired employee will be required to make an application to the pension sanctioning authority as per the rules prevailing at that time.

Provided that till the employee opts for commutation of pension, he/ she shall be paid full pension amount as admissible.

Once employee(s) become eligible for pension commutation as per above guidelines, commutation of pension shall be governed by the CCS (Commutation of pension) Rules, 1981 and such employee(s) shall be eligible for commutation of pension without submission of medical fitness certificate up to one year from date of becoming eligible for commutation.

Provided further that on producing medical fitness certificate beyond one year, the commutation factor shall be applicable as per age of such employee(s) on date of commutation.

(d) **Encashment of Earned Leave/ Half Pay Leave**: The employee(s) retired under the Scheme shall be entitled to 'Encashment of Earned Leave/ Half Pay Leave' as per existing rules of BSNL.

(e) **TA/ DA for journey to place of settlement after Voluntary retirement**: The employee(s) retired under this Scheme shall be entitled to TA/ DA for journey to the place of settlement as per existing rules.

(f) **Retention of staff quarter**: The employee(s) retiring under the Scheme shall be entitled to retention of staff quarter as per existing rules, as amended from time to time.

(g) Other Facilities/ entitlements (Residential Telephone Connection, Post-retirement medical facilities etc.) shall be governed by the existing rules and procedures, as amended from time to time.

7. **PROCEDURE:**

(i) Eligible employee(s) shall be required to submit option to voluntarily retire from service under the Scheme during the period prescribed and as per the provisions of the scheme.

TRUE COPY

(ii) The VRS option of employee(s) facing Departmental/ Judicial proceedings shall be accepted and Earned Leave encashment, Transfer grant, GPF/ CPF and pension will be released provisionally as per Rule 69 of CCS Pension Rules 1972.

Provided that the payment of Ex-gratia and Gratuity, shall be released only on the conclusion of and based on the outcome of vigilance/ disciplinary proceedings.

(iii) The option once exercised under this Scheme shall be final and decision of the competent authority shall be binding on the concerned employee(s).

Provided that the employee(s) will be allowed to withdraw the option only once at any time till the closing time and date of option.

Provided further that the request for withdrawal of option shall be submitted online along with signed copy in writing.

(iv) The authority for acceptance of option under this scheme shall be the competent authority as defined in clause 3(c).

8. GENERAL CONDITIONS:

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

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

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

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

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

Provided that such employee can give an option to settle the pending dues to BSNL from the amount of payment under Ex-gratia, Gratuity or other retirement benefits.

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

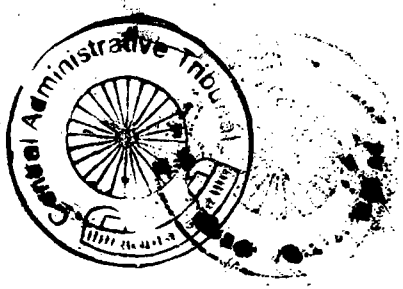
Provided that other retirement benefits as applicable according to the existing rules shall be paid to the family / legal heirs.

(vi) All payments made under the scheme shall be subject to deduction of tax at source as per Income Tax Act 1961, wherever applicable.

TRUE COPY

Central Administrative Tribunal

397



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

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

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

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

TRUE COPY

393

F.N-1-15/2019-PAT(B)

Step by step guide for exercising option for the VRS-2019

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

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

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

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

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

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

7. The employees who are on deputation to other Departments / organizations may exercise their options online within the prescribed time and submit the signed forms to their last place of posting before relieving for deputation. In case of acceptance of their option, they may repatriate back and join BSNL latest by 31.12.2019.

8. The Employee can check the tentative benefits under the Scheme at any time on the ERP / ESS portal and once the option is submitted, he may also check the status of his option for VRS on the ERP /ESS portal.

9. Employees are allowed to withdraw option only once during the prescribed period for exercising option.

***

TRUE COPY

ANNEXURE- A-37

ALL INDIA Regn. No. 5/09168/NE-I/2010
RETIRED BHARAT SANCHAR NIGAM LIMITED EXECUTIVES' WELFARE ASSOCIATION
CENTRAL HEAD QUARTERS, NEW DELHI
CHQ ADDRESS: C-8/230, Yamuna Vihar, Delhi-110053

President	General Secretary	Financial Secretary
Kishan Singh	Prahlad Ral	A.K. Jain
M.9968270611	M.9868278222	M. 9888838466

Email to : airbsnlewa.gs@gmail.com www.aibsnlwa.org

OTHER OFFICE BEARERS
1 Chief Mentor
M.K. Bagchi (MTNL Delhi)
M.9818920225
2 Legal Consultant
A.K. Kaushik (MTNL Delhi)
M.9868136363
3 Vice President-I
Manas Roy. (W B)
M.09434003002
4 Vice President-II
T Ravindran. (Kerala)
M.09447815400
5 Deputy General Secretary
Amit Kumar Gupta (WB)
M.9433000086
6 Asstt. General Secretary-I
K. Jairam (TS)
M.9440000212
7 Asstt. General Secretary-II
Pallab Bose UP (East)
M.09415233344
8 Asstt. General Secretary-III
M.L. Boore (Nasik)
M.09422250555
9 Asstt. General Secretary-IV
B.M. Mondal (WB)
M.9051783899
10 Organising Secretary (East)
Prasun Mukhopadhyay (WB)
M.09432000104
11 Organising Secretary (West)
M.M. Kansal (Gujarat)
M.09427217002
12 Organising Secretary (North)
S.S. Rawat (Rajasthan)
M.09414001998
13 Organising Secretary (South)
Dakshina Murthy (TS)
M.09440505627
14 Advisor-I
Venkat Rao (TS)
M.09440000817
15 Advisor-II
Prasun Ghosh (WB)
M.09433936300
16 Advisor-III
V. Keshava Rao (AP)
M.9490758175
17 Auditor
M. Narasimha Rao (TS)
M.09440745544

No. AIRBSNLEWA/Secy(T)/2019-20/ Dated:18th Nov.2019

To

Shri Anshu Prakash Ji
Chairman TC & Secretary (Telecom)
Govt. of India, New Delhi-110001

Sub: Denial of due Pension Revision to BSNL Pensioners drawing pension under CCS Pension Rules 1972 like other CG Pensioners –reg.

Respected Sir,

At the outset we extend our sincere gratitude and good wishes for your assumption of the highly prestigious post of the Secretary, Department of Telecom and expect that the deprived pensioners retired from BSNL will now get their long denied pension revision from 1-1-2017 through your prudential decision.

Sir, we are continuously meeting with various DOT officers since last two years on this vital issue of BSNL pensioners and requesting them to revise our pension as per the recommendations of 7th CPC but getting common reply as follows:

- recommendations on pension revision is not for BSNL IDA pensioners, It is only for CDA pensioners
- Pension Revision of BSNL Pensioners will be done only after pay revision of BSNL employees as per 3rd PRC

As per the above stand of DOT, there is no scope for any pension revision for BSNL pensioners as in BSNL, VRS is implemented without 3rd PRC and there is no scope of any pay revision in BSNL in near future. Further after this VRS only few thousand absorbee employees will be remaining in BSNL and they also will retire within coming 4-5 years. Then there will be no employees of our fraternity left to whose pay revision our pension revision can follow. As at present 100% of the pension of BSNL Pensioners are being paid by Government from its fund and this payment has got no relation with the profit or loss of BSNL. Hence there is no point of linking the pension revision of BSNL pensioners with pay revision of BSNL employees.

All Communications to: Shri Prahlad Ral,General Secretary, 122/85, Vijay Path, Agarwal Farm, Mansarovar, Jaipur-302020

TRUE COPY

400

ALL INDIA Regn. No. S/0016/NE/2016
RETIRED BHARAT SANCHAR NIGAM LIMITED EXECUTIVES' WELFARE ASSOCIATION
CENTRAL HEAD QUARTERS, NEW DELHI
CHQ ADDRESS: C-8/230, Yamuna Vihar, Delhi-110053

President
Kishan Singh
M.9968270611

General Secretary
Prahlad Rai
M.9868278222

Financial Secretary
A.K. Jain
M. 9868838468

Email to : alrbsnlowa.gc@gmail.com www.alrbsnlwa.org

OTHER OFFICE BEARERS
1 Chief Mentor
M.K. Bagchi (MTNL Delhi)
M.9818920225
2 Legal Consultant
A.K. Kaushik (MTNL Delhi)
M.9868136363
3 Vice President-I
Manas Roy. (W B)
M.09434809002
4 Vice President-II
T Ravindran. (Kerala)
M.09447815400
5 Deputy General Secretary
Amit Kumar Gupta (WB)
M.9433600088
6 Asstt. General Secretary-I
K. Jairam (TS)
M.9440000212
7 Asstt. General Secretary-II
Pallab Bose UP (East)
M.09415233344
8 Asstt. General Secretary-III
M.L. Degre (Nasik)
M.09422250555
9 Asstt. General Secretary-IV
B.M. Mondal (WB)
M.9051761890
10 Organising Secretary (East)
Prasun Mukhopadhyay (WB)
M.09432000184
11 Organising Secretary (West)
M.M. Kanani (Gujarat)
M.09427217002
12 Organising Secretary (North)
S.S. Rawat (Rajasthan)
M.09414001998
13 Organising Secretary (South)
Lakshma Murthy (TS)
M.09440505827
14 Adviser-I
Venkat Rao (TS)
M.09440000817
15 Adviser-II
Prasun Ghosh (WB)
M.09433936300
16 Adviser-III
V. Keshava Rao (AP)
M.9490758175
17 Auditor
M. Narasimha Rao (TS)
M.09440745544

On this delinking point, the DOT officers are of the opinion that in such event pension anomaly between pensioners retired before and after 2017 will occur. It is true sir but such anomaly can easily be solved by suitable notional protection to post 2017 pensioners in term of their pension fixation. We would like to point out here that after every CPC there is always an anomaly committee to settle the anomalies, but Govt has never stopped appointing CPCs just because there could be anomalies.

We would also like to point out that considering future pension revisions, full pension contribution at the highest of the pay scales in place of actual pay has been paid to DOT by BSNL for all the absorbee pensioners.

We are also aware that there is a demand by some other pensioner association that pension revision should be delinked from pay revision and revised as per 15% fixation formula of 3rd PRC. In this respect we beg to submit that 3rd PRC has no recommendation on pension or pension revision and in that event after delinking PRC formula may not be applied for pension revision in isolation. In 2007, same 2nd PRC formula could be applied for pension revision as it was applied to employees also. But sir, if you kindly go through the concerned cabinet memo for pension revision in 2007, you will find that there is no mention of 2nd PRC there. In reality the memo was prepared as a proposal of DOT where some recommendations like pension revision was from 2nd PRC and some recommendations like minimum pension and increase of pension with age were from 6th CPC. The pensioners retired prior to 2007 accepted the pension revision as per 2nd PRC formula as it was slightly better than 6th CPC. But the fact remains that PRCs have never recommended anything about pensioners in any of their reports.

Sir, under the above developments we would like to bring to your kind notice that at the time of formation of BSNL in the year 2000, Department of Telecommunication (DOT) has promised vide 36-15/2000-Pen(T) dated 09-11-2000 the following to its employees. (copy enclosed)

"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 *Govt scheme of pension/family pension* even after their absorption in BSNL."

The words ***"Govt scheme of pension"*** obviously means the complete pension and Pensionary benefits including periodical pension revision as are available to other Government pensioners. In reality also all the elements of pension and Pensionary benefits of other Govt. pensioner as has been recommended by Central Pay Commissions from time to time, are made

TRUE COPY

A01

ALL INDIA Regn. No. S/00108/NE-/2010
RETIRED BHARAT SANCHAR NIGAM LIMITED EXECUTIVES' WELFARE ASSOCIATION
CENTRAL HEAD QUARTERS, NEW DELHI
CHQ ADDRESS: C-8/230, Yamuna Vihar, Delhi-110053

President
Kishan Singh
M.9968270611

General Secretary
Prahlad Rai
M.9868278222

Financial Secretary
A.K. Jain
M. 9868838466

Email to : airbsnlewa.gs@gmail.com www.aibsnlreld.org

OTHER OFFICE BEARERS
1 Chief Mentor
M.K. Bagchi (MTNL Delhi)
M.9818920225
2 Legal Consultant
A.K. Kaushik (MTNL Delhi)
M.9868136163
3 Vice President-I
Manas Roy (W B)
M.09434066002
4 Vice President-II
T.Ravindran (Kerala)
M.09447815460
5 Deputy General Secretary
Amit Kumar Gupta (WB)
M.9433060068
6 Asstt. General Secretary-I
K. Jairam (TS)
M.9440000212
Asstt. General Secretary-II
Pallab Bose UP (East)
M.09415213344
Asstt. General Secretary-III
M.L. Deore (Nasik)
M.09422250555
9 Asstt. General Secretary-IV
B.M. Mondal (WB)
M.9051783890
10 Organising Secretary (East)
Prasun Mukhopadhyay (WB)
M.09432000184
11 Organising Secretary (West)
M.M. Kanani (Gujarat)
M.09427217002
12 Organising Secretary (North)
S.S. Rawat (Rajasthan)
M.09414001993
13 Organising Secretary (South)
Dakshina Murthy (TS)
M.09440505527
14 Advisor-I
Venkat Rao (TS)
M.09440000817
Advisor-II
Prasun Ghosh (WB)
M.09433936309
16 Advisor-III
V. Keshava Rao (AP)
M.9490758175
17 Auditor
M. Narsimha Rao (TS)
M.09440745544

applicable for BSNL pensioners also. The only exception is the pension revision and minimum pension which are being denied to them because they are in IDA scale. If all the benefits of other Govt pensioners as per the CPC recommendations can be applied to BSNL IDA pensioners on their last IDA pay drawn, how the factor "IDA" coming in the way only for pension revision and for fixing minimum pension is not understood. Kindly see the attached table at Annexure-I which describes the status at a glance.

Sir, due to non-revision of pension and non-application of minimum pension amount which has been published in newspapers (copy enclosed), many lowest paid pensioners mainly the family pensioners of Group D employees are still drawing much lesser basic pension than declared minimum amount of Rs 9000/-. They are the poorest group among the deprived pensioners who are suffering the most

DOP&PW has also written to DOT vid no 4/02/2019-P&PW (D)/40504 (copy enclosed) on this subject and asking opinion of the letter submitted by CBMPA an umbrella organisation of pensioners associations. The action of DOT on this letter is also not known.

Sir, DOT should immediately implement the pension revision recommendation of 7th CPC and circulated by DOP&PW on 04-08-2016 which is full DA neutralization with 32% increase of Basic Pension benefit as per the commitment given to us at the time of absorption. The multiplication factors for BSNL IDA Pensioners will be 2.515 as against 2.57 applied for CDA pensioners. The pension Revision including the minimum pension of Rs 9000/- as on 1-1-2017 along with other provisions of said memo should also be implemented for BSNL IDA pensioners also for the sake of justice immediately.

Sir, we eagerly expect a favourable reply from you after prudential examination of the points mentioned above.

With kind regards,

Yours Sincerely,

(Prahlad Rai)
General Secretary
AIRBSNLEWA, CHQ New Delhi

Copy to:
1. P.K. Sinha Ji, Member (Finance), DoT, Govt. of India, New Delhi-110001.
2. Shri D. Manna, Member (Services), DoT, Govt. of India, New Delhi-110001.

All Communications to: Shri Prahlad Rai,General Secretary, 122/85, Vijay Path, Agarwal Farm, Mansarover, Jaipur-302020

TRUE COPY

402

Sanchar Nigam Pensioners' Welfare Association

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

K.D.Sebstian
President
+91 9447144100

G.L.Jogi
General Secretary
+91 9868217799

S.S. Rajput
Treasurer
+91 9413394204

ANNEXURE-A-38

SNPWACHQ/Pension revision/1/2020 dated 27th Jan,2020

To

Respected Sh. Ravi Shanker Prasad,

MOC&IT, New Delhi.

Sub; Request for a very serious, unprejudiced, and immediate decision on the legitimate revision of pension of retired BSNL personnel which, hitherto, continues to be denied on completely frivolous, untenable, flimsy, non- existent and extraneous considerations. Stubborn and whimsical view of the concerned officers of DOT on the issue is completely baffling, devoid of rationality and incomprehensible.

Respected Sir,

Hon'ble PM, Respected Sh. Narendra Modi ji, has, more often than not, openly, vocally and vehemently expressed his complete annoyance and displeasure over the way bureaucrats generally function, creating unwanted hurdles with their. negative stand on resolution of even the most genuine issues. Consistently, the Hon'ble PM, has been, day in and day out, insisting on the bureaucracy to take proactive and positive steps so that even the most complex and seemingly insurmountable issues can be resolved expeditiously. Even very recently, the Hon'ble PM has sternly warned bureaucrats in general to give up their age old sluggish, negative, and counterproductive way of functioning and, instead, create an environment by which the most complex of issues are settled to the benefit of the concerned with the least delay.

But it appears that this advice of the Hon'ble PM has fallen on deaf ears with the bureaucracy in DOT remaining stubborn and unmoved. The classic case of continuing indifference, negligence and negative way of working is completely unjustified, and irrational while addressing and resolving the most legitimate and just issue of pension revision of retired employees of BSNL which is being denied for the last more than two years on completely flimsy, non- existent and frivolous grounds. When we say frivolous and non- existent grounds, we have very solid and sound reasons to support and reinforce our statement. The most genuine and justified and irrefutable ground to say that our pension revision is being denied on extraneous considerations is the glaring violation of the concrete commitment of the Govt. in the year 2000 at the time of absorption of DOT employees in BSNL that pension revision of absorbed employees in BSNL would be done in a manner exactly similar to Central Govt. employees. In fact, it was only on such solid commitment from the Govt., through the decision of the Union Cabinet, which prompted and motivated the DOT employees to take absorption in BSNL. But for such explicit assurance by the Govt. at the time of corporatization of DOT in 2000, none of the employees would

Central Administrative Tribunal

TRUE COPY

have opted for absorption in BSNL. Now it is quite unjust and unfortunate that DOT is ignoring this critical and underlying assurance of the Govt. by illegitimately denying pension revision.

It is being apparently argued by the concerned officers in DOT that as per rules pension revision of retired employees cannot take place unless wage revision of working employees in BSNL takes place. Sir, assuming this is true, is it not the fundamental and bounden responsibility of the concerned officers in DOT to find out a viable way to break this artificial impasse of linking pension revision with wage revision? Is DOT not bound by the decision unequivocally taken by the Union Govt. in 2000, which envisages that pension revision of employees of DOT taking absorption in BSNL would be done in a manner that is identical to that of Central Govt. Employees?

Sir, Instead of working out a comprehensive resolution of issue of pension revision, concerned officers of DOT have been for the last three years singing the same song i.e pension revision cannot be done unless wage revision of the present employees of BSNL takes place, which is totally absurd and incongruent to the Govt. decision on the subject. The pension of the retired employees cannot and should not have any bearing on the wage revision of the working employees, as has been envisaged by the Govt. decision in 2000 on the subject.

The underlying fact remains that the bureaucracy in DOT is planning, designing and working in contravention of the repeated directions of the Hon'ble PM, urging upon and pleading with the bureaucracy. However, the DOT bureaucracy continues to blatantly ignore and defy the substance of the Hon'ble PM's instructions to be innovative, undergo drastic perspective reform in decision making, without being bogged down by bureaucratic red tape but instead find out ways to resolve issues expeditiously by changing their age old negative perspective of looking at issues. What is astonishing and painful is that the bureaucracy in DOT continues to stick its neck in the mud unable to look at the truth, shockingly betraying the clear contents of the Hon'ble PM's directions to the bureaucracy to transform and undergo radical changes in their way of seeing, addressing and deciding issues.

Sir, what is extremely pertinent and significant is that while Department of Pension and Pension Welfare (DOP&PW), the Ministry not directly involved in our pension revision, has advised DOT several times to work and come out with a mechanism to delink pension revision from wage revision to facilitate pension revision regardless of wage revision, the DOT continues in its deaf and dumb attitude of negativity and cynicism. They have also failed miserably to respond to the very positive queries from DOP&PW regarding pension revision, clearly demonstrating a complete lack of interest and concern.

Sir, your Hon'ble self will fully appreciate and acknowledge that it is inevitable and mandatory upon the Govt. to fully honour the commitment made to DOT employees at the time of absorption in BSNL that they would be eligible for pension revision, gratuity and other benefits that would be given to Central Govt. employees from time to time and these concrete commitments cannot be denied on frivolous and untenable technical grounds like pension revision will take place only after wage revision that are being cited time and again by DOT for the last more than two years. We seek the earnest intervention of your honourable self to advise the DOT to ensure that the pension revision of absorbed DOT retired employees in BSNL takes place exactly in the same manner in which pension revision of Central Govt.

Central Administrative Tribunal

TRUE COPY

employees has taken place after 7th CPC, as has been committed to them. Only this would be fully in keeping with the decision and the commitment of the Union Government taken in year 2000 at the time of corporatization of DOT, which alone prompted DOT employees to take absorption in BSNL, but for which, no one would have even thought of taking absorption in BSNL. Your honorable intervention alone can solve the critical issue of thousands and thousands of retired employees of BSNL, who presently feel let down, demoralised and betrayed. This alone would be in keeping with the repeated assertions of the Hon'ble PM to the bureaucracy not to get bogged down in technicalities to deny resolution of issues but instead get down to the task of addressing and resolving the issues through innovative means. We are also confident, Sir, that you will appreciate the sufferings and distress caused to thousands and thousands of senior citizens by denying them their legitimate and fully justified right of pension revision which is being unduly and unjustifiably denied to them for the last more than two years.

With kind regards and respects

Truly Sincerely,

G.L.Jogi

General Secretary

Copy To:

1. Sh.Anshu Prakash, Secy/T, DOT. He is requested to sternly warn the concerned officers in DOT dealing with the issue and responsible for dilly dallying its resolution on frivolous grounds to act immediately to find out an appropriate mechanism to resolve the issue as expeditiously as possible without any further torture of the retired employees by inordinately delaying resolution of issue. Enough is enough now and we are not going to take any more of it.

2. Sh. P.K.Sinha, M (F), DCC, for immediate appropriate action. The resolution of this highly legitimate issue is now delayed inordinately for no justifiable reasons.

3. Sh.R.P.Purwar, CMD/BSNL, for information and n/a.

4. Sh. Arvind Vadnernkar, Dir (HR), for information and n/a please.

5. Sh S.K. Jain, DDG (E)/DOT. He is requested to apply seriously and genuinely to the resolution of the issue instead of advocating for last more than two years that pension issue cannot be resolved without wage revision. It is not an issue that cannot be resolved as is being propagated for last more than two years.

TRUE COPY

Central Administrative Tribunal

351

405.

ANNEXURE-A-39

GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS
DEPARTMENT OF TELECOMMUNICATIONS

LOK SABHA
UNSTARRED QUESTION NO. 2950
TO BE ANSWERED ON 11TH MARCH, 2020

PENSION REVISION OF BSNL EMPLOYEES

2950. SHRI P.C. MOHAN:

Will the Minister of COMMUNICATIONS be pleased to state:

(a) whether the Pension revision of those employees who were absorbed by the Bharat Sanchar Nigam Limited (BSNL) is pending since the past three years;

(b) if so, the details thereof and the reasons therefor;

(c) whether the Government is considering revision of Pension for the absorbed retirees of BSNL; and

(d) if so, the details thereof and if not, the reasons therefor?

ANSWER

**MINISTER OF STATE FOR COMMUNICATIONS,
HUMAN RESOURCE DEVELOPMENT AND
ELECTRONICS & INFORMATION TECHNOLOGY
(SHRI SANJAY DHOTRE)**

(a) to (d) No, Sir. Pension revision of absorbed employees of Bharat Sanchar Nigam Limited (BSNL) is linked to the pay revision of the serving employees inasmuch as pension is calculated on the basic pay which the retired employee was earning at the time of retirement. Pension may be revised if the said basic pay is revised on account of pay revision of serving employees.

****

TRUE COPY

406

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

IN THE MATTER OF:

ALL INDIA RETIRED BSNL EXECUTIVES
WELFARE ASSOCIATION & ORS. ...APPLICANTS

VERSUS

UNION OF INDIA & ORS. ...RESPONDENTS

APPLICATION FOR JOINDER OF PARTIES UNDER RULE 4(5) OF THE CENTRAL ADMINISTRATIVE TRIBUNAL (PROCEDURE) RULES 1987 IN THE ORIGINAL APPLICATION FILED BEFORE THE HON'BLE TRIBUNAL

MOST RESPECTFULLY SHOWETH:

1. The instant 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.
2. Despite implementation of the recommendations of the 7th Central Pay Commission in respect of Government pensioners and 3rd Pay revision 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 perision 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 Central Pay Commission are not applicable to BSNL IDA Pensioners. Therefore, the Original Application is being filed before the Hon'ble Tribunal.

3. That the facts set out in the accompanying Original Application may be read as a part and parcel of this Application and the Applicants herein crave leave of this Hon'ble Tribunal to refer and rely upon the same as and when this Application is taken up for consideration.

4. That the Applicants have filed the present Original Application jointly.

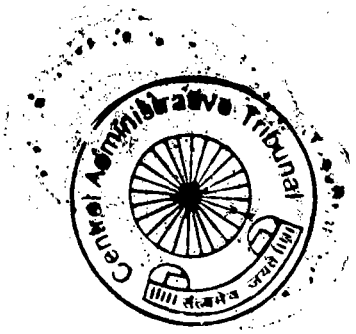
5. That the Applicants are the member Associations which comprise of all erstwhile employees of Department of Telecom prior to the formation of BSNL and were subsequently absorbed into BSNL w.e.f. 01.10.2000 retired officers and employees of BSNL.

6. The Applicant No. 1, All India Retired Bharat Sanchar Nigam Limited Executive Welfare Association ("**AIBSNLEWA**") is a registered association having about 10,000 members comprising of executive, non-executive and family pensioners of BSNL i.e. Group B, C & D. The Applicant No. 1 is being represented through its General Secretary Shri Prahlad Rai who is the duly authorized to pursue the instant proceedings.

7. The Applicant No. 2 is Sanchar Nigam Pensioners Welfare Association ("**SNPWA**"), which is an Association of retired Pensioners of BSNL consisting of more than 5000 members comprising of executive, non-executive and family pensioners of BSNL i.e. Group B, C & D. The Applicant No. 2 is being represented through its General Secretary Shri Girdhari Lal Jogi, who is the duly authorized to pursue the instant proceedings.

8. 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. 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. 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. The Applicants No. 3, 4 & 5 are all retired BSNL Pensioners belonging to Group B, C & D respectively and are members of the Applicant No. 1 Association i.e. AIRBSNLEWA who have joined the present Original Application.

9. The Applicant No. 6 is Shri Rajendra Singh, who is a retired Group B Pensioner of BSNL. The Applicant No. 7 is Shri Kiran Kumar Prabhakar, who is a retired Group B Pensioner of BSNL. The Applicant No. 8 is Shri S. Sundara Murthy, who is a retired Group C Pensioner of BSNL. The Applicants No. 6, 7 & 8 are all retired BSNL Pensioners belonging to Group B & C respectively



and are members the Applicant No. 2 i.e. SNPWA who have joined the present Original Application.

10. Amongst themselves, the Applicants herein comprise a vast majority of the retired executives and non-executive employees of BSNL, who chose absorption in BSNL only 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.

11. That the Applicants are deeply aggrieved by in action of DOT to revise the Pension of BSNL Pensioners/Family Pensioners and more particularly, non-implementation of the recommendations of the 7th Central Pay Commission in respect of Government pensioners and 3rd Pay revision for the CPSUs on the erroneous ground that pension revision is linked to pay revision and the recommendations of 7th Central Pay Commission are not applicable to BSNL IDA Pensioners.

12. It is submitted that on a perusal of the Original Application and documents appended therein, it is evident that all the Applicants have a common cause of action and nature of relief sought. Therefore, the Applicants are desirous of joining in a single application in as much as they have a common interest since the inaction of DOT to revise the Pension of BSNL Pensioners/Family Pensioners severely affects all the Applicants herein who are seeking a common relief by way of

the Instant Original Application, which may be considered by this Hon'ble Tribunal by way of a common Application to avoid duplicity of proceedings.

13. That in order to comply with Rule 4(5)(b) of The Central Administrative Tribunal (Procedure) Rules, 1987, the Applicants crave leave to join the instant Original Application as the persons deeply affected.

PRAYER

In the light of the above it is respectfully prayed that this Hon'ble Tribunal may graciously be pleased to-

(a) Allow the present Application to file the present Original Application jointly;

(b) Pass such order or further orders as may be deemed fit and proper in the premises of the case.

AND FOR THIS ACT OF KINDNESS, THE APPLICANTS AS IN DUTY BOUND SHALL FOREVER PRAY

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
Phone: +91 9899339554; 011-45094930

NEW DELHI
07.09.2020

Central Administrative Tribunal

~~334~~ 411.

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

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

412.

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

IN THE MATTER OF:

ALL INDIA RETIRED BSNL EXECUTIVES
WELFARE ASSOCIATION & ORS. ...APPLICANTS

VERSUS

UNION OF INDIA & ORS. ...RESPONDENTS

APPLICATION ON BEHALF OF THE APPLICANTS SEEKING EXEMPTION FROM FILING DULY SWORN AND NOTARISED AFFIDAVITS

MOST RESPECTFULLY SHOWETH:

1. The present Application has been 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.
2. However, despite implementation of the recommendations of the 7th Central Pay Commission in respect of Government pensioners and 3rd Pay revision 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 Central Pay Commission are not applicable to BSNL IDA Pensioners. Therefore, the Original Application is being filed before the Hon'ble Tribunal.

3. That the Applicants crave the leave of this Hon'ble Tribunal to refer to and rely upon the contents of the accompanying Original Application, the contents thereof are not being repeated herein for the sake of brevity.

4. That the Applicant Nos. 3-8 and General Secretaries of Applicant No. 1 & 2 in the instant Original Application are all Senior Citizens and were unable to have the Affidavits attested before an Oath Commissioner or Notary since they all belong to high risk category of patients and at a greater risk to contract COVID-19 which is widespread in the Country. As such, the Applicant Nos. 3-8 and General Secretaries of Applicant No. 1 & 2 were unable to visit the Hon'ble Court/Tribunal, Advocate's office and any Notary/Oath Commissioner, since that would pose a great health risk to them. It is submitted that the Applicant Nos. 3-8 and General Secretaries of Applicant No. 1 & 2 have been coordinating with their Advocate telephonically and by email.

5. Hence, the present Application is being filed for exemption from filing the duly sworn affidavits along with the Application.

Applicant Nos. 3-8 and General Secretaries of Applicant No. 1 & 2 undertake to file attested Affidavits and place the same on record subsequently, as and when the spread of COVID-19 is contained.

6. The present Application has been moved *bona fide* and in the interest of justice. It is submitted that grave and irreparable injury would be caused to the Applicants in the event that the present application is not allowed merely for attestation of Affidavits, which is being attested by their Advocate.

PRAYER

In view of the facts and circumstances, as stated hereinabove, it is most respectfully prayed that this Hon'ble Court may kindly be pleased to: -

a) Exempt all the Applicant Nos. 3-8 and General Secretaries of Applicant No. 1 & 2 from filing duly sworn and notarized Affidavits along with accompanying Original Application;

b) Pass any other order as this Hon'ble Tribunal may deem fit, towards securing the ends of Justice.

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

Applicants

Through Gauri Puri & Amrita Singh

Gauri Puri & Amrita Singh
Advocate for the Applicants
A-22, Ground Floor,
Defence Colony
New Delhi – 110024
E-mail: gauri@gpuri.in
Phone: +91 9899339554

NEW DELHI
Dated: 07.09.2020

Central Administrative Tribunal

341 415.

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

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

416.

ALL INDIA
RETIRED BHARAT SANCHAR NIGAM LIMITED EXECTIVES' WELFARE ASSOCIATION
CENTRAL HEAD QUARTERS NEW DELHI

CHQ ADDRESS: C-8/230, Yamuna Vihar, Delhi-110053 www.aibsnlrld.org

President	General Secretary	Financial Secretary
Kishan Singh	Prahlad Rai	A.K. Jain
M 9968270611	M 9868278222	M 9868838466

Email to GS: aibsnlewa.gs@gmail.com

OTHER OFFICE BEARERS

1 [illegible]
M.K. Bagchi (MTNL Delhi)
M 9818970225
2 Legal Consultant
A.K. Kaushik (MTNL Delhi)
M 9953136363
3 Vice President I
Manas Roy (W B)
M.09434009002
4 Vice President II
T Ravindran (Kerala)
M.09447815400
5 [illegible] General Secretary
Sunil Kumar Gupta (WB)
M.9433000088
6 Asstt. General Secretary I
K Jairam (TS)
M.9440000212
7 Asstt. General Secretary II
Pallab Bose UP (East)
M 09415233344
8 Asstt. General Secretary III
M L Deore (Nasik)
M 09422250555
9 Asstt. General Secretary IV
B M Mandal (WB)
M 9051783290
10 Organising Secretary (East)
Prasun Mukhopadhyay (WB)
M 09432200184
11 Organising Secretary (West)
M M Kanani (Gujarat)
M 09427217002
12 Organising Secretary (North)
S S Rawat (Rajasthan)
M 09416001998
13 Organising Secretary (South)
K Darshana Murthy (TS)
M 09440505627
14 Advisor I
Venkat Rao (TS)
M 09440900817
15 Advisor II
Prasun Ghosh (WB)
M 09433936300
16 Advisor III
V Keshava Rao (AP)
M.9450758175
17 Auditor
M Narasimha Rao (TS)
M.09440745544

RESOLUTION

3RD All India Conference of All India Retired BSNL Executive Welfare Association (AIRBSNLEWA) was held at Hotel Swarn Palace, Vijaywada, AP on 17th July 2019. The All India representative council has deliberated at length the issue of non granting of Pension Revision due from 1-1-2017. It was felt that DOT is not at all interested to settle the issue of pension revision of BSNL absorbee pensioners. The AIC has directed the central head quarter to continue their effort for another 6-8 months and if the issue still remains unsettled then explore the possibilities of legal action in next year 2020.

The All India Conference has further authorized Shri Prahlad Rai General Secretary to contest the case before Principal Bench CAT New Delhi on behalf of All India Retired BSNL Executive Welfare Association. New Delhi

Date
4/9/2020

4/9/2020
(Kishan Singh)
President
AIRBSNLEWA CHQ

Central Administrative Tribunal

All Communications to: Shri Prahlad Rai,General Secretary, 122/85, Vijay Path, Agarwal Farm, Mansarovar, Jaipur-302020

417

Sanchar Nigam Pensioners' Welfare Association

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

G.L.Jogi
General Secretary
+91 9868217799

K.D.Sebstian
CHQ President
+91 9447144100

S.S. Rajput
Treasurer
+91 8413004204

Resolution adopted by Central office-bearers of Sanchar Nigam Pensioners Welfare Association (SNPWA), comprising of around 10000 pensioners of BSNL, which met at Gokul Veg Hotel, Yelahanka, Airport Road, Bangalore, on 30th August, 2019.

A meeting of Central office bearers of SNPWA was held on this day, the 30th August, 2019 on the issue of revision of pension of BSNL pensioners having retired after January, 2017.

The Central office-bearers, whose list is enclosed herewith, unanimously resolved to file a petition in Hon'ble P CAT ND, praying for revision of pension of BSNL pensioners having retired after January, 2017, at par with Central Government pensioners having retired after Jan, 2016, since BSNL Pensioners have to be treated in conformity with Central Government Pensioners in terms of 1972 CCS pension Rules in accordance to the decision of the Union Cabinet taken in the year 2000 at the time of Corporatization of DOT and formation of BSNL.

K.D.Sebastian,CHQ/President

G.L. Jogi, General Secretary

Enclosed:
List of CHQ office-bearers. Dated 8th Sept, 2020.

Central Administrative Tribunal

418

~~349~~

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

KNOW ALL to whom these presents shall come that I, Shri Prahlad Rai, aged about 63 years, S/o Keshar Lal, R/o 122/85, Vijaypath, Aggarwal Farms, Mansarovar, Jaipur-302020, am the am the General Secretary of Applicant No. 1 having its registered office at 8/230, Yamuna Vihar, Delhi-110053, and do hereby appoint:

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
Phone: +91 9899339554

Hereinafter called the advocate to be my/our Advocate/s in the above noted case & authorize them: -

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the Appellate Court including High Court subject to payment of fees separately for each court by me/us;

To sign, file, verify and present pleadings, appeals, cross-objections or petitions fee executions review, revision, withdraw compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the execution of the said case in all its stages subject to payment for fees for each stage;

To file and take back document, to admit &/or deny the documents of opposite party;

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case;

To take execution proceedings;

To deposit, draw and receive moneys, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case;

To appoint and instruct any other Legal practitioner or person authorising him to exercise the power and authority hereby conferred upon the Advocate whatever they may think fit to do so & sign the power of attorney on;

And I/we the undersigned do hereby agree to ratify and confirm all acts done by the Advocates or their substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes;

And I/we undertake that/I/we or my/our duly authorised agent would appear in court on all hearings & will inform the Advocate for appearance when the case is called;

And I/we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whatever ordered by the Court shall be of the Advocate he shall receive and retain for himself;

And I/we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the advocate remaining entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above court for a period of three years only; I/we hereby agree that once the fee is paid I/we will not be entitled for the refund of the same in any case whatsoever;

IN WITNESS WHEREOF I/we do hereunto set my/our hand to these presents the contents of which have been understood by me/ us on this date, i.e. **07.09.2020**.

Accepted subject to terms of fees.

(Client)

I identify the signatures of the Client who has signed before me.

Gauri Puri Amrita Singh

GAURI PURI & AMRITA SINGH
Advocates for the Applicants

Gauri Puri

PNE

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

KNOW ALL to whom these presents shall come that I, Shri Girdhari Lal Jogi, aged about 67 years, 67 years, S/o Late Prem Nath Jogi, R/o Plot No.1068, 1st floor, Sector 46, Gurgaon-122003 am the am the General Secretary of Applicant No. 2 having its registered office at B-11/1, Double Storeyed, Ramesh Nagar, New Delhi-110015, do hereby appoint:

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
Phone: +91 9899339554

Hereinafter called the advocate to be my/our Advocate/s in the above noted case & authorize them: -

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the Appellate Court including High Court subject to payment of fees separately for each court by me/us;

To sign, file, verify and present pleadings, appeals, cross-objections or petitions fee executions review, revision, withdraw compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the execution of the said case in all its stages subject to payment for fees for each stage;

To file and take back document, to admit &/or deny the documents of opposite party;

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case;

To take execution proceedings;

To deposit, draw and receive moneys, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case;

To appoint and instruct any other Legal practitioner or person authorising him to exercise the power and authority hereby conferred upon the Advocate whatever they may think fit to do so & sign the power of attorney on;

And I/we the undersigned do hereby agree to ratify and confirm all acts done by the Advocates or their substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes;

And I/we undertake that/I/we or my/our duly authorised agent would appear in court on all hearings & will inform the Advocate for appearance when the case is called;

And I/we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whatever ordered by the Court shall be of the Advocate he shall receive and retain for himself;

And I/we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the advocate remaining entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above court for a period of three years only; I/we hereby agree that once the fee is paid I/we will not be entitled for the refund of the same in any case whatsoever;

IN WITNESS WHEREOF I/we do hereunto set my/our hand to these presents the contents of which have been understood by me/ us on this date, i.e. **07.09.2020**.

Accepted subject to terms of fees.

(Client)

I identify the signatures of the Client who has signed before me.

Gauri Puri & Amrita Singh

GAURI PURI & AMRITA SINGH
Advocates for the Applicants

Gauri Puri

420.

946

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

KNOW ALL to whom these presents shall come that 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 am the Applicant No. 3 and hereby appoint:

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
Phone: +91 9899339554

Hereinafter called the advocate to be my/our Advocate/s in the above noted case & authorize them: -

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the Appellate Court including High Court subject to payment of fees separately for each court by me/us;

To sign, file, verify and present pleadings, appeals, cross-objections or petitions fee executions review, revision, withdraw compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the execution of the said case in all its stages subject to payment for fees for each stage;

To file and take back document, to admit &/or deny the documents of opposite party;

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case;

To take execution proceedings;

To deposit, draw and receive moneys, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case;

To appoint and instruct any other Legal practitioner or person authorising him to exercise the power and authority hereby conferred upon the Advocate whatever they may think fit to do so & sign the power of attorney on;

And I/we the undersigned do hereby agree to ratify and confirm all acts done by the Advocates or their substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes;

And I/we undertake that/I/we or my/our duly authorised agent would appear in court on all hearings & will inform the Advocate for appearance when the case is called;

And I/we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whatever ordered by the Court shall be of the Advocate he shall receive and retain for himself;

And I/we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the advocate remaining entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above court for a period of three years only; I/we hereby agree that once the fee is paid I/we will not be entitled for the refund of the same in any case whatsoever;

IN WITNESS WHEREOF I/we do hereunto set my/our hand to these presents the contents of which have been understood by me/ us on this date, i.e. **07.09.2020**.

Accepted subject to terms of fees.

(Client)

I identify the signatures of the Client who has signed before me.

Gauri Puri
Amrita Singh

GAURI PURI & AMRITA SINGH
Advocates for the Applicants

Gauri Puri

421

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

KNOW ALL to whom these presents shall come that 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. am the Applicant No. 4 and hereby appoint:

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
Phone: +91 9899339554

Hereinafter called the advocate to be my/our Advocate/s in the above noted case & authorize them: -

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the Appellate Court including High Court subject to payment of fees separately for each court by me/us;

To sign, file, verify and present pleadings, appeals, cross-objections or petitions fee executions review, revision, withdraw compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the execution of the said case in all its stages subject to payment for fees for each stage;

To file and take back document, to admit &/or deny the documents of opposite party;

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case;

To take execution proceedings;

To deposit, draw and receive moneys, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case;

To appoint and instruct any other Legal practitioner or person authorising him to exercise the power and authority hereby conferred upon the Advocate whatever they may think fit to do so & sign the power of attorney on;

And I/we the undersigned do hereby agree to ratify and confirm all acts done by the Advocates or their substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes;

And I/we undertake that/I/we or my/our duly authorised agent would appear in court on all hearings & will inform the Advocate for appearance when the case is called;

And I/we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whatever ordered by the Court shall be of the Advocate he shall receive and retain for himself;

And I/we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the advocate remaining entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above court for a period of three years only; I/we hereby agree that once the fee is paid I/we will not be entitled for the refund of the same in any case whatsoever;

IN WITNESS WHEREOF I/we do hereunto set my/our hand to these presents the contents of which have been understood by me/ us on this date, i.e. **07.09.2020.**

Accepted subject to terms of fees.

(Client)

I identify the signatures of the Client who has signed before me.

Gauri Puri Amrita Singh

GAURI PURI & AMRITA SINGH
Advocates for the Applicants

Gauri Puri

422

348

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**

KNOW ALL to whom these presents shall come that 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, am the Applicant No. 5 and hereby appoint:

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
Phone: +91 9899339554

Hereinafter called the advocate to be my/our Advocate/s in the above noted case & authorize them: -

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the Appellate Court including High Court subject to payment of fees separately for each court by me/us;

To sign, file, verify and present pleadings, appeals, cross-objections or petitions fee executions review, revision, withdraw compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the execution of the said case in all its stages subject to payment for fees for each stage;

To file and take back document, to admit &/or deny the documents of opposite party;

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case;

To take execution proceedings;

To deposit, draw and receive moneys, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case;

To appoint and instruct any other Legal practitioner or person authorising him to exercise the power and authority hereby conferred upon the Advocate whatever they may think fit to do so & sign the power of attorney on;

And I/we the undersigned do hereby agree to ratify and confirm all acts done by the Advocates or their substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes;

And I/we undertake that/I/we or my/our duly authorised agent would appear in court on all hearings & will inform the Advocate for appearance when the case is called;

And I/we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whatever ordered by the Court shall be of the Advocate he shall receive and retain for himself;

And I/we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the advocate remaining entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above court for a period of three years only; I/we hereby agree that once the fee is paid I/we will not be entitled for the refund of the same in any case whatsoever;

IN WITNESS WHEREOF I/we do hereunto set my/our hand to these presents the contents of which have been understood by me/ us on this date. i.e. **07.09.2020**.

Accepted subject to terms of fees.

(Client)

I identify the signatures of the Client who has signed before me.

Gauri Puri
Amrita Singh

GAURI PURI & AMRITA SINGH
Advocates for the Applicants

Gauri Puri

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

KNOW ALL to whom these presents shall come that I, Shri Rajendra Singh, aged about 65 years, S/o Late Sh. Sohan Singh, R/o 43, Shahbad Ext (Gail-2), Sector 17, Rohini, Delhi110081 am the Applicant No. 6 and hereby appoint:

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
Phone: +91 9899339554

Hereinafter called the advocate to be my/our Advocate/s in the above noted case & authorize them: -

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the Appellate Court including High Court subject to payment of fees separately for each court by me/us;

To sign, file, verify and present pleadings, appeals, cross-objections or petitions fee executions review. revision. withdraw compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the execution of the said case in all its stages subject to payment for fees for each stage;

To file and take back document, to admit &/or deny the documents of opposite party;

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case;

To take execution proceedings;

To deposit, draw and receive moneys, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case;

To appoint and instruct any other Legal practitioner or person authorising him to exercise the power and authority hereby conferred upon the Advocate whatever they may think fit to do so & sign the power of attorney on;

And I/we the undersigned do hereby agree to ratify and confirm all acts done by the Advocates or their substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes;

And I/we undertake that/I/we or my/our duly authorised agent would appear in court on all hearings & will inform the Advocate for appearance when the case is called;

And I/we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whatever ordered by the Court shall be of the Advocate he shall receive and retain for himself;

And I/we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the advocate remaining entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above court for a period of three years only; I/we hereby agree that once the fee is paid I/we will not be entitled for the refund of the same in any case whatsoever;

IN WITNESS WHEREOF I/we do hereunto set my/our hand to these presents the contents of which have been understood by me/ us on this date, i.e. **07.09.2020**.

Accepted subject to terms of fees.

Rajendra Singh

(Client)

I identify the signatures of the Client who has signed before me.

Gauri Puri, Amrita Singh

GAURI PURI & AMRITA SINGH
Advocates for the Applicants

Gauri Puri

424.

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

KNOW ALL to whom these presents shall come that 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 am the Applicant No. 7 and hereby appoint:

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
Phone: +91 9899339554

Hereinafter called the advocate to be my/our Advocate/s in the above noted case & authorize them: -

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the Appellate Court including High Court subject to payment of fees separately for each court by me/us;

To sign, file, verify and present pleadings, appeals, cross-objections or petitions fee executions review, revision, withdraw compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the execution of the said case in all its stages subject to payment for fees for each stage;

To file and take back document, to admit &/or deny the documents of opposite party;

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case;

To take execution proceedings;

To deposit, draw and receive moneys, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case;

To appoint and instruct any other Legal practitioner or person authorising him to exercise the power and authority hereby conferred upon the Advocate whatever they may think fit to do so & sign the power of attorney on;

And I/we the undersigned do hereby agree to ratify and confirm all acts done by the Advocates or their substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes;

And I/we undertake that/I/we or my/our duly authorised agent would appear in court on all hearings & will inform the Advocate for appearance when the case is called;

And I/we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whatever ordered by the Court shall be of the Advocate he shall receive and retain for himself;

And I/we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the advocate remaining entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above court for a period of three years only; I/we hereby agree that once the fee is paid I/we will not be entitled for the refund of the same in any case whatsoever;

IN WITNESS WHEREOF I/we do hereunto set my/our hand to these presents the contents of which have been understood by me/ us on this date, i.e. **07.09.2020**.

Accepted subject to terms of fees.

(Client)

I identify the signatures of the Client who has signed before me.

Gauri Puri Amrita Singh

GAURI PURI & AMRITA SINGH
Advocates for the Applicants

Gauri Puri

425.

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**

KNOW ALL to whom these presents shall come that I, Shri S. Sundara Murthy, aged about 66 years, S/o Sh. Saminathan, R/o- No. 28, Tirupatcheeswaran, Ayanavaram, Chennai-400023am the Applicant No. 8 and hereby appoint:

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
Phone: +91 9899339554

Hereinafter called the advocate to be my/our Advocate/s in the above noted case & authorize them: -

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the Appellate Court including High Court subject to payment of fees separately for each court by me/us;

To sign, file, verify and present pleadings, appeals, cross-objections or petitions fee executions review, revision, withdraw compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the execution of the said case in all its stages subject to payment for fees for each stage;

To file and take back document, to admit &/or deny the documents of opposite party;

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case;

To take execution proceedings;

To deposit, draw and receive moneys, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case;

To appoint and instruct any other Legal practitioner or person authorising him to exercise the power and authority hereby conferred upon the Advocate whatever they may think fit to do so & sign the power of attorney on;

And I/we the undersigned do hereby agree to ratify and confirm all acts done by the Advocates or their substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes;

And I/we undertake that/I/we or my/our duly authorised agent would appear in court on all hearings & will inform the Advocate for appearance when the case is called;

And I/we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whatever ordered by the Court shall be of the Advocate he shall receive and retain for himself;

And I/we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the advocate remaining entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above court for a period of three years only; I/we hereby agree that once the fee is paid I/we will not be entitled for the refund of the same in any case whatsoever;

IN WITNESS WHEREOF I/we do hereunto set my/our hand to these presents the contents of which have been understood by me/ us on this date, i.e. **07.09.2020**.

Accepted subject to terms of fees.

Gauri Puri

(Client)

I identify the signatures of the Client who has signed before me.

Amrita Singh

GAURI PURI & AMRITA SINGH
Advocates for the Applicants

Gauri Puri

352 428

PROOF OF SERVICE

R-1	**Union of India,** Through its Secretary, Department of Telecommunications, Sanchar Bhavan, 20, Ashok Road, New Delhi- 110001	uoi.litigation.cat@gmail.com
R-2	**Bharat Sanchar Nigam Ltd.** Through its CMD, Having its registered office at: Bharat Sanchar Bhawan, Harish Chandra Mathur Lane, Janpath, New Delhi-110001	sameer.lawyer@gmail.com
R-3	**Department of Pension & Pensioners' Welfare** Through its Secretary 3rd Floor, Lok Nayak Bhawan, Khan market, New Delhi- 110003	uoi.litigation.cat@gmail.com
R-4	**Department of Public Enterprises** Through its Secretary Public Enterprises Bhawan Block No.14, CGO Complex, Lodhi Road, New Delhi- 10003	uoi.litigation.cat@gmail.com

Central Administrative Tribunal

427

Gmail

Original Application in All India Retired BSNL Executives Welfare Association & Ors.

Gauri Puri <gauri@gpuri.in> 8 September 2020 at 15:59
To: uoi.litigation.cat@gmail.com, sameer.lawyer@gmail.com
Cc: Amrita Singh <amrita.singh@gpuri.in>

Original Application in AIRBEWA VS. UOI & ORS..pdf

Dear Ma'am/Sir,

Please find attached the Original Application in "*All India Retired BSNL Executives Welfare Association & Ors.*" that is being filed before the Ld. Principal Bench, Central Administrative Tribunal, New Delhi.

Kindly treat the same as advance service of the Original Application.

Warm Regards,

Gauri

--

Gauri Puri
Advocate

A-22, Ground Floor,
Defence Colony,
New Delhi- 110024
Mobile: +91 9899339554
Landline: 011-45094930

Disclaimer: This email is intended for the recipient(s) only and may contain confidential or privileged information. Please be aware that any disclosure, copying and distribution of this email is prohibited and enforceable by law. If you have received this message in error, please inform the sender as soon as possible and delete this copy from your inbox.

Central Administrative Tribunal

428

II

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
M.A. NO.100/2020 MA 76/21
IN
O.A. NO.100/1272/2020

IN THE MATTER OF:

ALL INDIA RETIRED BSNL EXECUTIVE WELFARE ASSOCIATION & ORS. ... APPLICANTS IN OA/ RESPONDENTS IN MA

VERSUS

UNION OF INDIA & ORS. ...RESPONDENTS IN OA/ APPLICANTS IN MA

INDEX

S.No.	Particulars	Page No.
1.	MISCELLANEOUS APPLICATION ON BEHALF OF RESPONDENT No.2 (BSNL) PRAYING FOR DROPPING OF NAME OF RESPONDENT NO.2 FROM THE ARRAY OF PARTIES IN THE O.A.	1 to 3
2.	VAKALATNAMA	4

FILED BY:

AT: New Delhi
DATED: 31 December, 2020

SINHA & ASSOCIATES
Counsels for Respondents (BSNL)
405, Block III, Delhi High Court,
New Delhi-110503
Tel. 23072490, 23386464 & 23386565
Mobile: 9868230464
Email: sinhaadvocate@hotmail.com

प्रधान न्यायपीठ / CAT (PB)
आज दाखिल किया / Filed Today
06 JAN 2021
30
दाखिल नं० / Filing No. .....
उप रजिस्ट्रार / Dy. Registrar

429.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
M.A. NO.100//2020 MA 76/2021
IN
O.A. NO.100/1272/2020

IN THE MATTER OF:

ALL INDIA RETIRED BSNL EXECUTIVE WELFARE ASSOCIATION & ORS. ... APPLICANTS IN OA/ RESPONDENTS IN MA

VERSUS

UNION OF INDIA & ORS. ...RESPONDENTS IN OA/ APPLICANTS IN MA

MISCELLANEOUS APPLICATION ON BEHALF OF RESPONDENT NO.2 (BSNL) PRAYING FOR DROPPING OF NAME OF RESPONDENT NO.2 FROM THE ARRAY OF PARTIES IN THE AFORESAID O.A.

MOST RESPECTFULLY SHOWETH:

1. That the aforesaid O.A. is pending adjudication before this Hon'ble Tribunal and is fixed for 23.12.2020.

2. That the applicants in the aforesaid O.A. (respondents herein) have impleaded Bharat Sanchar Nigam Limited through its Chairman-Cum-Managing Director, Bharat Sanchar Bhawan, Janpath, New Delhi as Respondent No.2 in the aforesaid Original Application.

3. That however, it is submitted that the Respondent No.2, BSNL, in O.A./Applicant in the M.A. has been impleaded by the Applicants in O.A. without any cause of action against it in as much as no prayer has been made against the BSNL, the Respondent No.2 in O.A. and hence the BSNL, the Respondent No.2 in O.A is not a necessary party to the O.A.

4. That it is further submitted that the Applicants in the O.A. has prayed for following directions:

"a. *Pass an Order directing the Department of Telecommunications i.e. Respondent No.1 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 i.e. Respondent No.1 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 i.e. Respondent No.1 to revise to pension for BSNL combined service pensioners parallel to the revision of pension of the Central Government servants without liking 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."*

5. That since BSNL is neither the pension paying authority nor the decision was taken by BSNL and the relief sought by the applicants cannot be granted by the BSNL. The said decision was taken by Union of India the Respondent No.1 in the O.A. hence the case is required to be defended by them only.

6. That in the facts and circumstances, it would be just and proper that this Hon'ble Tribunal is pleased to drop the respondent No.2, BSNL, from the array of parties in the O.A.

PRAYER

In view of the facts and submissions herein above made, it is most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to drop the Respondent No.2, i.e., Bharat Sanchar Nigam Limited through its Chairman-Cum-Managing Director, Bharat Sanchar Bhawan, Janpath, New Delhi, from array of parties of the aforesaid O.A. to meet the ends of justice.

May also pass any further order/order(s) in the interest of justice.

At: New Delhi
Dated: 24 December, 2020

FOR & ON BEHALF OF
RESPONDENT NO.2 IN O.A./ APPLICANT IN M.A.

उप महाप्रबंधक (विधिक)
उत्तरी दूरसंचार क्षेत्र
नई दिल्ली–110001
Dy. Genl. Manager (Legal)
Northern Telecom Region
New Delhi-110001

VERIFICATION:

I, **J R Meena** working as **Dy. General Manager (Legal) O/o CGM Core Network Tx-North BSNL New Delhi** with the respondent No.2 in OA, and applicant in the present M.A (BSNL), do hereby verify that the facts stated in the above M.A. are true and correct to my knowledge based on records maintained with the applicant and nothing material has been concealed therefrom.

Verified at New Delhi on this 29 day of December, 2020.

FOR & ON BEHALF OF
RESPONDENT NO.2 IN O.A./ APPLICANT IN M.A.

उप महाप्रबंधक (विधिक)
उत्तरी दूरसंचार क्षेत्र
नई दिल्ली–110001
Dy. Genl. Manager (Legal)
Northern Telecom Region
New Delhi-110001

Central Administrative Tribunal

cat judicial 02 <catjudicial02@gmail.com>

432

Fwd: OA NO 1272/2020 titled as All Inda Retired BSNL.

1 message

P.K. Satija <judicial-pb-cat@gov.in> Mon, Dec 14, 2020 at 1:37 AM
To: catjudicial02 <catjudicial02@gmail.com>

From: "raviadvocate ravinder" <[redacted]>
To: "P.K. Satija" <[redacted]>
Sent: Monday, December 14, 2020 2:57:08 PM
Subject: Fwd: OA NO 1272/2020 titled as All Inda Retired BSNL.

Respected Sir,
Please find the enclosed copy of Counter Reply made in this office on behalf of Respondents. Next date of Hearing of this matter is 23.12.2020.
With regards,
R.K. Sharma
Advocate
Senior Panel Counsel for Central Government
9312338822

---------- Forwarded message ---------
From: **Ravinder Kumar Sharma** <[redacted]>
Date: Mon, Dec 14, 2020 at 2:56 PM
Subject: OA NO 1272/2020 titled as All Inda Retired BSNL.
To: <[redacted]>

Respected Madam,
Please find the enclosed copy of Counter Reply made in this office on behalf of Respondents. Next date of Hearing of this matter is 23.12.2020.
With regards,
R.K. Sharma
Advocate
Senior Panel Counsel for Central Government
9312338822

15 YEARS OF CELEBRATING THE MAHATMA

Counter Reply in AIRBSNL.pdf
10687K

DY NO 3310 16/12/20

433

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,

PRINCIPAL BENCH, AT NEW DELHI.

OA. No. 1272 of 2020.

IN THE MATTER OF: -

All India Retired BSNL Executives

Welfare Association and Ors.. ... Applicants.

VERSUS

Union of India & Others. ...Respondents.

INDEX

Sl.No.	Particulars	Pages No.
1.	Counter Reply on behalf of the Respondents.	1-25
2.	Annexue R-1 Order dated 30.10.2018 in OA NO 346/2018.	26-35
3.	Annexure R-2 Order dated 10.12.2018 in OA NO 813/2017.	36-41
4.	Annexure R-3 Order dated 11.01.2019 in RA NO 02/2019.	42-45

Filed by: -

New Delhi.
Date: Nov,2020

Ravinder Kr. Sharma
Advocate
C.A.T. (PB) Bar Room No. 1
Copernicus Marg, New Delhi
Mobile: 9312338822
Email: raviadvocate.ravinder@gmail.com

Central Administrative Tribunal

Scanned by TapScanner

434

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH, AT NEW DELHI.
OA. No. 1272 of 2020.

IN THE MATTER OF: -
All India Retired BSNL Executives
Welfare Association and Ors.. ... Applicants.

VERSUS

Union of India & Others. ...Respondents.

COUNTER REPLY ON BEHALF OF THE RESPONDENT NOS. 1, 3-4 TO THE O.A. FILED BY THE APPLICANTS.

Most Respectfully Showeth: -

I, Khalid Hussain aged about 30 years S/o Shri Shah Hussain posted as Dy. CCA, O/o Pr. CCA, Department of Telecommunication, Sanchar Lekha Bhawan, Prasad Nagar, New Delhi-110005,do hereby solemnly affirm and state as under:

PRELIMINARY OBJECTIONS: -

Before giving the reply to the Original Application respondents crave leave of this Hon'ble Tribunal to submit the following facts as preliminary objections: -

1. It is submitted that the answering Respondent has gone through the averments made in the present Original Application and emphatically deny each and every averment made therein except those that are specifically admitted herein below:

Central Administrative Tribunal

Scanned by TapScanner

2. It is respectfully submitted that the applicants have not stated all the relevant facts in the present Original Application and have suppressed and concealed many relevant facts, which go to the root of the matter. The Original Application, therefore, deserves to be outrightly dismissed on this ground alone.

3. That no cause of action has accrued in favour of the applicants and against the respondents. The application is totally devoid of merits and may be dismissed.

4. That the application is misconceived and is not maintainable under the law.

Brief facts of the case:-

1. 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 (DTO) 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 (Annexure A-4 of the OA). The absorbed employees of BSNL were given higher IDA pay scales as compared to their counter parts in Government Service receiving CDA pay scales.

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

Scanned by TapScanner

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 6th 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 IDA 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.

4. Thereafter, on the recommendations of the 2nd Pay Revision Committee (PRC) on wage revision of employees of Central Public Sector Enterprises (CPSEs), the DPE 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 (Annexure A-12 of the OA) indicating that the revised pay scales

Central Administrative Tribunal

Scanned by TapScanner

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. 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. The revised pay scales for employees in Central Public Sector Enterprises (CPSEs), as contained in DPE's OM No.2(70)/08-DPE(WC)-GL-XVL/08 dated 26.11.2008 (Annexure A-12 of the OA), was extended to the employees of BSNL with effect from 01.01.2007, vide letter No.26-01/2009-SU dated 27.02.2009. As a result, employees who retired from BSNL after 01.01.2007 got about 30% higher pension than the employees who retired before 01.01.2007. As there is no provision in Rule 37-A of CCS (Pension) Rules, 1972 for revision of pension of employees retired from BSNL, in order to remove the anomaly in pension of those BSNL pensioners who retired between 01.10.2000 and 01.01.2007, approval of Union Cabinet was sought for revision of their pension and family pension and necessary orders were issued, vide order No.40-70/2008-Pen(T) (Vol.III) dated 15.03.2011 (Annexure A-15 of the OA).

5. Thereafter, DoP&PW issued OM dated 04.08.2016 (Annexure A-21 of the OA) revising pension/family pension of Government pensioners/family 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 (Annexure A-25 of the OA). Para 7(a) of this OM clearly indicates that when the Government servant on permanent absorption in PSEs continues 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 (Annexure A-25 of the

Central Administrative Tribunal

Scanned by TapScanner

OA) is applicable for the pensioners who are drawing monthly pension from the Government on permanent absorption in PSU on pro-rata basis in CDA pattern based on their service in Government only.Therefore, OM No 38 37 2016-P&PW (A) dated 12.05.2017 (Annexure A-25 of the OA) 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 services pension optees of BSNL i.e. the applicants of the instant OA.

6. 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 (Annexure A-27 of the OA) 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. The revised pay scales are be 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. The revised pay scales 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 (Annexure A-27 of the OA), 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 such, 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

Central Administrative Tribunal

Scanned by TapScanner

ex-absorbed combined services pension optees of BSNL also could not be revised with effect from that date. This was due to the fact that had the IDA pension of combined service pension optee BSNL pensioners/family pensioners was revised with effect from 01.01.2017 by adopting special provisions, an anomalous condition would arise as absorbed employees who retire from BSNL after 01.01.2017 are to get much less pension than those BSNL IDA pensioners who had retired before 01.01.2017.

7. That All India 'Bharat Sanchar Nigam Limited Pensioners' Welfare Association (AIBSNLPWA) &Ors. had earlier filed OA No.346/2018 before the Hon'ble CAT, Ernakulam Bench seeking implementation of OM No.38/37/2016-P&PW(A) dated 12.05.2017 (Annexure A-25 of the OA) of DOP&PW in case of BSNL absorbed employees. Aforesaid OM was issued by DOP&PW on implementation of the recommendations of the 7th CPC for the Government employees and the employees of the PSUs drawing pension under CDA pay scales for the service rendered in the Government. This OM is not applicable to absorbed employees of BSNL as they are drawing their pension in IDA pay scales and the pension of Pre-2006 IDA pensioners was last revised after implementation of the recommendations of the 2nd PRC. Recommendations of 3rd PRC has not yet been implemented in the cases of BSNL/MTNL employees and their pensioners. The Hon'ble CAT, therefore, dismissed OA No.346/2018, vide order dated 30.10.2019 **(Annexure R-1)**. This order of the Hon'ble Tribunal is presently under challenge by AIBSNLPWA &Ors before the Hon'ble Kerala High Court in OP(CAT) No.60/2020.

8. That Shri MSS Ramachandra Murthy, who retired as BSNL absorbed employee from the O/o CGM, BSNL, AP Telecom Circle, Hyderabad had also filed OA No.021/813/2017 before Hon'ble CAT, Hyderabad Bench seeking revision of his IDA pension consequent to implementation of the recommendations of 7th CPC on the grounds that he was covered under CCS (Pension) Rules, 1972 and that pension contribution is being paid by BSNL to the Government as prescribed by the Government under Fundamental Rules. OA No.021/813/2017 was dismissed by the Hon'ble CAT, vide order

Scanned by TapScanner

dated 10.12.2018 (**Annexure R-2**)with the observation that the norms for revision of pension are decided by Pay Revision Committee of Public Undertakings and not by Pay Commissions. Therefore, there is no reason for the Tribunal to intervene on behalf of the applicant as his prayer cannot be acceded to as per rules on the subject. Thereafter, he filed RA No.021/02/2019 against order dated 10.12.2018 in OA No.021/813/2017, which was also dismissed by the Hon'ble CAT, vide order 11.01.2019 (**Annexure R-3**). Shri MSS Ramachandra Murthy then filed Writ Petition (SR) No.14133/2019 before the Hon'ble AP High Court at Hyderabad against the aforesaid orders of the Hon'ble CAT, Hyderabad Bench in OA No.021/813/2017 and RA No.021/02/2019, which is presently pending adjudication by the Hon'ble High Court.

9. The AIRBSNLEWA has now filed the instant OA seeking (a) direction to DOT to revise pension/family pension/minimum pension with effect from 01.01.2017 for BSNL combined service pensioners, who were absorbed from DOT/DTO/DTS with effect from 01.10.2000 and retired prior to 01.01.2017 by applying the fitness formula on IDA pension as on 01.01.2017. (b) Pass an order directing the DOT to revise the pension/family pension/minimum pension with effect from 01.01.2017 for BSNL combined service pensioners, who were absorbed from DOT/DTO/DTS with effect from 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 DOT 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.

10. The relief sought by the applicants through the aforesaid OA cannot be granted on the grounds that 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 (Annexure A-27 of the OA) 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

Scanned by TapScanner

issue of Presidential Directive in respect of each CPSE separately by the concerned Administrative Ministry/Department. 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 revised pay scales 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 (Annexure A-27 of the OA), 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. Moreover, DoP&PW OM No.38/37/2016-P&PW(A) dated 12.05.2017 (Annexure A-25 of the OA) is meant for Central Government CDA pensioners and pro-rata pension optee BSNL absorbees drawing pension on CDA pattern for Government service period only and not for combined service pension optee BSNL pensioners. Therefore, if the IDA pension of combined service pension optee BSNL pensioners/family pensioners is revised with effect from 01.01.2017 by approaching the Union Cabinet through a Cabinet Note, as was done earlier on implementation of the recommendations of the 2nd PRC, an anomalous condition would arise since absorbed employees who retire from BSNL after 01.01.2017 are to get much less pension than the combined service pension optee BSNL pensioners who had retired before 01.01.2017. As such, the revision of IDA pension/family pension of combined service pension optees of BSNL could only be revised on revision of the pay scales of the absorbed BSNL employees on implementation of the recommendations of the 3rd PRC.

Reply to List of dates and events.

At the outset, the answering respondents deny each and every allegation made in List of Dates and events made in Original

Central Administrative Tribunal

Scanned by TapScanner

Application, except those which are specifically admitted herein after and those which are a matter of record.

Para wise reply: -

Para1.1- Para1.14

1. That as submitted in the preceding paragraphs under the heading 'Background", relief sought by the applicant association through the aforesaid OA cannot be granted simply on the grounds that after absorption in BSNL the employees of erstwhile DTO and DTS on formation of BSNL, 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 22 of Rule ibid.

2. That the recommendations of the 7th CPC were implemented in respect to revision of pay and allowances of government servants and for revision of government pensioners/family pensioners. However, 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 the Government as per Rule 37-A of CCS (Pension) Rules, 1972 (Annexure A-4 of the OA). OM dated 04.08.2016 (Annexure A-21 of the OA) issued by DOP&PW is for revising pension/family pension of government pensioners who were drawing pension/family pension as on

Central Administrative Tribunal

Scanned by TapScanner

31.12.2015 (pre-2016 pensioners/family pensioners). DOP&PW further issued OM dated 12.05.2017 (Annexure A-25 of the OA). Para 7(a) of this OM 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 (Annexure A-25 of the OA) 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 No.38/37/2016-P&PW (A) dated 12.05.2017 (Annexure A-25 of the OA) 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 services pension optees of BSNL i.e. the applicants of the instant OA.

3. That All India Bharat Sanchar Nigam Limited Pensioners' Welfare Association (AIBSNLPWA) &Ors. had earlier filed OA No.346/2018 before the Hon'ble CAT, Ernakulam Bench seeking implementation of OM No.38/37/2016-P&PW(A) dated 12.05.2017 of DOP&PW (Annexure A-25 of the OA) in case of BSNL absorbed employees. Aforesaid OM was issued by DOP&PW on implementation of the recommendations of the 7th CPC for the Government employees and the employees of the PSUs drawing pension under CDA pay scales for the service rendered in the Government. This OM is not applicable to absorbed employees of BSNL as they are drawing their pension in IDA pay scales and the pension of Pre-2007 IDA pensioners was last revised after implementation of the recommendations of the 2nd PRC. Recommendations of 3rd PRC has not yet been implemented in the cases of BSNL/MTNL employees and their pensioners since they are recurring losses continuously year after year and these CPSUs could not afford extra burden on revision of pay scales of its employees/executives. The

Scanned by TapScanner

Hon'ble CAT, therefore, dismissed OA No.346/2018, vide order dated 30.10.2019 (**Annexure R-1**). This order of the Hon'ble Tribunal is presently under challenge by AIBSNLPWA &Ors. before the Hon'ble Kerala High Court in OP(CAT) No.60/2020.

4. That Shri MSS Ramachandra Murthy, who retired as BSNL absorbed employee from the O/o CGM, BSNL, AP Telecom Circle, Hyderabad had also filed OA No.021/813/2017 before Hon'ble CAT, Hyderabad Bench seeking revision of his IDA pension consequent to implementation of the recommendations of 7th CPC on the grounds that he was covered under CCS (Pension) Rules, 1972 and that pension contribution is being paid by BSNL to the Government as prescribed by the Government under Fundamental Rules. OA No.021/813/2017 was dismissed by the Hon'ble CAT, vide order dated 10.12.2018 **(Annexure R-2)**with the observation that the norms for revision of pension are decided by Pay Revision Committee of Public Undertakings and not by Pay Commissions. Therefore, there is no reason for the Tribunal to intervene on behalf of the applicant as his prayer cannot be acceded to as per rules on the subject. Thereafter, he filed RA No.021/02/2019 against order dated 10.12.2018 in OA No.021/813/2017, which was also dismissed by the Hon'ble CAT, vide order 11.01.2019 **(Annexure R-3)**. Shri MSS Ramachandra Murthy then filed Writ Petition (SR) No.14133/2019 before the Hon'ble AP High Court at Hyderabad against the aforesaid orders of the Hon'ble CAT, Hyderabad Bench in OA No.021/813/2017 and RA No.021/02/2019, which is presently pending adjudication by the Hon'ble High Court.

Para 2

That the corresponding para are matter of record. Hence need no comments.

Central Administrative Tribunal

Scanned by TapScanner

Para 3

That the corresponding para are matter of record. Hence need no comments.

4. Reply to facts of the case :-

Para 4.1- Para 4.11

That the corresponding para are matter of record. Hence need no comments.

Para 4.12

That OM No.4/18/87-P&PW(D) dated 05.07.1989 (Annexure A-1 of the OA) provides settlement of pensionary terms etc. in respect of Government employees transferred en-masse to Central Public Sector Undertakings/Central Autonomous Bodies. It lays down that the permanent government servants shall have an option to retain the pensionary benefits available to them under the Government rules or to be governed by the rules of the Public Sector Undertaking/Autonomous Body. 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. However, the applicants herein have been absorbed in terms of Rule 37-A of CCS (Pension) Rules, 1972.

Para 4.13

That the Cabinet Note dated 25.09.2000 (Annexure A-2 of the OA) lays down the settlement of pensionary terms as etc. as provided for in the OM No.4/18/87-P&PW (D) dated 05.07.1989 (Annexure A-1 of the OA) in respect of Government employees seeking absorption in a Public Sector Undertaking/Autonomous Body viz. (i) all employees will be entitled to Government's scheme of pension/family pension even after their absorption. This is for those government employees who opt to be governed by the pensionary benefits available under the Government. They shall at the time of their retirement will be entitled to pension etc. in accordance with the

Scanned by TapScanner

Central Government rules in force at that time. (ii) Technical resignation will not be required. (iii) Payment of pension would be made by Government. This is for those government employees who opt to be governed by the rules of the Public Sector Undertaking/Autonomous Body. The applicants of the instant OA are the ex-absorbed combined services pension optees of BSNL, who opted to be governed by the rules of the Public Sector Undertaking/Autonomous Body. (iv) Arrangement would be worked out for obtaining pension contribution from the PSU to be deposited with the Government. (v) Facility to carry over Earned Leave and Half Pay Leave would be provided and (vi) The pension frame work was made part of the CSS (Pension) Rules, 1972 by amending Rule 37 using power under Article 309 of the Constitution of India. Thus, all the recommendations made in the Cabinet Note dated 25.09.2000 (Annexure A-2 of the OA) with regard to pension and retirement benefits in respect of Government employees of erstwhile DTO and DTS absorbed in BSNL have fully been implemented.

Para 4.14

That the corresponding para are matter of record. Hence need no comments.

Para 4.15- Para 4.16

That DOP&PW notified Rule 37-A of CCS (Pension) Rules, 1972 (Annexure A-4 of the OA) in Government of India Gazette Notification No.4/61/99-P&PW(D) dated 30.09.2000, laying down comprehensive guidelines for settlement of pensionary terms and conditions in respect of Government employees seeking absorptions in Public Sector Undertakings/Autonomous Bodies on conversion of Government Departments or parts thereof. Rule 37-A of CCS (Pension) Rules, 1972 (Annexure A-4 of the OA) is, in fact, a detailed substitution of DOP&PW's OM No.4/18/87-P&PW (D) dated 05.07.1989 (Annexure A-1 of the OA). As per Sub-rule 21 of Rule 37-A of CCS (Pension) Rules, 1972, pension to absorbed employees of BSNL is paid by the Government. As per Sub-rule

Central Administrative Tribunal

Scanned by TapScanner

22 of Rule ibid, BSNL is to make pension contribution to the Government at such rate as determined by the Government.

Para 4.17

That as submitted in the preceding paragraphs under the heading "Background", after absorption in BSNL, the government employees of erstwhile DTO and DTS 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 (Annexure A-4 of the OA), 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.

That the provisions enshrined in Rule 37-A of CCS (Pension) Rules, 1972 (Annexure A-4 of the OA) regarding settlement of pensionary terms etc. are the same as provided for in the OM No.4/18/87-P&PW(D) dated 05.07.1989 (Annexure A-1 of the OA) of DOP&PW and the Cabinet Note dated 25.09.2000 (Annexure A-5 of the OA) in respect of Government employees transferred en-masse to Central Public Sector Undertakings/Central Autonomous Bodies.

Para 4.18

That Sub-rule 24(c) of Rule 37-A of CCS (Pension) Rules, 1972 (Annexure A-4 of the OA) lays down that dismissal or removal of the service of the public sector undertaking or autonomous body of any employee after his absorption in such undertaking or body for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service

Central Administrative Tribunal

Scanned by TapScanner

rendered under the Government and in the event of his dismissal or removal or retrenchment, the decision of the undertaking or body shall be subject to review by the Ministry administratively concerned with the undertaking or body.

Para 4.19- Para 4.28

That as submitted in the preceding paragraphs under the heading 'Background", 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 (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 (Annexure A-4 of the OA). The absorbed employees of BSNL were given higher IDA pay scales as compared to their counter parts in Government Service receiving CDA pay scales.

Para 4.29- Para 4.31

That as submitted in the preceding paragraphs under the heading 'Background", on implementation of the recommendations of the 6th CPC DoP&PW issued OM dated 01.09.2008 and 02.09.2008 revising pension/family pension of government 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 6th CPC's recommendations, as contained in DOP&PW's OM No.38/37/08-P&PW(A) dated 02.09.2008 (Annexure A-16 of the OA), were extended and made applicable to the BSNL IDA pensioners also with effect from 01.01.2006,

Central Administrative Tribunal

Scanned by TapScanner

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.

Para 4.32- Para 4.35

That on the recommendations of the 2nd Pay Revision Committee (PRC) on wage revision of employees of Central Public Sector Enterprises (CPSEs), the DPE 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 (Annexure A-12 of the OA) 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 isto be effective from 01.01.2007. 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. The revised pay scales for employees in Central Public Sector Enterprises (CPSEs), as contained in DPE's OM No.2(70)/08-DPE(WC)-GL-XVL/08 dated 26.11.2008 (Annexure A-12 of the OA), was extended to the employees of BSNL with effect from 01.01.2007, vide letter No.26-01/2009-SU dated 27.02.2009. As a result, employees who retired from BSNL after 01.01.2007 got about 30% higher pension than the employees who retired before 01.01.2007. As there is no provision in Rule 37-A of CCS (Pension) Rules, 1972 for revision of pension of employees retired from BSNL, in order to remove the anomaly in pension of those BSNL pensioners/family pensioners who retired/expired between 01.10.2000 and 01.01.2007, approval of Union Cabinet was sought for revision of their pension and family pension and necessary orders were issued, vide order No.40-70/2008-Pen(T) (Vol.III) dated 15.03.2011 (Annexure A-15 of the OA). It is

Scanned by TapScanner

submitted that pay revision of BSNL employees was done by adding together the existing pay, merger of DA and fitment weightage of 30%. The same formula was also adopted for revision of pension/family pension of those BSNL pensioners/family pensioners who retired/expired between 01.10.2000 and 01.01.2007.

Para 4.36

That the pro-rate pensioners and combined service pensioners of BSNL and MTNL have been extended the facility of CGHS, vide order dated 20.02.2014 (Annexure A-18 of the OA), as their pension is paid by the Central Government.

Para 4.37- Para 4.40

That a perusal of the Cabinet Note dated 25.09.2000 (Annexure A-2 of the OA) reveals that corporatization of erstwhile DTO and DTS into BSNL was done to achieve objectives of the New Telecom Policy 1999 of Government of India with regard to rural telephony or any other non-economic service and to achieve, in a time bound manner, particularly with regard to development of a world class telecommunication infrastructure, development of telecom infrastructure in rural areas, making available telephone on demand by the year 2002 and sustaining it thereafter so as to achieve a tele-density of 7 by the year 2005 and, 15 by the year 2010. Availability of affordable and effective communications for the citizens. For the purpose, assets and liabilities of the above two Government Departments were transferred to BSNL. Apart from that some major concessions were also extended to the newly formed Company viz. exemption from Income Tax liability, exemption from following general guidelines for payment of dividend of a minimum of 20% prescribed for profitable PSUs, exemption from paying licence fee, reimbursement of sales tax paid by BSNL for procurement of various telecom related items and stores, exemption from paying spectrum charges, exemption from paying payment of stamp duty on transfer of assets and also financial support from the Government for achieving the objectives of the NTP-1999. Apart from the above concessions

Scanned by TapScanner

granted to newly formed BSNL, it was also decided that the pensionary benefits including family pension to absorbed employees of BSNL would be paid by Government. In order to restrict the amount towards pension liability towards absorbed employees of BSNL, it was decided that the annual pension liability of the Government towards employees, who retired from DOT prior to 01.10.2000 and subsequently absorbed in BSNL and towards absorbees of BSNL, shall not exceed 60% of the annual receipts of the Government from BSNL/MTNL in the form of (i) Dividend income (ii) Licence fee and (c) Corporate Tax/Excise Duty/Service Tax. It was further indicated in the letter dated 15.06.2006 (Annexure A-11 of the OA) that any expenditure for pension over and above the aforesaid limit shall be borne by BSNL.

As is evident from the above facts on extending so many exemptions to the newly formed company, limiting the pension liability of the Government towards absorbed employees of BSNL was desirable. However, on persistent demand from the management and various employees' unions of BSNL, letter dated 15.06.2006 (Annexure A-11 of the OA) was withdrawn/rescinded, vide letter dated 20.07.2016 (Annexure A-15 of the OA) and the Government assumed 100% liability towards pension liability towards absorbed employees of BSNL.

Para 4.41- Para 4.45

That as submitted in the preceding paragraphs under the heading 'Background', DoP&PW issued OM dated 04.08.2016 (Annexure A-21 of the OA) 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 (Annexure A-25 of the OA). Para 7(a) of this OM 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. Accordingly, para 12 of the OM dated 12.05.2017 (Annexure A-25 of the OA) is

Central Administrative Tribunal

Scanned by TapScanner

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.

Para 4.46- Para 4.50

That a clarification on the recommendations of the 7th CPC's, as contained in DOP&PW's OM DoP&PW issued OM dated 04.08.2016 (Annexure A-21 of the OA), which were extended and made applicable to the BSNL IDA pensioners also with effect from 01.01.2016, viz the limit of gratuity was issued vide DOT letter dated 16.03.2017 (Annexure A-23 of the OA). It was also clarified that there is no change in the formula for pension/family pension w.e.f. 01.01.2016 and the BSNL/MTNL pensioners would continue to get pension based on the same formula. This is because DoP&PW issued OM dated 04.08.2016 (Annexure A-21 of the OA) revising pension/family pension of government pensioners who were drawing pension/family pension as on 31.12.2015 (pre-2016 pensioners/family pensioners). It also issued OM dated 12.05.2017 (Annexure A-25 of the OA). Para 7(a) of the OM dated 04.08.2016 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 (Annexure A-25 of the OA) 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.

Para 4.51- Para 4.52

That Rule 37-A of CCS (Pension) Rules, 1972 (Annexure A-4 of the OA) provides for comprehensive guidelines for settlement of pensionary terms and conditions in respect of Government employees seeking absorptions in Public Sector Undertakings/Autonomous Bodies on conversion of Government Departments or parts thereof. This rule is not applicable in respect of the employees directly recruited by the Public Sector Undertakings/Autonomous Bodies. If a Public Sector

Central Administrative Tribunal

Scanned by TapScanner

Undertaking/Autonomous Body has provision for payment of pension to its directly recruited employees, it provides for it from its own resources.

Para 4.53- Para 4.57

That as submitted in the preceding paragraphs under the heading 'Background", 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 (Annexure A-27 of the OA) 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. The revised pay scales is be 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. The revised pay scales 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(Annexure A-27 of the OA) 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 such, the pay scales of the employees/executive/s of BSNL could not be revised with effect from 01.01.2017 on implementation of the recommendations of 3rdPRC and therefore, the pension/family pension of ex-absorbed combined services pension optees of BSNL also could not be revised with effect from that date. This was due to the fact that had the IDA pension of combined service pension optee BSNL pensioners/family pensioners was revised with effect from 01.01.2017 by adopting special provisions, an anomalous condition would arise as absorbed employees who retire from BSNL after

Central Administrative Tribunal

Scanned by TapScanner

01.01.2017 are to get much less pension than those BSNL IDA pensioners who had retired before 01.01.2017.

Para 4.58- Para 4.76

That as submitted in the preceding paragraphs under the heading 'Background', OM No.38/37/2016-P&PW (A) dated 12.05.2017 (Annexure A-25 of the OA) 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 services pension optees of BSNL. Since pay scales of the employees/executives of BSNL have not been revised with effect from 01.01.2017 on implementation of the recommendations of 3rd PRC, therefore, the pension/family pension of ex-absorbed combined services pension optees of BSNL, retired/expired before 01.01.2017 cannot be revised with effect from that date. This is due to the fact that if the IDA pension of combined service pension optee BSNL pensioners/family pensioners is revised with effect from 01.01.2017 by adopting special provisions, an anomalous condition would arise as absorbed employees who retire from BSNL after 01.01.2017 are to get much less pension than those BSNL IDA pensioners who retired before 01.01.2017.

5. Reply to Grounds

Para 5.1- Para 5.29

That the contents of paras No-5 of the O.A are disputed and denied in view of position clarified in foregoing paras, it is however submitted that the respondents crave to leave of this Hon'ble Tribunal to refer to above paras of ground at the time hearing of the case to make proper submissions/written submissions during the course of arguments. Judgment referred by the applicant are not applicable in present case as facts and circumstances of the present case are different. That

Central Administrative Tribunal

Scanned by TapScanner

the contents of paras No-5.A to 5.1 of the OA are not admitted being wrong and hence denied individually and collectively. However, it is most respectfully submitted that the reply as stated in earlier brief paras including the contents of the preliminary submissions may kindly be read as part of this para as the contents of the same are not repeated herein for the sake of brevity. These grounds are not sustainable in law in view of the position explained as under.

That as submitted in the preceding paragraphs under the heading "Background", relief sought by the applicants through the aforesaid OA cannot be granted simply on the grounds that after absorption in BSNL, the employees of erstwhile DTO and DTS on formation of BSNL, 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.

That the recommendations of the 7th CPC are for the purpose of revision of pay and allowances of government servants and for revision of government pensioners/family pensioners. However, 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 the Government as per Rule 37-A of CCS (Pension) Rules, 1972 (Annexure A-4 of the OA). OM dated 04.08.2016 (Annexure A-21 of the OA) issued by DOP&PW is for revising pension/family pension of government pensioners who were

Central Administrative Tribunal

Scanned by TapScanner

drawing pension/family pension as on 31.12.2015 (pre'2016 pensioners/family pensioners). DOP&PW further issued OM dated 12.05.2017 (Annexure A-25 of the OA). Para 7(a) of this OM 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. Accordingly, para 12 of the OM dated 12.05.2017 (Annexure A-25 of the OA) 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 No.38 37 2016-P&PW (A) dated 12.05.2017 (Annexure A-25 of the OA) issued by DoP&PWconsequent 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 services pension optees of BSNL i.e. the applicants of the instant OA.

That AIBSNLPWA &Ors. had earlier filed OA No.346/2018 before the Hon'ble CAT, Ernakulam Bench seeking implementation of OM No.38/37/2016-P&PW(A) dated 12.05.2017 of DOP&PW (Annexure A-25 of the OA) in case of BSNL absorbed employees. Aforesaid OM was issued by DOP&PW on implementation of the recommendations of the 7th CPC for the Government employees and the employees of the PSUs drawing pension under CDA pay scales for the service rendered in the Government. This OM is not applicable to absorbed employees of BSNL as they are drawing their pension in IDA pay scales and the pension of Pre-2006 IDA pensioners was last revised after implementation of the recommendations of the 2nd PRC. Recommendations of 3rd PRC has not yet been implemented in the cases of BSNL/MTNL employees and pensioners since they are recurring losses continuously year after year and these CPSU's could not afford extra burden on revision of pay scales of its employees/executives. The Hon'ble CAT, therefore, dismissed OA No.346/2018, vide order dated 30.10.2019 (Annexure R-1). This order of the Hon'ble Tribunal is presently under

Central Administrative Tribunal

Scanned by TapScanner

challenge by AIBSNLPWA &Ors. before the Hon'ble Kerala High Court in OP(CAT) No.60/2020.

That Shri MSS Ramachandra Murthy, who retired as BSNL absorbed employee from the O/o CGM, BSNL, AP Telecom Circle, Hyderabad had also filed OA No.021/813/2017 before Hon'ble CAT, Hyderabad Bench seeking revision of his IDA pension consequent to implementation of the recommendations of 7th CPC on the grounds that he was covered under CCS (Pension) Rules, 1972 and that pension contribution is being paid by BSNL to the Government as prescribed by the Government under Fundamental Rules. OA No.021/813/2017 was dismissed by the Hon'ble CAT, vide order dated 10.12.2018 **(Annexure R-2)**with the observation that the norms for revision of pension are decided by Pay Revision Committee of Public Undertakings and not by Pay Commissions. Therefore, there is no reason for the Tribunal to intervene on behalf of the applicant as his prayer cannot be acceded to as per rules on the subject. Thereafter, he filed RA No.021/02/2019 against order dated 10.12.2018 in OA No.021/813/2017, which was also dismissed by the Hon'ble CAT, vide order 11.01.2019 (**Annexure R-3**). Shri MSS Ramachandra Murthy then filed Writ Petition (SR) No.14133/2019 before the Hon'ble AP High Court at Hyderabad against the aforesaid orders of the Hon'ble CAT, Hyderabad Bench in OA No.021/813/2017 and RA No.021/02/2019, which is presently pending adjudication by the Hon'ble High Court.

Para 6.

That the contents of the corresponding para are matter of record. Hence need no comments.

Para 7.

That the contents of the corresponding para are matter of record. Hence need no comments.

Central Administrative Tribunal

Scanned by TapScanner

Para 8

That the contents of the corresponding para are wrong and not sustainable in the eyes of Law. As per the above replies identical issues has been dismissed by the Hon'ble Ernakulam and Hyderabad Benches. Hence this OA deserved to be dismissed on this stage.

Para 9: -

NA

Para 10 – Para 12

That the contents of the corresponding para need no comments.

PRAYER: -

In view of the above facts and circumstances, it is most respectfully prayed that this Hon'ble Tribunal may graciously be pleased to dismissed the OA of the applicant and to pass any order deem fit.

Through Counsel

Respondent

Khalid Hussain, IP & TAFS
Deputy Controller
O/o Pr. CCA, Sanchar Lekha Bhawan
Department of Telecom
Govt. of India, New Delhi

Ravinder Kumar Sharma
Sr. Panel Counsel for Union of India.
Mobile: 9312338822

VERIFICATION

I, Khalid Hussain aged about 30 years S/o Shri Shah Hussain posted as Dy. CCA, O/o Pr. CCA, Department of Telecommunication, Sanchar Lekha Bhawan, Prasad Nagar, New Delhi-110005,do hereby verify that the contents of the above reply are true and correct to my knowledge based on official records. Legal submissions made therein are true upon legal advice received and believed to be correct. Nothing is false herein. Verified at New Delhi on 15 Nov, 2020.

For & On Behalf of Respondents

Khalid Hussain, IP & TAFS
Deputy Controller
O/o Pr. CCA, Sanchar Lekha Bhawan
Department of Telecom
Govt. of India, New Delhi

Central Administrative Tribunal

Scanned by TapScanner

458 459.

ANNEXURE R1

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No.180/00346/2018

Wednesday, 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, 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-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)

Versus

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,

Central Administrative Tribunal

Scanned by TapScanner

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

Central Administrative Tribunal

Scanned by TapScanner

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

Central Administrative Tribunal

Scanned by TapScanner

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

Central Administrative Tribunal

Scanned by TapScanner

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 *interalia* 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

Scanned by TapScanner

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

Scanned by TapScanner

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

Central Administrative Tribunal

Scanned by TapScanner

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

Central Administrative Tribunal

Scanned by TapScanner

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

Scanned by TapScanner

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.

Central Administrative Tribunal

Scanned by TapScanner

469.

ANNEXURE R-2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD

Original Application No.21/813/2017 & MA 355 of 2018

Reserved on: 05.12.2018
Order pronounced on: 10.12.2018

Between:

M.S.S. Ramchandra Murthy
S/o. late Suryanarayana Murthy,
Aged about 66 years, Hindu,
Retired Personnel Assistant to DGM (Marketing),
HMR Pride, 2nd Floor, F. No. 202, Manjeera Pipeline Road,
Madinaguda, Hyderabad – 500 049.

...Applicant

And

1. Union of India, Rep. by its Secretary,
Department of Telecom,
20 Ashoka Road, Sanchar Bhavan,
Govt. of India, New Delhi – 110 001.

2. The Chairman and Managing Director,
Bharat Sanchar Nigam Limited,
Corporate Office, Personnel Branch – II,
4th Floor, Janapath, New Delhi – 110 001.

3. The Chief General Manager Telecom,
Bharat Sanchar Nigam Limited, Abids,
Hyderabad – 500 001.

...Respondents

Counsel for the Applicant ... Mr. M.S.S. Ramachandra Murthy (PIP)
Counsel for the Respondents ... Mrs.K. Rajitha, Sr. CGSC
Mr. M.C. Jacob for RR 2 & 3

CORAM:
Hon'ble Mr. B.V. Sudhakar ... Member (Admn.)

ORDER
(As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.))

The OA is filed for non revision of IDA (Industrial Dearness Allowance) based pension of the applicant as per 7th CPC.

Central Administrative Tribunal

Scanned by TapScanner

2. Brief facts of the case are that the applicant after serving the Dept. Of Telecom for 28 years and BSNL for more than 10 years had retired on 31.12.2011 with a pension of Rs 15,500 w.e.f 1.1.2012 from the respondents Organisation. The applicant represented on 10.9.2016 for implementation of 7th CPC recommendation as they are applicable to those who are governed by the CCS (Pension) Rules 1972 as per Ministry of Personnel, Public Grievances & Pension OM dt 4.8.2016. As there was no response from the respondents, the applicant approached this Tribunal in OA 12/ 2017 and when the respondents were directed to dispose of the representation, they did by rejecting the same. Hence the O.A.

3. The contentions of the applicant are that he was not given any pro-rata retiral benefits for the service rendered in Dept. of Telecom after being absorbed in BSNL on 1.10.2000. The pension contribution for the entire service is paid to Government under FR 116 by BSNL for making pension payment treating the combined service in Govt and BSNL as Govt. service is the version of the applicant. Pension is a property and as per Article 300-A of the Constitution no person can be deprived of the property without the authority of law. Some pensioners of the Dept. of Telecom were paid pension as per 7th CPC and hence not paying him is discriminatory. As per CCS (Pension) Rules 1972 the applicant claims that he is eligible. Pension payment order does indicate that the pensioner is eligible for additional quantum of pension from time to time. BSNL employees are Govt. servants for the purpose of pension under Rule 37 –A of CCS (Pension) Rules, is the assertion of the applicant.

Central Administrative Tribunal

Scanned by TapScanner

4. Respondents contend that B.S.N.L was constituted as a Public sector undertaking on 1.10.2000 and options were called from the employees to continue with the Govt. or join B.S.N.L. Accordingly, the applicant on having opted for BSNL, his pay was fixed with IDA (Industrial Dearness Allowance) pay scale of Rs.7,100-10,100 applicable to B.S.N.L. employees from 1.10.2000 with a pay of Rs.8100 . Thereafter on being finally promoted as Personnel Assistant, the applicant was placed in the pay scale of Rs.9850-14,600 w.e.f 1.1.2004. The applicant was also given the first financial upgradation under Assured Career Progression scheme in the next higher IDA pay scale and as per Department of Public Enterprises, O.M dt 26.11.2008 the pay scale of the applicant was revised to Rs.20,600-46,500 and a pay of Rs.26,720 was granted w.e.f 1.1.2007. Further, when the applicant retired on 31.12.2011, Pension was worked out based on the emoluments he received in BSNL following rule 37-A of Central Civil Services (CCS) Pension Rules, 1972. The pension was revised to those pensioners who retired prior to 10.6.2013 w.e.f. 1.1.2007 and accordingly that of the applicant was revised and revised pension payment order was issued on 17.10.2017 with financial benefits w.e.f. 10.6.2013. The respondents affirm that the 7th CPC recommendations are applicable to Govt. Servants. Applicant ceases to be a Govt. Servant on being absorbed as BSNL employee as per Rule 37-A referred to. The rules and regulations of BSNL apply to the applicant. None of the BSNL employees were given any revision of pay as per the recommendations of the 7th CPC. Therefore the prayer of the applicant has no merit to consider.

5. Heard the party in person and the counsel for the respondents. Their averments were in line with the written submissions made.

Scanned by TapScanner

6. Facts on record do make it lucid that the applicant has been absorbed as a BSNL employee from 1.10.2000. On being absorbed in BSNL, based on IDA, applicant has been granted pay scales and pay was regulated from time to time, as per rules and regulations of BSNL. As per Rule 37-A of CCS (Pension) Rules, an employee on permanent absorption into a public sector undertaking ceases to be a Government servant from the date of absorption. Rules of the PSU will thereafter apply. As per sub rule 8 of Rule 35-A, such absorbed employees and family are eligible for pensionary benefits including commutation, gratuity, family pension on the basis of combined service in accordance with the formula 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. Further sub rule 10 of Rule 35-A specifies that an absorbed employee who has opted for pension on the basis of combined service is eligible for dearness relief as per the Industrial Dearness Allowance pattern. The applicant having become a BSNL employee his pension was naturally drawn based on his last pay drawn in BSNL. The applicant is under the impression that Rule 37-A continues to treat him as a Government Servant, which is not the case as per the reading of the said rule. The rule clearly distinguishes two aspects viz service benefits as per the orders pertaining to Public Sector undertakings and pension benefits as per CCS (Pension) Rules. Had the applicant opted for retirement benefits from DOT the scenario would have been different! However, since the applicant has opted for combined service the rules of the game are different. Moreover, the respondents categorically state that after 1.10.2000, BSNL employees are not provided with pension excepting to those who have been absorbed from

Scanned by TapScanner

D.O.T. The applicant contended that D.O.T employees are getting the benefit of 7th CPC. They do because they are Govt. employees. Besides, as claimed by the applicant Pension is a property but it was not denied to him. It was and is being paid as per rules adopted by BSNL. The applicant cannot seek application of rules selectively, of both Government and BSNL, in order to take advantage of the best among the better of the rules in the two institutions. 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. Applicant also represented for gratuity under Gratuity Act which was allowed by this tribunal. On challenging the same by the respondents by way of a writ petition in the Honourable High Court and it was allowed. The applicant filed a writ appeal but it was dismissed on the ground that the applicant is covered under Rule 37-A of CCS (Pension) Rules. The pay and allowances of BSNL employees are revised as per the recommendations of Pay Revision Committee (PRC) of Public Sector Undertakings. Accordingly the applicant has been granted pensionary benefits as per 2nd PRC recommendations. PRC has no relation to the 7th CPC. Thus there is a separate system altogether to deal with the pay & allowance and pension of public sector employees like BSNL. The OMs and judgments cited by the applicant have been gone through and found them to be irrelevant to the issue in question. Hence they are not broached upon. The OMs of the Central Government when they are adopted by BSNL such benefits get extended to the BSNL employees. Otherwise not, as we have seen in the present case. To sum up, the applicant is not a Government employee and hence he does not come under the ambit of 7th CPC. The norms for revision of pension are decided by

Central Administrative Tribunal

Scanned by TapScanner

the pay revision committee of public undertakings and not by pay commissions. Therefore there is no reason for this Tribunal to intervene on behalf of the applicant, as his prayer cannot be acceded to as per rules on the subject.

7. Therefore the OA is dismissed. MA stands disposed. No order to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 10th day of December, 2018

evr

Scanned by TapScanner

297

475

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD

Review Application No. 021/02/2019
in
Original Application No.813 of 2017

Order of Order: 11.01.2019

Between:

M.S.S. Ramchandra Murthy
S/o late Suryanarayana Murthy,
Aged about 67 years, Hindu, Gr. B.,
Retired Personnel Assistant to DGM (Marketing),
HMR Pride, 2nd Floor, F. No. 202, Manjeera Pipeline Road,
Madinaguda, Hyderabad – 500 049.

...Applicant

And

1. Union of India, Rep. by its Secretary (DOT),
Govt. of India, New Delhi – 110 001

2. The Chairman and Managing Director,
Bharat Sanchar Nigam Limited,
Corporate Office, Personnel Branch - II,
4th Floor, Janapath, New Delhi – 110 001.

3. The Chief General Manager Telecom,
Bharat Sanchar Nigam Limited, Hyderabad – 500 001.

...Respondents

Counsel for the Applicant ... Mr. M.S.S. Ramachandra Murthy (PIP)
Counsel for the Respondents ... Mrs.K. Rajitha, Sr. CGSC
Mr. M.C. Jacob for RR 2 & 3

CORAM:
Hon'ble Mr. B.V. Sudhakar ... Member (Admn.)

ORDER (In circulation)
{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}

2. This Review Application has been filed in regard to the decision of this Tribunal dated 10.12.2018 in OA No. 813 of 2017. The operative portion of the said order, reads as under:-

"9. Facts on record do make it lucid that the applicant has been absorbed as a BSNL employee from 1.10.2000. On being absorbed in

Scanned by TapScanner

BSNL, based on IDA, applicant has been granted pay scales and pay was regulated from time to time, as per rules and regulations of BSNL. As per Rule 37-A of CCS (Pension) Rules, an employee on permanent absorption into a public sector undertaking ceases to be a Government servant from the date of absorption. Rules of the PSU will thereafter apply. As per sub rule 8 of Rule 35-A, such absorbed employees and family are eligible for pensionary benefits including commutation, gratuity, family pension on the basis of combined service in accordance with the formula 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. Further sub rule 10 of Rule 35-A specifies that an absorbed employee who has opted for pension on the basis of combined service is eligible for dearness relief as per the Industrial Dearness Allowance pattern. The applicant having become a BSNL employee his pension was naturally drawn based on his last pay drawn in BSNL. The applicant is under the impression that Rule 37-A continues to treat him as a Government Servant, which is not the case as per the reading of the said rule. The rule clearly distinguishes two aspects viz service benefits as per the orders pertaining to Public Sector undertakings and pension benefits as per CCS (Pension) Rules. Had the applicant opted for retirement benefits from DOT the scenario would have been different! However, since the applicant has opted for combined service the rules of the game are different. Moreover, the respondents categorically state that after 1.10.2000, BSNL employees are not provided with pension excepting to those who have been absorbed from D.O.T. The applicant contended that D.O.T employees are getting the benefit of 7th CPC. They do because they are Govt. employees. Besides, as claimed by the applicant Pension is a property but it was not denied to him. It was and is being paid as per rules adopted by BSNL. The applicant cannot seek application of rules selectively, of both Government and BSNL, in order to take advantage of the best among the better of the rules in the two institutions. 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. Applicant also represented for gratuity under Gratuity Act which was allowed by this tribunal. On challenging the same by the respondents by way of a writ petition in the Honourable High Court and it was allowed. The applicant filed a writ appeal but it was dismissed on the ground that the applicant is covered under Rule 37-A of CCS (Pension) Rules. The pay and allowances of BSNL employees are revised as per the recommendations of Pay Revision Committee (PRC) of Public Sector Undertakings. Accordingly the applicant has been granted pensionary benefits as per 2nd PRC recommendations. PRC has no relation to the 7th CPC. Thus there is a separate system altogether to deal with the pay & allowance and pension of public sector employees like BSNL. The OMs and judgments cited by the applicant have been gone through and found them to be irrelevant to the issue in question. Hence they are not broached upon. The OMs of the Central Government when they are adopted by BSNL such benefits get extended to the BSNL employees. Otherwise not, as we have seen in the present case. To sum up, the applicant is not a Government employee and hence he does not come under the ambit of 7th CPC. The norms for revision of pension are decided by the pay revision committee of

Central Administrative Tribunal

Scanned by TapScanner

public undertakings and not by pay commissions. Therefore there is no reason for this Tribunal to intervene on behalf of the applicant, as his prayer cannot be acceded to as per rules on the subject.

7. Therefore the OA is dismissed. MA stands disposed. No order to costs."

3. As no hearing is considered necessary, the Review Application is being disposed under circulation as per Rule 17(3) of the C.A.T. (Procedure) Rules, 1987.

4. As can be seen from the record, the relevant facts of the case have been taken into consideration and judgement delivered.

5. Besides, a plea for review, unless the first judicial view is manifestly distorted, is like asking for the moon. A forensic defeat cannot be avenged by an invitation to have a second look, hopeful of discovery of flaws and reversal of result. [Northern India Caterers (India) Ltd. v. Lt. Governor of Delhi, (1980) 2 SCC 167]. The review also does not fall under any of the categories prescribed by the Apex Court in the case of State of W.B. vs Kamal Sengupta (2008) 8 SCC 612 which are as under:-

> **35.** The principles which can be culled out from the above noted judgments are:
>
> (*i*) The power of the Tribunal to review its order/decision under Section 22(3)(*f*) of the Act is akin/analogous to the power of a civil court under Section 114 read with Order 47 Rule 1 CPC.
>
> (*ii*) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise.
>
> (*iii*) The expression "any other sufficient reason" appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.
>
> (*iv*) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22(3)(*f*).

Scanned by TapScanner

(v) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.

(vi) A decision/order cannot be reviewed under Section 22(3)(f) on the basis of subsequent decision/judgment of a coordinate or larger Bench of the tribunal or of a superior court.

(vii) While considering an application for review, the tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or development cannot be taken note of for declaring the initial order/decision as vitiated by an error apparent.

(viii) Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the court/tribunal earlier.

6. Based on the above observations of the Hon'ble Supreme Court, there are no grounds which have been brought in the review application to review the case. The details presented in the review application have already been comprehensively gone into while delivering the judgment in the OA. Facts of the case in all respects and the rules prevailing have been reckoned and on merits the OA was dismissed.

7. Hence, there is no merit in the review application and is dismissed in circulation. No order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 11th day of January, 2018

CVR

Scanned by TapScanner

479.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
O.A. NO. 1272 OF 2020

IN THE MATTER OF:

ALL INDIA RETIRED BSNL EXECUTIVE WELFARE ASSOCIATION & ORS. ...APPLICANTS

VERSUS

UNION OF INDIA & ORS. ...RESPONDENTS

NDOH: 08.03.2021

INDEX

S. No.	Particulars	Page(s)
1.	Rejoinder on behalf of the Applicants to the Counter Reply filed by Respondent No. 1,3 & 4 along with supporting Affidavit	1-25
2.	Proof of Service	26

APPLICANTS

Through

Amrita Singh

Gauri Puri & Amrita Singh
D/1753/2012 & D/162/2019
Advocates for the Applicants
A-22, Ground Floor,
Defence Colony
New Delhi – 110024
E-mail: gauri@gpuri.in
Phone: +91 9899339554

NEW DELHI
05.03.2020

Central Administrative Tribunal

प्रधान न्यायपीठ / CAT (PB)
अब दाखिल किया / Filed on
05 MAR 2021

480

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

IN THE MATTER OF:

ALL INDIA RETIRED BSNL EXECUTIVE WELFARE ASSOCIATION & ORS. ...APPLICANTS

VERSUS

UNION OF INDIA & ORS. ...RESPONDENTS

REJOINDER ON BEHALF OF THE APPLICANTS TO THECOUNTER REPLY FILED BY RESPONDENT NO. 1,3 & 4

MOST RESPECTFULLY SHOWETH:

1. That the instant Original Application has been filed by the Applicants against the Respondents praying *inter alia*, for following directions-

(a) *Pass an Order directing the Department of Telecom 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 Telecom 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 Telecom 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.*

2. At the outset, it is submitted that the contents of the Counter Reply filed by the Respondent No. 1, 3 & 4 are hereby denied, except where the same are specifically admitted hereunder. It is prayed that no averment contained therein may be deemed to be admitted merely by reason of specific non-transverse.

3. It is humbly submitted that on an in-depth analysis of the counter reply filed by the Respondents, the respondents are not disputing the rightful claim of the Applicants for Pension Revision and have admitted the eligibility of Pension revision for the combine service pensioners w.e.f. 01.01.2017 and neither have they expressed any financial constrain for implementation of pension revision vis-à-vis the Applicants. The only ground raised for not revising the pension of the

Central Administrative Tribunal

Applicants is on account of non-implementation of Pay Revision for the serving employees due to which an anomalous situation is anticipated between the pre-2017 and post-2017 retirees. Surely, this cannot be a ground to deny the Applicants their legitimate Pension Revision which has no connection whatsoever with Pay Revision.

4. The Applicants humbly submit that the facts, circumstances and averments set out in the Original Application may be read as part of this rejoinder and considered reiterated although they have not been set out in detail hereunder.

PARAWISE REPLY TO PRELIMINARY OBJECTIONS:

5. That the contents of Paragraph 1 of the Counter Reply need no response.

6. That the contents of Paragraph 2 of the Counter Reply are denied as same are misconceived and misleading. It is submitted that the Applicants have disclosed all the relevant and necessary facts in the present Original Application and have not supressed any facts. On the contrary, it is submitted that the Respondents have misled this Hon'ble Tribunal as would be demonstrated herein under.

Central Administrative Tribunal

7. That the contents of Paragraphs 3-4ofthe Counter Reply are vehemently denied. The Applicants reiterate the submissions made in the Original Application as well as detailed *infra*. It is humbly submitted that the Applicants are all retired pensioners/family pensioners who were absorbed in BSNL from DOT and were to draw pensionary benefits at par with the Government employees on the basis of assurances to the Applicants at the time of their absorption and Rule 37-A of CCS Pension Rules, 1972.

PARAWISE REPLY TO 'BRIEF FACTS OF THE CASE'

8. The contents of the Paragraph 1-4of the 'Brief Facts of the case' of the Counter Reply are a matter of record and need no response. The Applicants reiterate the submissions made in the Original Application.

9. The contents of the Paragraph 5 of the 'Brief Facts of the case' of the Counter Reply are denied as the same are entirely misplaced. The Applicants reiterate the submissions made in the Original Application. At the outset, it is submitted that the Respondents are trying to mislead this Hon'ble Tribunal by misplaced reliance on the OM dated 04.08.2016 (*Annexure A-21*) and 12.05.2017 (*Annexure A-25*) issued by

Central Administrative Tribunal

the DOP&PW. Nowhere in the said OMs has it been stated that BSNL Pensioners would not be entitled to pension revision. On the contrary, except for pension revision, all other benefits and recommendations pursuant to the 7th Central Pay Commission have been extended to the Applicants. It is submitted that on a conjoint reading of Para 7(a) of OM dated 04.08.2016 (*Annexure A-21*) and of Para 12 of OM dated 12.05.2017 (*Annexure A-25*), it can be inferred that the same are applicable to those who are drawing pension from the Government and create no bar or restriction for BSNL Pensioners/family pensioners. In so far as those who are drawing pension separately from government and from pension fund, the revision will be applicable only to the corresponding pension drawn by the government servant from the government. In case of BSNL absorbed employees there is only one pension paid by the government and the revision as per OM dated 12.05.2017 is applicable to the Applicants.

10. The contents of the Paragraph 6 of the 'Brief Facts of the case' of the Counter Reply are denied. It is submitted that 3rd Pay Revision Committee was not implemented in BSNL on account of affordability clause stating that BSNL was

recurring losses continuously year after year and were not able to afford extra burden of revision of pay scales of its employees. Pertinently, pension revision is not being implemented on the ground of an anomalous situation that may arise between pre- and post-2017 BSNL retirees wherein the absorbed employees who retire from BSNL after 01.01.2017 will get lesser pension than the BSNL IDA pensioners who had retired before 01.01.2017. It is submitted that a repeated attempt has been made to link pension revision with pay revision. However, at the time of absorption, the Applicants were assured that they would be treated at par with government servants. As such, denial of the same on the basis of an anomaly, which can be rectified is baseless and entirely arbitrary. The anomaly can easily be settled by deriving a suitable formula for protection of pension of post 01.01.2017 pensioners as was done in the past by various anomaly committees to settle the disparities arising out of implementation recommendations of the Central Pay Commissions earlier. This can be explained by way of the following example:

(a) Say there are two persons A and B at same Basic pay of Rs. 1,000/- as on November 2016 with their next increment in November 2017.

Central Administrative Tribunal

(b) *Now A retires on 30th November, 2016 wherein his basic pension will be 50% of his basic pay of Rs. 1,000/- i.e. Rs. 500/-*

(c) *If A's pension is revised on 01.01.2017 as per the 7th Central Pay Commission, then, A's pension would Rs. 500 x 2.51 =* ***Rs. 1, 255/-*** *with 0 IDA.*

(d) *Now B retires on 31st January 2017. His basic pension will also be Rs. 500/-. However, B would be entitled to get 119.5% IDA as his pay was not revised on 01.01.2017 and IDA was not neutralized like A.*

(e) *Hence B will get 119.5% IDA on his basic pension which is Rs. 597/- and B's total pension would be Rs. 500/- + Rs. 597/- =* ***Rs.1,097/-***

(f) *Thus, B will get Rs. 158/- [Rs. 1,255 - Rs.1,097/-] lesser pension although he is retiring after A.*

(g) *This is an anomaly which can easily be solved if that pension revision formula 2.51 is applied notionally from 01.01.2017 to all who are retiring after 01.01.2017 only for fixing the basic pension on retirement.*

(h) *In the above example, if the formula is applied for fixing pension of B, then his notional Basic pay on 01.01.2017 will be Rs. 1,000/- x 2.51= Rs. 2,510/-.*

(i) *Now B's pension will also be 50% of his notional basic pay of Rs. 2,510 i.e. Rs. 1,255/- which is the same pension received by A.*

(j) *If the retirement date of B is further delayed by one year i.e. if he earns one more increment before retirement then he will get proportionately a higher amount of pension than A.*

It is submitted that the Government is well equipped to set up anomaly committees to look into these aspects, and surely, that cannot be a ground to deny the legitimate expectation of the Applicants for pension revision as assured to them at the time of their absorption. Therefore,

the Respondents have no valid reason to deny the justified and legitimate revised pension to the Applicants.

11. Further, upon implementation of every PRC, even for serving government employees, anomaly shall ordinarily occurs between those joined prior to Pay Revision and after Pay Revision and also for government pensioners retired before Pension Revision and after Pension Revision and several demands have been made for *'one rank one pension'*. Anticipating an anomalous situation, the legitimate rights of the Applicants for Pension Revision cannot be denied on the ground of anomaly that can be be rectified as suggested above.

12. The contents of the Paragraph 7 of the 'Brief Facts of the case' of the Counter Reply are denied as the same are inapplicable to the present facts and circumstances. It is submitted that the Judgment passed by the Hon'ble CAT, Ernakulam Bench in O.A No. 346/2018 has not attained finality as the same is under challenge before the Hon'ble High Court of Kerala. In any event, the case therein was that the 7th Central Pay Commission gave two options for revision of pay/pension. While the first option was for multiplication by 2.57 factor which was implemented by *vide* OM dated

04.08.2016 issued by DOP&PW, the Second option was that a committee under the Chairmanship of Secretary, DOP&PW was constituted. On the basis of the recommendations of the said committee, OM dated 12.05.2017 was issued by DOP&PW. Prior to issuance of the OM dated 12.05.2017, both CDA and IDA pensioners received 50% of their pension of last ten months average pay. After issuance of the OM dated 12.05.2017, the Pre-2016 lot of CDA pensioners got the benefit of 50% of Last Pay Drawn or last 10 months average whichever was beneficial and got notional benefit up to 31.12.2015 and actual benefit from 01.01.2016. However, the same was denied to the similarly placed IDA pensioners. The prayer in the OA was based on such discrimination. The facts of the present case and relief sought is entirely different. In any event, the said *lis* is sub-judice and this Hon'ble Tribunal can proceed to adjudicate the same on merits particularly since there is no similarity in the two matters and the Respondents have deliberately sought to mislead this Hon'ble Tribunal.

13. The contents of the Paragraph 8of the 'Brief Facts of the case' of the Counter Reply are denied as the same are inapplicable to the present facts and circumstances. Yet

again, it is submitted that Original Application No. 21/613/2017 filed by Shri M.S.S. Ramachandra Murthy before the Hon'ble Tribunal at Hyderabad is different from the instant Original Application in as much as the Prayers and relief sought were on different grounds and the Applicants herein have raised several other grounds seeking pension revision for which this Hon'ble Tribunal would have to independently adjudicate the issue and is not a settled *lis*.

14. The contents of the Paragraph 9 of the 'Brief Facts of the case' of the Counter Reply are matter of record and hence need no response.

15. The contents of the Paragraph 10 of the 'Brief Facts of the case' of the Counter Reply are vehemently denied. It is submitted that the only reason given by the Respondents for failure of pension revision of BSNL pensioners/family pensioners is the non-implementation of the 3rd PRC for BSNL employees on the ground of affordability clause and extra burden of revision of pay scales of its employees. In this regard, it is relevant to mention that the failure to revise pay scales in BSNL pursuant to 3rd PRC has no connection, much less, relevance as far as BSNL pensioners/family pensioners are concerned. This is because, pension is being

Central Administrative Tribunal

paid by the Government under Rule 37 A of CCS Pension Rules, 1972 and further, pension contribution for the same has already been remitted by BSNL as per FR116&117. Therefore, primarily because pay revision has not been implemented, the same cannot be a ground to deny pension revision to the Applicants who are legitimately entitled to receive pension at par with government employees, which was in fact the assurance granted to the Applicants at the time of their absorption. All the Applicants left their status as a government servant and chose absorption in BSNL based in the assurance that upon retirement, their pensionary benefit's would be at par with government employees which is also demonstrable from Rule 37-A, CCS Pension Rules, 1972. At this stage, after rendering their entire life to serve BSNL, the Respondents cannot resile from their assurances by linking pension revision to pay revision. Even otherwise, as mentioned above, if there is any anomaly, the same can always be rectified by a fitment formula as has been done in several situations before. What is more particular, is that the present situation is different from the case of absorbed employees from Government to other PSUs wherein the pension contribution was not paid to the Government and is

to be paid to the pension fund and accordingly the pension for the PSU service period is paid from the pension fund. As far as BSNL absorbed retired employees are concerned, the government is the custodian of the pension to which they are eligible for the service rendered combinedly during the government period and the BSNL period. As such, the pension contribution for the service rendered in BSNL is already paid by BSNL to the government under FR116&117. Therefore, the Respondents have no valid reason to deny justified and legitimate revised pension to the BSNL pensioners other than the anomalous situation that may arise between the pre- and post-2017 BSNL pensioners.

REPLY TO 'REPLY TO LIST OF DATES AND EVENTS'

16. The contents of 'Reply to list of dates and events' are denied. the Applicants reiterates the submissions made in the list of dates and events in the original Application.

REJOINDER TO PARA WISE REPLY:

Paragraph 1.1-1.14

17. The contents of Paragraph 1 under Paragraph 1.1-1.14 of the Counter Reply are vehemently denied as the same are

Central Administrative Tribunal

entirely misleading. The Applicants reiterate the submissions made in the Original Application as well as herein above. It is submitted that the Respondents are trying to mislead this Hon'ble Tribunal by placing employees of other PSU's on the same pedestal as BSNL. It is pertinent to mention that unlike the absorption of the government employees into other PSUs where in the pension of such employees was to be paid from the pension fund on the basis of service rendered in the PSU the pension of the absorbed employees of BSNL were to be paid by the Government for the combined service rendered both in the Government and in BSNL as per Rule 37-A of CCS Pension Rules, 1972. The Respondents are trying to mislead the Hon'ble Tribunal by stating that on absorption from DOT to BSNL, the employee ceased to be the Government Employee and deemed to be retired from government service. It is submitted *vide* OM dated 05.07.1989 issued by DOP&PW (*Annexure A-1*), 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*

Central Administrative Tribunal

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. Thereafter, DOT prepared a note dated 25.09.2000 (*Annexure A-2*) whereby 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.

It is submitted that it was in view of the above assurances and in particular, amendment to Rule 37 of the CCS Pension Rules, 1972 whereby the Applicants were entitled to pensionary benefits from the government despite absorption in the PSU and deemed retirement from government service. The Applicants herein seek to enforce that right and

Central Administrative Tribunal

protection of their status as a government servant upon retirement that was assured and is covered under Rule 37-A of the CCS Pension Rules, 1972 and therefore entitle them to pension revision at par with central government employees.

18. The contents of Paragraph 2 under Paragraph 1.1-1.14 of the Counter Reply are vehemently denied as the same are entirely misleading. The Applicants reiterate the submissions made in the Original Application as well as herein above. It is submitted that on a conjoint reading of Para 7(a) of OM dated 04.08.2016 (*Annexure A-21*) and of Para 12 of OM dated 12.05.2017 (*Annexure A-25*), it can be inferred that the same are applicable to those who are drawing pension from the Government and create no bar or restriction for BSNL Pensioners/family pensioners. Therefore, in case of BSNL absorbed employees, the revision is applicable for the pensioners who are drawing monthly pension from the Government on permanent absorption in PSUs.

19. The contents of Paragraph 3-4 under Paragraph 1.1-1.14 of the Counter Reply are vehemently denied as the same are entirely misleading. The Applicants reiterate the submissions made in the Original Application as well as hereinabove. The

Central Administrative Tribunal

Judgments are denied as the same are inapplicable to the present facts and circumstances. The Applicants reserve their right to make oral arguments in respect of the aforementioned as and when the Original Application is taken up for hearing.

Paragraph 2-3

20. That the contents of Paragraph 2&3of the Para Wise Reply of the Counter Reply need no response.

REJOINDER TO 'REPLY TO FACTS OF THE CASE'

21. That the contents of Paragraph 4.1-4.11of the 'reply to facts of the case' of the Counter Reply need no response.
22. That the contents of reply to Paragraph 4.12of the 'reply to facts of the case' of the Counter Reply need no response.
23. That the contents of Paragraph 4.13of the 'reply to facts of the case' of the Counter Reply are denied as misplaced. The Applicants reiterate the submissions made in the Original Application as well as herein above. The contention of the Respondents that the government scheme of pension is applicable only to those who have given option for government scheme of pension for the service rendered in

Central Administrative Tribunal

government before absorption is incorrect. It is contrary to the Note for cabinet dated 25.09.2000 (*Annexure A-2*) wherein it was envisaged that the pensionary benefits of those absorbed in BSNL continue to be governed by government scheme of pension and family pension. It may be noted that the absorption process for BSNL was accepted by DOT as per the Presidential Order hence the DOT cannot absolve from its liability of pension revision of the Applicants at par government pensioners.

24. That the contents of Paragraph 4.14of the 'reply to facts of the case' of the Counter Reply need no response. The Applicants reiterate the submissions made in the Original Application as well as hereinabove.

25. That the contents of Paragraph 4.15-16 of the 'reply to facts of the case' of the Counter Reply are a matter of record and need no response. The Applicants reiterate the submissions made in the Original Application as well as hereinabove.

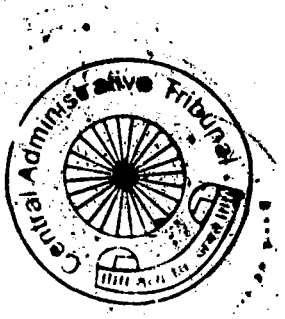
26. That the contents of Paragraph 4.17of the 'reply to facts of the case' of the Counter Reply are denied except what is matter of record. It is submitted that the submission of the Respondents that the provisions of Rule 37-A of CCS Pension Rules, 1972 and OM dated 05.07.1989 are the

same, is not entirely correct in as much as the latter deals with the pension on pro rata basis or lump sum pension for the service rendered in government before absorption while the former are the statutory rules that deal with combined pension of the pensioners for the service rendered in the Government as well as in the PSUs.

27. The contents of Paragraph 4.18of the 'reply to facts of the case' of the Counter Reply are vehemently denied except for what is a matter of record. The Applicants reiterate the submissions made in the Original Application as well as hereinabove.

28. The contents of Paragraph 4.19-4.28of the 'reply to facts of the case' are vehemently denied except for what is a matter of record. The Applicants reiterate the submissions made in the Original Application. At the sake of repetition, it is submitted that difference in IDA pay scales and CDA pay scales has no connection whatsoever in pension revision which is governed in terms of Rule 37-A of the CCS Pension Rules, 1972.

29. The contents of Paragraph 4.29-4.31of the 'reply to facts of the case' are a matter of record and need no response.



30. The contents of Paragraph 4.32-4.35of the 'reply to facts of the case' are a matter of record and need no response. The Applicants reiterate the submissions made in the Original Application.

31. The contents of Paragraph 4.36 of the 'reply to facts of the case' are a matter of record and need no response. The Applicants reiterate the submissions made in the Original Application.

32. The contents of Paragraph 4.37-4.40of the 'reply to facts of the case' are a matter of record and need no response. The Applicants reiterate the submissions made in the Original Application.

33. The contents of Paragraph 4.41-4.45of the 'reply to facts of the case' are denied except for what is a matter of record. The Applicants reiterate the submissions made in the Original Application.

34. The contents of Paragraph 4.46-4.50of the 'reply to facts of the case' are denied as being misleading. The Applicants reiterate the submissions made in the Original Application and hereinabove.

35. The contents of Paragraph 4.51-4.52 of the 'reply to facts of the case' are denied except for what is a matter of record.

The Applicants reiterate the submissions made in the Original Application.

36. The contents of Paragraph 4.53-4.57of the 'reply to facts of the case' are denied except for what is a matter of record. The Applicants reiterate the submissions made in the Original Application. It is submitted that pension revision is not implemented by the Respondents on the ground of an anomalous situation that would arise between pre- and post-2017 BSNL retirees wherein the absorbed employees who retire from BSNL after 01.01.2017 would receive less pension than those BSNL IDA pensioners who had retired before 01.01.2017. The Applicants reiterate that this anomaly can be rectified as mentioned hereinabove and the Respondents are merely using this as a ruse to avoid legitimate pension revision of the Applicants.

37. The contents to Paragraph 4.58-4.76of the 'reply to facts of the case' of the Counter Reply are denied except for what is a matter of record. The Applicants reiterate the submissions made in the Original Application.

REJOIDER TO REPLY TO GROUNDS

38. The contents of Paragraph 5.1-5.29 to the Counter Reply are denied except for what is a matter of record. The contents of

Central Administrative Tribunal

5-1 500/-

Para 5.1-5.29 of the 'Para wise reply of O.A.' are denied except for what is a matter of record. The Applicants reiterate the submissions made in the Original Application as well as hereinabove. The Applicants reiterate the grounds raised in the corresponding paragraph of the Original Application. It is submitted 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/MTNL 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. As such, the revision of pension/family pension and pay revision for the serving employees of BSNL/MTNL have no relation whatsoever in so far as the combined service BSNL/MTNL 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. Pertinently, 9 recommendations of the 7th Central Pay Commission namely, qualifying service for full pension, method of calculation of pension, family pension,

Central Administrative Tribunal

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 and 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/MTNL Pensioners, and therefore, cannot approbate and reprobate. It is also to be noted that with the introduction of the VRS scheme for downsizing BSNL/MTNL, almost 78,600 officers and employees have retired from BSNL on 31.01.2020. As such, even on a *demurrer*, if pension revision is linked to pay revision, with the downsizing of BSNL/MTNL, it is obvious that no pay revision would take place despite the 3rd PRC being implemented for other PSUs. There are only a handful of serving employees in BSNL/MTNL who were absorbed from DOT, and therefore, no officer or employee would be concerned with pension

Central Administrative Tribunal

revision since the BSNL/MTNL directly recruited officers and employees do not stand on the same pedestal as the BSNL/MTNL 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/MTNL since the employees and officers would not be entitled for it in any event on account of being recruited in BSNL/MTNL directly. Failure of Pay revision cannot be a ground to deny pension revision to the BSNL/MTNL 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/MTNL, be denied the pension revision akin to other government employees. The pension contribution of all the combined service BSNL/MTNL 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/MTNL and continued to remain in government service.

39. The contents of Para 6-12 of the 'Para wise reply of O.A.' need no response. The Applicants reiterate the submissions made in the Original Application as well as hereinabove.

40. In view of the foregoing, it is humbly submitted that the Original Application filed by the Applicants may be allowed directing the Respondents to revise the pension of the BSNL Combined service pensioners analogous and at par with the Central Government Servants based on the recommendations of the 7th Central Pay Commission w.e.f. 01.01.2017.

APPLICANTS

Through

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
05.03.2021

Central Administrative Tribunal

25- 504.

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

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, Gurgoen-122033, presently at New Delhi, 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 Storey, Ramesh Nagar, New Delhi-110015. I state that I am authorized to represent the Applicant No. 1 association and I am fully conversant with the facts of the accompanying Rejoinder and am competent to swear this Affidavit.
2. That I have read through the contents of the accompanying Rejoinder 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 8th day of March,2021.

DEPONENT

The Seal of Oath Commissioner 122/2019 Court 2021 House Court

Administrative Tribunal

I Identify the Deponent who has signed in my presence

05 MAR 2021

CERTIFIED THAT THE DEPONENT
Shri/Smt/Kum Girdhari Lal Jogi
S/o W/o
R/o..... O/S at compm 2
Identified by
has solemnly affirmed before me at delhi
once.....at Sl. No.....
that the contents of the affidavit which have been read & explained to me are true and correct to his Knowledge.

Oath Commissioner Delhi

05 MAR 2021

Gmail

Chambers of Gauri Puri <office@gpuri.in>

505.

Rejoinder in O.A No. 1272 of 2020 titled as All India Retired BSNL Executives Welfare Association & Ors. vs. Union of India & Ors.

1 message

Chambers of Gauri Puri <office@gpuri.in> 5 March 2021 at 14:24
To: raviadvocate.ravinder@gmail.com, sinhaadvocate@hotmail.com
Cc: Gauri Puri <gauri@gpuri.in>

Dear Sirs,

I write to you on behalf of the Applicants in the captioned matter in which Rejoinder is being filed to the Counter Reply of Respondents No. 1, 3 & 4.

Kindly acknowledge the present email as advance service of the Rejoinder that is attached along with this mail.

Should you require any clarification, please do not hesitate to contact me.

Warm Regards,

Gauri Puri & Amrita Singh
Advocates for the Applicants

Chambers of Gauri Puri
A-22, Ground Floor,
Defence Colony,
New Delhi- 110024
Mobile: +91 9899339554
Landline: 011-45094930

Disclaimer: This email is intended for the recipient(s) only and may contain confidential or privileged information. Please be aware that any disclosure, copying and distribution of this email is prohibited and enforceable by law. If you have received this message in error, please inform the sender as soon as possible and delete this copy from your inbox.

Rejoinder_O.A 1272-2020.pdf
2989K

Central Administrative Tribunal

506.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
M.A. NO. 76 OF 2021
IN
O.A. NO. 1272 OF 2020

IN THE MATTER OF:

ALL INDIA RETIRED BSNL EXECUTIVE
WELFARE ASSOCIATION & ORS. ...APPLICANTS

VERSUS

UNION OF INDIA & ORS. ...RESPONDENTS

NDOH: 08.03.2021

INDEX

S. No.	Particulars	Page(s)
1.	Reply on behalf of the Applicants to M.A. No. 76/2021 filed by Respondent No. 2 along with supporting Affidavit	1-10
2.	Proof of Service	11

Central Administrative Tribunal

APPLICANTS

Through

Amrita Singh
Gauri Puri & Amrita Singh
Advocates for the Applicants
A-22, Ground Floor,
Defence Colony
New Delhi – 110024
E-mail: gauri@gpuri.in
Phone: +91 9899339554

NEW DELHI
05.03.2020

Filed Today

507

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
M.A. NO. 76 OF 2021
IN
O.A. NO. 1272 OF 2020

IN THE MATTER OF:

ALL INDIA RETIRED BSNL EXECUTIVE
WELFARE ASSOCIATION & ORS. ...APPLICANTS

VERSUS

UNION OF INDIA & ORS. ...RESPONDENTS

REPLY ON BEHALF OF THE APPLICANTS TO THE MISCELLANEOUS APPLICATION NO. 76/2021 FILED BY RESPONDENT NO. 2 SEEKING DROPPING OF ITS NAME FROM THE ARRAY OF PARTIES

MOST RESPECTFULLY SHOWETH:

1. That the present Miscellaneous Application No. 76/2021 has been preferred by the Respondent No. 2 (BSNL) praying for dropping the name of BSNL from the array of parties from the present Original Application.

2. That the instant Original Application has been filed by the Applicants against the Respondents praying *inter alia* for following directions-

   (a) *Pass an Order directing the Department of Telecom 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 Telecom to revise the pension/ family pension/*

Central Administrative Tribunal

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 Telecom 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.*

3. The Applicants reiterated each and every averment made in the Original Application that are not being repeated herein for the sake of brevity.

4. At the outset, it is submitted that the contents of the Miscellaneous Application filed by the Respondent No. 2 are hereby denied, except where the same are specifically admitted hereunder. It is prayed that no averment contained therein may be deemed to be admitted merely by reason of specific non-transverse.

PRELIMINARY OBJECTIONS AND SUBMISSIONS

5. That BSNL has filed the present Miscellaneous Application primarily on the ground that no prayer is sought against BSNL and is therefore, not a necessary party in the present Original Application. For sake of convenience, the relevant portion of

paragraph 3 of the Miscellaneous Application is extracted hereunder for ready reference:

> *"...the Respondent No. 2, BSNL, in O.A./Applicant in the M.A. has been impleaded by the Applicants in O.A. without any cause of action against it in as much as no prayer has been made against the BSNL, the Respondent No. 2 in O.A and hence, the BSNL, the Respondent No. 2 in O.A is not a necessary party to the O.A."* (Emphasis Supplied)

6. Furthermore, at paragraph 5 of the Miscellaneous Application, BSNL stated that:

> *"...since BSNL is neither the pension paying authority nor the decision was taken by BSNL and the relief sought by the Applicants cannot be granted by the BSNL. The said decision was taken by the Union of India, the Respondent No.1 in the O.A. and hence the case is required to be defended by them only."*

7. In this regard, it is submitted that the Applicants are all erstwhile employees of Department of Telecommunication ("**DOT**") prior to the formation of BSNL and were subsequently absorbed into BSNL w.e.f. 01.10.2000. Upon absorption in BSNL till the time of their retirement, the Applicants were employees of BSNL. Therefore, the assertion that there is no cause of action against BSNL is misplaced. The presence of BSNL is indispensable for effective adjudication of the instant Original application which is not possible without the presence of BSNL as a party.

8. It is no longer res integra, that two tests are to be satisfied for determining the question that who amounts to a necessary party *viz.*:

Central Administrative Tribunal

(1) there must be a right to some relief against such party in respect of the controversies involved in the proceedings.

(2) no effective decree can be passed in the absence of such party.

9. It is submitted that while there is no relief sought against BSNL, in the absence of BSNL the relief claimed in the instant Original Application cannot be granted and no effective order can be passed or even executed.

10. This is in view of the following vital facts that have not been mentioned by BSNL in the Miscellaneous Application, although have been stated by the Applicant in the Original Application:

(a) At the time of absorption from DOT to BSNL, apart from other assurances, the Applicants 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

(b) In fact, as per Rule 37 A of the CCS Pension Rules 1972, BSNL 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.

(c) 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*) of CCS Pensioni Rules, 1972 is reproduced hereunder for ready reference (Annexure A-4 of the Original Applicant):

"(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.

Central Administrative Tribunal

(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, <u>in which case the pensionary benefits including family pension shall be paid by the Government.</u>***

(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.*

Central Administrative Tribunal

(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

The above has been categorically mentioned in paragraphs 4.15 & 4.16 of the Original Application as well.

11. Therefore, the assertion made by the Respondent No.2 that the Union of India in the present case has to defend the case is misleading in as much as BSNL was making the pension contribution to the Government and is therefore a necessary and proper party in the present Original Application.

12. What is more relevant is that in the event the relief sought by the Applicants is granted by this Hon'ble Tribunal, the implementation of the revised pension of the Applicants will involve BSNL, being the concerned PSU/employer of the Applicants and the last pay drawn by pensioners who retired post 01.01.2017 has to be fixed by BSNL only.

13. Notwithstanding the above, admittedly, pension revision has been delayed by DOT on the ground that it is linked with pay revision of BSNL employees, and would only be revised pursuant to pay revision. In view of this categorical stand of DOT (which

according to the Applicants is contrary to Rule 37A of CCS Pension Rules) BSNL a necessary and proper party in as much as pay revision is carried out by the PSU i.e. BSNL only.

14. Therefore, keeping in the view the role of the BSNL, the application of the BSNL for dropping the name from the array of parties should be dismissed.

PARAWISE REPLY

1. That the contents of paragraph 1 of an application are matter of record and need no response.
2. That the contents of paragraph 2 of an application are matter of record and need no response.
3. That the contents of paragraph 3 are denied as the same are incorrect. It is submitted that BSNL, being the former employer of the Applicants is responsible for making the pension contribution to the Government as per Rule 37 A of CCS (Pension) Rules, 1972. Therefore, the presence of BSNL is indispensable to the Original Application and effective adjudication of the Original Application is not possible without presence of BSNL as a party.
4. That the contents of paragraph 4 of an application are matter of record and need no response.
5. That the contents of paragraph 5 are denied as the same are incorrect. It is submitted that despite there being no direct relief sought in the prayer against BSNL, it is a necessary party for reasons stated above. Further, in the absence of BSNL no effective order can be passed.

Central Administrative Tribunal

515

6. In light of the foregoing, it is submitted that the instant application should be dismissed and this Hon'ble Tribunal be pleased to proceed ahead with the hearing of the matter.

7. The Applicants are all senior citizens seeking their pensionary benefits as assured at the time of their absorption in BSNL, and after spending years of service in BSNL, at this juncture, BSNL and the DoT cannot be permitted to resile from their assurances in denying the pensionary benefits to BSNL Pensioners/Family Pensioners.

APPLICANTS

Through

Amrita Singh

Gauri Puri & Amrita Singh
Advocates for the Applicants
A-22, Ground Floor,
Defence Colony
New Delhi – 110024
E-mail: gauri@gpuri.in
Phone: +91 9899339554

NEW DELHI
05.03.2020

Central Administrative Tribunal

516

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
M.A. NO. 76 OF 2021
IN
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

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, Gurgoen-122033, presently at New Delhi, do hereby solemnly affirm and declare as under:

3. That I am present General Secretary of Applicant no. 2 having its registered office at B-11/1, Double Storey, Ramesh Nagar, New Delhi-110015. I state that I am authorized to represent the Applicant No. 1 association and I am fully conversant with the facts of the accompanying Reply to the Miscellaneous Applicationand am competent to swear this Affidavit.

4. That I have read through the contents of the accompanying Reply to the Miscellaneous Applicationand 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 05th day of March, 2021.

05 MAR 2021

DEPONENT

The Seal of Oath Commissioner

Patiala House Court, New Delhi

Identified the Deponent who has signed in my presence

05 MAR 2021

CERTIFIED THAT THE DEPONENT Shri/Smt/Km. Girdhari Lal Jogi S/o W/o G/o D/o R/o GGS on Camping 2 Identified has solemnly affirmed before me at Delhi on 05/3/21 at Sl. No. 58/2 that the contents of the affidavit which have been read & explained to me are true and correct to his Knowledge.

Oath Commissioner Delhi

517

Gmail

Chambers of Gauri Puri <office@gpuri.in>

Reply to M.A 76/2021 in O.A No. 1272/2020 titled as All India Retired BSNL Executives Welfare Association & Ors. vs. Union of India & Ors

1 message

Chambers of Gauri Puri <office@gpuri.in> 5 March 2021 at 14:28
To: sinhaadvocate@hotmail.com
Cc: Gauri Puri <gauri@gpuri.in>

Dear Sir,

I write to you on behalf of the Applicants in the captioned matter in which Reply to M.A 76/2021 is being filed.

Kindly acknowledge the present email as advance service of the Reply that is attached along with this mail.

Should you require any clarification, please do not hesitate to contact me.

Warm Regards,

Gauri Puri & Amrita Singh
Advocates for the Applicants

--
Chambers of Gauri Puri
A-22, Ground Floor,
Defence Colony,
New Delhi- 110024
Mobile: +91 9899339554
Landline: 011-45094930

Disclaimer: This email is intended for the recipient(s) only and may contain confidential or privileged information. Please be aware that any disclosure, copying and distribution of this email is prohibited and enforceable by law. If you have received this message in error, please inform the sender as soon as possible and delete this copy from your inbox.

Reply to M.A 76-2021.pdf
1281K

Central Administrative Tribunal

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

518

IN THE MATTER OF:

1. **O.A. No. 1272 OF 2020**

ALL INDIA RETIRED BSNL EXECUTIVES WELFARE ASSOCIATION & ORS. ...APPLICANTS

VERSUS

UNION OF INDIA & ORS. ...RESPONDENTS

2. **O.A. No. 1271 OF 2020**

RETIRED TELECOM OFFICERS WELFARE ASSOCIATION NEW DELHI & ORS. ...APPLICANTS

VERSUS

UNION OF INDIA & ORS. ...RESPONDENTS

3. **O.A. No. 1329 OF 2020**

ALL INDIA BSNL PENSIONERS' WELFARE ASSOCIATION & ORS. ...APPLICANTS

VERSUS

UNION OF INDIA & ORS. ...RESPONDENTS

CONVENIENCE COMPILATION ON BEHALF OF THE PARTIES

INDEX

S. No.	Particulars	*Annexure in O.A./Counter*	Page(s)
1.	**ANNEXURE -1** A true copy of the Office Memorandum Dated 05.07.1989 issued by the Department of Pension and Pensionary Welfare (DOP&PW)	*O.A. No. 1272/2020 Ann. A-1*	1-3
2.	**ANNEXURE -2** A true copy of the Note for the Cabinet dated 25.09.2000 prepared by the DOT	*O.A. No. 1272/2020 Ann. A-2*	4

Central Administrative Tribunal

461

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

IN THE MATTER OF:

1. **O.A. No. 1272 OF 2020**

ALL INDIA RETIRED BSNL EXECUTIVES WELFARE ASSOCIATION & ORS. ...APPLICANTS

VERSUS

UNION OF INDIA & ORS. ...RESPONDENTS

2. **O.A. No. 1271 OF 2020**

RETIRED TELECOM OFFICERS WELFARE ASSOCIATION NEW DELHI & ORS. ...APPLICANTS

VERSUS

UNION OF INDIA & ORS. ...RESPONDENTS

3. **O.A. No. 1329 OF 2020**

ALL INDIA BSNL PENSIONERS' WELFARE ASSOCIATION & ORS. ...APPLICANTS

VERSUS

UNION OF INDIA & ORS. ...RESPONDENTS

CONVENIENCE COMPILATION ON BEHALF OF THE PARTIES

INDEX

S. No.	Particulars	*Annexure in O.A./Counter*	Page(s)
1.	**ANNEXURE -1** A true copy of the Office Memorandum Dated 05.07.1989 issued by the Department of Pension and Pensionary Welfare (DOP&PW)	*O.A. No. 1272/2020* *Ann. A-1*	
2.	**ANNEXURE -2** A true copy of the Note for the Cabinet dated 25.09.2000 prepared by the DOT	*O.A. No. 1272/2020* *Ann. A-2*	4-7

Central Administrative Tribunal

- 3 FEB 2023

96

3.	**ANNEXURE -3** A true copy of the Office Memorandum dated 30.09.2000 issued by Department of Telecommunication Services	*O.A. No. 1272/2020 Ann. A-3*	**8-31**
4.	**ANNEXURE -4** A true copy of Rule 37A of the CCS (Pension) Rules, 1972 as amended	*O.A. No. 1272/2020 Ann. A-4*	**32-35**
5.	**ANNEXURE -5** A true copy of the circular dated 09.11.2000 issued by the DOT	*O.A. No. 1272/2020 Ann. A-5*	**36**
6.	**ANNEXURE -6** A true copy of the order dated 14.01.2002 issued by BSNL calling for options	*O.A. No. 1272/2020 Ann. A-4*	**37-43**
7.	**ANNEXURE-7** A true copy of Presidential Orders dated 15.01.2002 for absorption of the Applicant Nos.2 and 4 in BSNL along with typed copy	*O.A. No. 1329/2020 Ann.A-2 Ann.A-3*	**44-50**
8.	**ANNEXURE-8** A true copy of OM dated 20.12.2002 of the Department of Pension & Pensioners' Welfare	*O.A. No. 1329/2020 Ann. A-10*	**51**
9.	**ANNEXURE-9** A true copy of OM dated 01.09.2008 of the Department of Pension & Pensioners' Welfare without Annexures	*O.A. No. 1329/2020 Ann. A-16 (Colly)*	**52-56**
10.	**ANNEXURE-10** A true copy of OM dated 02.09.2008 of the Department of Pension & Pensioners' Welfare without Annexure	*O.A. No. 1329/2020 Ann. A-16 (Colly)*	**57-62**
11.	**ANNEXURE-11** A true copy of OM dated 27.04.2009 of the Department of Pension & Pensioners' Welfare alongwith typed copy	*O.A. No. 1329/2020 Ann. A-17*	**63-65**
12.	**ANNEXURE-12** A true copy of Circular dated 04.05.2009 of Department of Telecommunications	*O.A. No. 1329/2020 Ann. A-18*	**66**
13.	**ANNEXURE-13** A true copy of Circular dated 12.08.2009 of Department of Telecommunications	*O.A. No. 1329/2020 Ann. A-19*	**67-68**
14.	**ANNEXURE-14** A true copy of Cabinet Note dated 29.12.2010	*O.A. No. 1329/2020 Ann. A-23*	**69-106**

Central Administrative Tribunal

15.	**ANNEXURE-15** A true copy of OM dated 15.03.2011 of Department of Telecommunications	*O.A. No. 1329/2020 Ann. A-24*	**107-113**
16.	**ANNEXURE-16** A true copy of Clarification dated 23.06.2011 of Department of Telecommunications	*O.A. No. 1329/2020 Ann. A-25*	**114**
17.	**ANNEXURE-17** A true copy of the Gazette notification dated 21.12.2012	*O.A. No. 1272/2020 Ann. A-17*	**115-124**
18.	**ANNEXURE-18** A true copy of letter dated 20.02.2014 of Department of Telecommunications	*O.A. No. 1329/2020 Ann. A-34*	**125**
19.	**ANNEXURE-19** A true copy of the Gazette Notification dated 03.03.2014 issued by the Department of Pension, Public Grievances and Pensions	*O.A. No. 1271/2020 Ann. A-20*	**126-128**
20.	**ANNEXURE-20** A true copy of the Office Memorandum No. 42-4/2012- Pen (T) dated 28.04.2014 issued by DOT	*O.A. No. 1271/2020 Ann. A-21*	**129-134**
21.	**ANNEXURE-21** A true copy of Order No. 40-13/2013- Pen(T) dated 20.07.2016	*O.A. No. 1272/2020 Ann. A-20*	**135-139**
22.	**ANNEXURE-22** A true copy of OM dated 04.08.2016 of the Department of Pension & Pensioners' Welfare	*O.A. No. 1272/2020 Ann. A-21*	**140-144**
23.	**ANNEXURE-23** A true copy of the clarification dated 16.03.2017 issued by DOT	*O.A. No. 1272/2020 Ann. A-23*	**145-146**
24.	**ANNEXURE-24** A true copy of order dated 21.03.2017 of BSNL	*O.A. No. 1272/2020 Ann. A-24*	**147**
25.	**ANNEXURE-25** A true copy of OM dated 12.05.2017 of the Department of Pension & Pensioners' Welfare	*O.A. No. 1272/2020 Ann. A-25*	**148-153**
26.	**ANNEXURE-26** A true copy of OM dated 03.08.2017 of the Department of Public Enterprises	*O.A. No. 1329/2020 Ann.A-22*	**154-174**
27.	**ANNEXURE-27** A true copy of letter dated 23.10.2017 issued by the Minister of State for Communications	*O.A. No. 1271/2020 Ann. A-35*	**175-177**

Central Administrative Tribunal

28.	**ANNEXURE-28** A true copy of OA No.180/346/2018 dated 08.04.2018 filed by Applicant No.1 before CAT, Ernakulam	*O.A. No. 1329/2020 Ann. A-53*	**178-179**
29.	**ANNEXURE-29** A true copy of the letter dated 13.06.2018 issued by the Minister of State for Communication	*O.A. No. 1271/2020 Ann. A-38*	**190-191**
30.	**ANNEXURE-30** A true copy of the response dated 04.07.2018 by the Ministry of Personnel, Public Grievance and Pensions	*O.A. No. 1271/2020 Ann. A-39*	**192-202**
31.	**ANNEXURE-31** A true copy of the response by DOT dated 13.07.2018	*O.A. No. 1272/2020 Ann. A-31*	**203-206**
32.	**ANNEXURE-32** A true copy of the Counter Affidavit dated September, 2018 filed in OA No.180/346/2018	*O.A. No. 1329/2020 Ann.A-54*	**207-221**
33.	**ANNEXURE-33** A true copy of the representation dated 04.09.2018 made to the DOT by all India Retired BSNL Executives Welfare Association	*O.A. No. 1272/2020 Ann. A-32*	**222**
34.	**ANNEXURE-34** A true copy of order dated 30.10.2018 OA. NO. 346/2018 Passed by Hon'ble Central administrative Tribunal Ernakulam Kerala	*Counter Reply in O.A. No. 1272/2020 Ann. R-1*	**223-232**
35.	**ANNEXURE-35** A true copy of order dated 10.12.2018 OA. NO. 813/2017 Passed by Hon'ble Central administrative Tribunal Hyderabad Bench, Hyderabad	*Counter Reply in O.A. No. 1272/2020 Ann. R-2*	**233-238**
36.	**ANNEXURE-36** A true copy of order dated 11.01.2019 RA. NO. 02/2019 Passed by Hon'ble Central administrative Tribunal Hyderabad Bench, Hyderabad	*Counter Reply in O.A. No. 1272/2020 Ann. R-3*	**239-242**
	ANNEXURE-37 A true copy of representation dated 12.02.2019 of the Committee of BSNL/MTNL Pensioners' Association to the Department of Pension and Pensioners' Welfare which includes Applicant No.1 Association	*O.A. No. 1329/2020 Ann. A-46*	**243-244**

38.	**ANNEXURE-38** A true copy of the OM dated 08.03.2019 issued by the DOPT&PW	*O.A. No. 1272/2020 Ann. A-34*	**245**
39.	**ANNEXURE-39** A true copy of the letter dated 31.01.2019 from AUAB addressed to the Secretary, Dept of Telecom	*O.A. No. 1272/2020 Ann. A-35*	**246-248**
40.	**ANNEXURE-40** A true copy of representation dated 05.07.2019 of the All India BSNL Pensioners' Welfare Association	*O.A. No. 1329/2020 Ann. A-49*	**249-250**
41.	**ANNEXURE-41** A true copy of representation dated 16.07.2019 of the Committee of BSNL / MTNL Pensioners' Associations which includes the Applicant Association	*O.A. No. 1329/2020 Ann. A-47*	**251-252**
42.	**ANNEXURE-42** A true copy of judgment dated 13.11.2019 of the Hon'ble High Court of Kerala at Ernakulam in OP (CAT) No.63 of 2017 (Z) (*Abdul Rasheed AA & Ors. v Union of India & Ors.*)	*O.A. No. 1329/2020 Ann. A-51*	**253-285**
43.	**ANNEXURE-43** A true copy of the representation dated 18.11.2019 issued by the All India Retired BSNL Executives Welfare Association	*O.A. No. 1272/2020 Ann. A-37*	**286-288**
44.	**ANNEXURE-44** A true copy of the representation dated 27.01.2020 issued by Sanchar Nigam Pensioners' Welfare Association	*O.A. No. 1272/2020 Ann. A-38*	**289-291**
45.	**ANNEXURE-45** A true copy of the response of the unstarred Question No. 2950 and the answer dated 11.03.2020	*O.A. No. 1272/2020 Ann. A-39*	**292**
46.	**ANNEXURE-46** A true copy of order dated 13.07.2020 of the Hon'ble High Court of Kerala at Ernakulam in OP (CAT) No.60 of 2020	*O.A. No. 1329/2020 Ann. A-55*	**293**

Central Administrative Tribunal

Filed by

Ms. Gauri Puri, Advocate
Applicant

Address: 13C, Sulabh Dev Vihar
New Delhi, 110025

(M) 9899339554

Counsel for Applicant

ANNEXURE

524

No.4/18/87-P&PW (D) ANNEXURE-A-1
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Pension & Pensioners' Welfare)

6th Floor, Nirvachan Sadan
New Delhi, dated the 5th July, 1989

OFFICE MEMORANDUM

Subject:- Settlement of pensionary terms etc., in respect of Government employees transferred en masse to Central Public Sector Undertakings/Central Autonomous bodies.

The undersigned is directed to refer to this Department's Office Memorandum No. 4(8)/85-P&PW dated 13th January 1986 and Office Memorandum of even number dated 30th October, 1986 on the above subject. The question of settlement of pensionary terms on conversion of a Government Department or a segment thereof or a Government office into a Central Public Sector Undertaking/autonomous body has been reviewed in the light of the recommendations of the Committee of the National Council (JCM). The President is now please to decide that, in a partial modification of above mentioned Office Memoranda, the following terms and conditions will be applicable in the case of en masse transfer of employees:

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

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

c) The permanent Government servants with less than 10 years service, quasi permanent employees and temporary employees who opt for the rules of the PSU/Autonomous Body shall be entitled to an amount equal to Provident Fund contribution for the period of their service under the Government upto the date of permanent absorption in the PSU/Autonomous Body with simple interest at 6% per annum as opening balance in their CPF account with the Public Sector Undertaking/Autonomous Body.

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

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

ii) Where the employees opt in favor of monthly payment of pro-rata pension, the same shall be allowed to be drawn with effect from the date of permanent absorption in a

Central Administrative Tribunal

TRUE COPY

PSU/Autonomous Body. No part of pro-rata pension will be allowed to be commuted either at the time of permanent absorption or any time thereafter.

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

iv) In the case of employees covered by clause (ii), the retirement gratuity and for those covered by clause (iii) above, both retirement gratuity as well as lumpsum commuted value shall be paid on the expiry of a period of 7 years from the date of permanent absorption. The amounts, however, can be paid earlier in the event of death/retirement/resignation/discharge from service.

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

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

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

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

5. Dismissal/removal from the service of a PSU/Autonomous Body after absorption for any subsequent misconduct shall not amount to forfeiture of his retirement benefits for the service rendered in the Central Government. Also in the event of dismissal/removal of a transferred employees from the PSU/autonomous body, the employee concerned will be allowed protection to the extent that the administrative Ministry/Department will review order before taking a final decision.

6. The other terms and conditions stipulated in Department's Office Memoranda dated 13th January 986 and 30th October, 1986 referred above, which have not been specifically modified, will continue to remain operative.

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

8. In their application to the employees serving in the Indian Audit & Accounts Department, these orders issue in consultation with the Comptroller & Auditor General of India.

TRUE COPY

Central Administrative Tribunal

B26.

9. Hindi version will follow.

Sd/-
(Ashish Kumar)
Dy. Secretary to the Government of India

To

All Ministries/Departments of the Government of India

ANNEXURE 92

ANEXURE-A-2

To CM 29-10-2014

SECRET
Copy No.

No.2-2/99-Restg.(Vol.I)
Government of India
Ministry of Communications
Department of Telecom Services

New Delhi, the 25th September 2000

NOTE FOR THE CABINET

Subject: Approval for HRD and financial issues arising out of the corporatisation of the Department of Telecom Services and of the Department of Telecom Operations.

****

1. Introduction

1.1 Commencement of business with effect from 1st October, 2000 is to take place by the corporate entity Bharat Sanchar Nigam Ltd. - BSNL (being set up by corporatisation of the Department of Telecom Services and Department of Telecom Operations).

1.2 This Note is being submitted to seek approval of the Cabinet to the HRD and financial issues related to corporatisation.

2. Present structure of DTS/DTO

2.1 The Department of Telecom Operations (DTO) operates telegraph/telecom services throughout the length and breadth of the country, except telecom services in the metropolitan areas of Mumbai and Delhi.

2.2 As on 31st August 2000, about 23.8 million lines are operational, with about 20% of them working in rural/remote areas of the country. To support this network, 29.22 million lines switching capacity, 2 million lines of Trunk Automatic Exchange capacity, 1,85,000 route kilometers of optical fibre cable systems, 1,60,000 route kilometers of microwave system, and about 416 satellite stations are operational. In addition, about 3.78 lakh villages out of a total of over 6 lakh villages have been covered with village public telephones.

SECRET

TRUE COPY

Central Administrative Tribunal

2.3 This vast network is managed and operated through 20 territorial circles, two metro districts, four project circles, four maintenance regions, and supported by specialized telecom units (Telecommunications Engineering Centre, Quality Assurance etc.), over forty training institutions, and other units such as Telecom Factories, Telecom Stores etc. There are about 3.63 lakh employees in the three Departments of DoT/DTS/DTO of which about 2.66 lakh belong to Group 'C', 0.73 lakh to Group 'D', 18,000 to Group 'B' and about 5,440 to Group 'A'.

2.4 The corporatisation of DTS/DTO involves transfer of officers and staff engaged in service providing functions initially on deemed deputation basis without deputation allowance, and the transfer of complex operations spread throughout the country, evolved over the years and encompassing a spectrum of technologies, to the new corporate entity Bharat Sanchar Nigam Ltd (BSNL). BSNL would also be the successor organisation to DTS/DTO, and accordingly all contracts, legal issues etc. would need to be transferred from DTS/DTO to BSNL through appropriate measures. The assets and liabilities are proposed to be transferred at a provisional value, and through appropriate Government orders. The staff are proposed to be transferred on as is where is basis on deemed deputation without deputation allowance. This will necessarily involve decisions on a number of HRD, financial and operational issues, as given in the succeeding paras.

3. Background and Cabinet approval to certain issues related to legal status etc.

3.1 In connection with the launching of BSNL on 1st October 2000, the Cabinet in its meeting on 31st August 2000 had approved the following proposals (as contained in DoT's Cabinet Note dated 17th August):-

(i) The corporate entity be incorporated as a public limited company under the Companies Act 1956. The name of the corporate entity will be "Bharat Sanchar Nigam Limited" as already announced by the Prime Minister.

(ii) The registered and corporate offices of the corporate entity be in New Delhi.

(iii) The authorised share capital of the corporate entity be Rs.10,000 crores (Rupees Ten Thousand crores), and its paid up share capital be Rs.5,000 crores (Rupees Five Thousand crores). The value of each share be kept at Rs.10/- (Rupees Ten).

TRUE COPY

(iv) Keeping in view the time limit of 1.10.2000, the Telecom Commission may be authorised to approve the Memorandum of Association and Articles of Association and take the requisite procedural steps to get the corporate entity incorporated well before 1.10.2000.

3.2 Further action had accordingly been taken in pursuance of the above Cabinet approval. BSNL has since been incorporated, and has also obtained from the Registrar of Companies the certificate for commencement of business.

3.3 It had also been mentioned in para 9.1 of DoT's Cabinet Note dated 17th August that in connection with corporatisation, a number of financial and personnel related issues would also need to be finalised, and that it was proposed to seek Cabinet approval on these issues around mid September, based on examination of Vol.I of the Final Report of the Consultants.

3.4 The said report has since been received and examined, particularly with reference to the financial analysis of the corporate entity done by the consultants, and their recommendations thereon. Accordingly, this Cabinet Note is being submitted to seek approval on the HRD and financial issues.

4. HRD Issues

4.1 With over 3.63 lakh employees working in the three Departments having a large number of unions and associations representing various segments of employees and officers, the HRD dimension assumed significant importance. In connection with corporatisation concern was expressed by the unions/associations representing various segments of employees and officers that their interests will be adversely affected on corporatisation, and also that the corporate entity will not be financially viable.

4.2 The decision of the Government in June 2000 to achieve the corporatisation by 1.10.2000 activated all federations, staff unions of Group 'C' & 'D' and associations of Group 'A' & 'B' to put forth demands pertaining to their respective cadres/categories to be settled before corporatisation. A large number of these required interaction with, and approval of, other Ministries such as DoP&T, Department of Expenditure, Ministry of Finance, Ministry of Labour etc. For examining and settling these issues, the Government constituted in pursuance of a Cabinet meeting held on 24.6.2000 a Group of Ministers under the chairmanship of Minister of Communications with Finance Minister, Minister of HRD, Minister of Commerce and Industries, Minister of Labour and Minister of State for Personnel and Training as its Members. The GOM has already met six times.

TRUE COPY

Central Administrative Tribunal

4.3 The concerns expressed by the employees and officers can broadly be categorized into three. The first category relates to those issues which various categories of employees wanted to be settled before corporatisation. The second category broadly covers issues relating to their terms and conditions of service on corporatisation including their retirement benefits, and the third concern related to the viability of the corporate entity.

4.4 The main issues raised by the representatives of the Employees Federations representing Group 'C' & 'D' related to pension and retirement benefits, job security and financial viability of the corporate entity. A large number of other grievances/demands had also been raised, many of which were internal to the Department. Most of these have been resolved.

In relation to pension and retirement benefits, a framework has been approved on the basis of decisions taken by the GOM which is at Annexure-I. The salient features are given below:-

Pension and Retirement benefits

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

(ii) Technical resignation will not be required.

(iii) Payment of pension would be made by Government.

(iv) Arrangements would be worked out for obtaining pension contribution from the PSU to be deposited with the Government.

(v) Facility to carry over Earned Leave and Half Pay Leave would be provided.

(vi) The pension framework has been made part of the CCS Pension Rules by amending Rule 37 using powers under Article 309 of the Constitution of India.

Job Security

4.5 Any order of removal/dismissal from the PSU would be reviewed by the Administrative Ministry.

TRUE COPY

ANNEXURE

96

531

ANNEXURE-A-3

No.2-29/2000-Restg.
Government of India
Ministry of Communications
Department of Telecommunication Services

New Delhi, the 15th September, 2000

OFFICE MEMORANDUM

Subject:- Setting up of Bharat Sanchar Nigam Limited – transfer of staff – orders issued – regarding

In pursuance of New Telecom Policy 1999, the Government of India has decided to corporatise the service provision functions of Department of Telecommunications (DoT). Accordingly, the undersigned is directed to state that the Government of India has decided to transfer the business of providing telecom services in the country currently run and executed with the Department of Telecom Services(DTS) and the Department of Telecom Operations(DTO) as was provided earlier by the Department of Telecommunications to the newly formed Company viz., Bharat Sanchar Nigam Limited (the Company) with effect from 1st October 2000. The Company has been incorporated as a company with limited liability by shares under the Companies Act, 1956 with its registered and corporate office in New Delhi.

2. The Department of Telecom Services and Department of Telecom Operations concerned with providing telecom services in the country and maintaining the telecom network/telecom factories were separated and carved out of the Department of Telecommunications as a precursor to corporatisation. It is proposed to transfer the business of providing telecom services and running the telecom factories to the newly set up Company, viz. , Bharat Sanchar Nigam Limited w.e.f. 1st October 2000. The Government has decided to retain the functions of policy formulation, licencing, wireless spectrum management, administrative control of PSUs, standardisation & validation of equipment and R & D etc. These would be responsibility of Department of Telecommunications (DoT) and Telecom Commission. As such, administrative department for Bharat Sanchar Nigam Limited would be the Department of Telecommunications(DoT).

3. The assets and liabilities of the present Department of Telecom. Services and Department of Telecom. Operations which earlier formed part of DoT will be transferred for this purpose by a separate order.

4. Since it will take some time for the new Company to finalise the terms and conditions for staff and to give an opportunity to Officers, staff, employees and industrial workers working in various circles/offices/units for exercising their options to join the newly created Company, it has been decided

True COPY

Central Administrative Tribunal

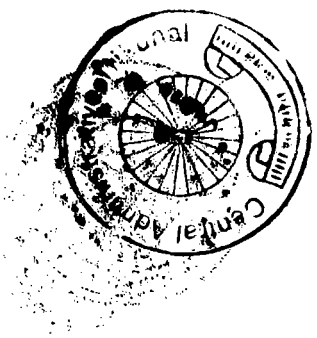
... interim arrangements for smooth transfer of ... and operations to the new company:-

The establishment (officers, staff, employees and industrial workers) sanctioned for exchanges/offices, in various telecom circles, metro districts of Calcutta and Chennai, project circles, civil, electrical and architectural wings, maintenance regions, specialised telecom. units namely Data Networks, National Center for Electronic Switching, Technical and Development circle, Quality Assurance circle (except TEC), training institutions, other units like telecom factories, stores and electrification projects of DoT/DTS/DTO (belonging to various organized services and cadres given in Annexure A to this letter) and posted in these circles/offices/units will stand transferred to Bharat Sanchar Nigam Limited alongwith their posts on existing terms and conditions, on as is where is basis, on deemed deputation, without deputation allowance, with effect from 1st October 2000, i.e., the date of taking over of telecom. operations by the Company from DTS & DTO. Bharat Sanchar Nigam Ltd. will exercise overall and supervision of staff working against these posts.

(v) The organizational structure of restructured Department of Telecommunications (DoT) is given at Annexure 'B' (Styles I to IV giving postwise) to be retained in DoT and to be transferred to BSNL. Consequent to residual work of DTS and DTO being transferred to DoT, it will continue to do the work allocated under Allocation of Business Rules. The officers and staff, presently working in these posts will continue to work, until further orders, in their existing posts under DoT and all other officers and staff will stand transferred alongwith their posts on existing terms and conditions, on as is where is basis, on deemed deputation, without deputation allowance, w.e.f. 1.10.2000 to the Company.

(vi) The Telecom Engineering Centre(TEC), Centre for Development of Telematics(C-DOT), Wireless Planning and Coordination(WPC) and Wireless Planning Organisation(WPO) will remain with the Government under the control of the Department of Telecommunications. An expert committee will be constituted for distribution of work of TEC between DoT and the Company. Subsequently, as per the report of the expert committee, allocation of staff will be done accordingly.

(vii) Officers and staff belonging to various Central Secretariat Services mentioned in Annexure A) providing services to offices/units being transferred to the Company will stand transferred alongwith their posts, on as is where is basis on deemed deputation, without



TRUE COPY

deputation allowance, w.e.f. 1.10.2000 to the Company on existing terms and conditions of service. Further orders in the matter would be decided by DoT in consultation with DoPT which is the cadre controlling authority of CSS.

(v) Officers and staff shall continue to be subject to all rules and regulations as are applicable to Government servants, including the CCS (CCA) Rules till such time as they are absorbed finally by the Company after they exercise their options. Their pay scales, salaries and allowances will continue to be governed by existing rules, regulations and orders.

(vi) The management of Bharat Sanchar Nigam Limited shall have the powers and authority to effect transfers of all the staff at all levels working under it.

(vii) Bharat Sanchar Nigam Limited will be competent to create posts as per norms adopted by it, however, it will seek prior approval of the Government for appointments to higher level posts as per provisions of Article 144(1) of its Articles of Association.

(viii) Instructions regarding appointing and disciplinary authorities for employees working on deemed deputation and disposal of pending disciplinary and vigilance cases will be issued separately.

(ix) Regarding pension, gratuity and retiral benefits separate guidelines and order will be issued.

3. These orders will come into effect from 1st October 2000.

(VINOD VAISH)
Secretary to the Government of India

1. The Secretary, DoT and Chairman Telecom Commission.
2. The Secretary, DTS.
3. The Secretary, DPTO and Member(Policy) Telecom Commission.
4. Member(Finance) Telecom Commission.
5. Member(Services) Telecom Commission.
6. Member(Technology) Telecom Commission.
7. Additional Secretary(T) and Secretary Telecom Commission
8. Joint Secretary(T), DoT.
9. Joint Secretary(A), DoT.

TRUE COPY

Central Administrative Tribunal

DS) Corporatisation (DoT) with request to bring it to the notice of the Board of Directors of Bharat Sanchar Nigam Limited.

11. All Chief General Managers of Telecom Circles, Metro Districts, Project Circles, Maintenance Regions, Telecom Stores, Railway Electrification Projects with request to communicate these orders to all units working under their administrative control.

12. All Principal Chief Engineers / Chief Engineers – Civil and Electrical Wings with request to communicate their orders to all units working under their administrative control.

13. Chief Architects – Chennai, Calcutta and Mumbai, with request to communicate these orders to all units working under their administrative control.

14. All Chief General Managers – Telecom Finance, with request to communicate these orders to all units working under their administrative control.

15. Sr.DDG(HRD)

16. Sr.DDG(CFB/PLANNING/REFORMS)

17. Sr.DDG(BW) – with request to communicate these orders to all PSUs working under their administrative control.

18. Sr.DDG(IC&S)

19. Executive Director vs, CVO,DOT.

20. Sr.DDG(Vigilance), DoT

21. DDG(Pers.)

Copy to:-

1. PS to Minister of Communications
2. PS to Minister of State for Communications
3. All Advisers, DoT.

Copy also to:-

1. Bharat Sanchar Nigam Limited.

TRUE COPY

Organisational Structure of Department of Telecommunications
(w.e.f. 1st October 2009)

TABLE - I

Table I	Posts being retained in DoT					
		Directors				
Designation	Unit	I	II	III	IV	V
Secretary(DOT)	DOT	OSD				
Member (T)	DOT					
Member (F)	DOT					
Member (S)	DOT					
Member (S)	DOT					
Addl. Secretary(T)	DOT					
Joint Secretary(T)	DOT	DS(R)				
Joint Secretary(A)	DOT	DP&PR	AS-I	DS(T)	DL	DS(A)
Legal Advisor	DOT	DLA				
Advisor(S)	DOT					
Advisor(T)	DOT					
Advisor(F)	DOT	FC				
Advisor(T)	DOT					
Advisor (DG)	DOT					
Sr. DDG(LTF)	DOT	OF	SAT/RN	Comp. II		
Sr. DDG(M)	DOT	SU	SU-I	SU-II		
Sr. DDG(S)	DOT	RS				
Sr. DDG(T, F)	DOT		T-IV			
Sr. DDG(V&D)	DOT	VM	V Tech	VGT	VE	
DDG(SS)	DOT	SS-I	SS-II	SS-III		
DDG(CAP)	DOT					
DDG(SAF)	DOT		SFA-I			
DDG(ERU)	DOT	ERU				
DDG(Estt.)	DOT	MPP	EST			
DDG(IP)	DOT	IP	IP			
DDG(LF)	DOT	LF				
DDG(LR)	DOT	LR-I	LR-II			
DDG (PIP)	DOT	PIP	DS			
DDS(PG)	DOT	PG				
DDG(SR)	DOT	SR				
DDG(VAS)	DOT	VAS-I	VAS-II	VAS-III		
DDG(WPF)	DOT					

TRUE COPY

A. List of cadres in the various entities of the Field Units of DTS/DTO.

1. Indian Telecommunication Service Group 'A'
2. Indian P & T AFS Group 'A'
3. P & T Building Works Service [Civil, Architectural and Electrical Disciplines] – Group 'A'
4. Group 'A' GCS of Telecom Factories Organisation
5. Telegraph Traffic Service Group 'A'
6. GCS Group 'A' Gazetted Ministerial
7. GCS Group 'A' Gazetted Non-Ministerial
8. GCS Group 'B' Gazetted Ministerial
9. GCS Group 'B' Gazetted Non-Ministerial
10. Telecom Engineering Services Group 'B'
11. Telegraph Traffic Service Group 'B'
12. GCS Group 'B' Gazetted of Telecom Factories Organisation [As Ex, Metallurgists ,Chemists, PerSonnel Officers, St.Security Officers etc.]
13. P & T Civil Wing Group 'B' – This also includes Civil, Electrical and Architectural Wings.
14. P & T AFS Group 'B' (Telecom Wing) (SrAO, AO, AAO & JAO)
15. Official Language Cadre (Gazetted) of field units of DTS/DTO
16. Stenographers Cadre(Gazetted) of field units of DTS/DTO
17. GCS Group 'C' Non-Gazetted Ministerial
18. GCS Group 'C' Non-Gazetted Non-Ministerial
19. Other Group 'C' operative/technical cadres of DTS/DTO
20. Other Group 'C' non-operative cadres of DTS/DTO
21. Other Group 'D' operative cadres of DTS/DTO
22. Other Group 'D' non-operative cadres of DTS/DTO.
23. Any other grade/cadre/service which is not covered above.

B. In addition to the various cadres/grades of above cited list working in the headquarters of the DTS/DTO, following various cadres/grades controlled by Administrative Branch, according to the placement in the entities will also stand transferred to the Company, alongwith their posts, on as is where is basis, on deemed deputation basis, without deputation allowance as per GOI guidelines given in Annexure 'E'.

1. Central Secretariat Service
2. Central Secretariat Stenographers Service
3. Central Secretariat Clerical Service
4. General Central Service Group 'A' Gazetted Ministerial and Non-Ministerial, Group 'B' Gazetted and Non-Gazetted Ministerial and Non-Ministerial and Group 'C' and Group 'D'- Ministerial and Non-Ministerial

TRUE COPY

102 537

TABLE S - II

Cadre II	Posts being transferred to HSHL					
		Directors				
Designation	Unit	II	III	IV	V	
DDG(Arch.)	CE	Arch.				
DDG(B&W)	CE	B&W	CS(Hons.)	Chief		
DDG(CS)	CE	CS-I	CS-II	P.E.		
DDG(E&M)	CE	E&M	E&M(SD)			
DDG(HSE)	CE	HSE	MSE	CSE	MC	
DDG(NW/WSE)	CE	NW-II	WSE			
DDG(PC)	CE	PC				
DDG(TR-I)	CE	TR-I	TR-II			
DG(BW)	CE	Legal	ES-I	ES-II	SW	TF
DDG(TA)	CE	IT	OP	TAC	SBP	LTP
DDG(IC-I)	CE	IC-I	IC-II	Tele. E	SE&TI	
DDG(FA-I)	CE	FA-I	FA-II			
DDG(PFC)	CE	PFC				
DDG(IT)	CE	Contr. I				
DDG(FPC)	CE	FA-II	Costing	T&C	FA-I	
DDG(MM)	CE	MMC	MMD			
DDG(MIS)	CE	MIS	MMT			
DDG(WE)	CE	MIS	WLI			
DDG(NE)	CE	MIS				
DDG(PE)	CE	TE	ST-II	Wt. &Seats		
DDG(PF)	CE	F-III	F-IV			
DDG(REG)	CE	REG-I	REG-II			
DDG(RM)	CE	OP	RDTF			
DDG(SA-I)	CE	SAT	MOCC			
DDG(TRG)	CE	CE&WP	TDTF	TRG		
DDG(TS)	CE	TSO	TSP			

7

TRUE COPY

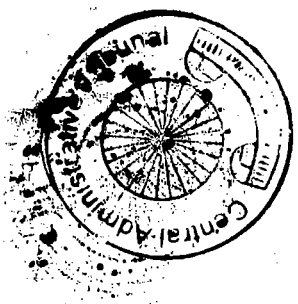
Central Administrative Tribunal

ANNEXIA

TABLE - III

Table III		LIST OF ADoG AND SECTIONS BEING RETAINED UNDER DOT				
Cadre	No. ADoG	S-I	S-II	S-III	S-IV	S-V
Admn.	3	A-I	A-II	A-III	A-IV	SOT
JS	2	BS-I	BS-II	BS-III		
Computer	5	COMPUTER	IT			
ADG-CMR	1					
(ES)	1	ES21				
ERU(ENGG)	1					
ERU(F-N)	1	ERU				
(IR)	3	IR				
(LEGAL)	2	LEGAL				
LF	1	LF				
LR	3	LR				
NDG	1	NDG				
STN	2	STN-I				
OC		OC				
PEN	1	PEN	PEP			
PAT	1	PAT				
RESTG	3	RESTG				
PARL	2	PARL	CO			
PP		PP	LS-IV			
SAT	5					
SEA	1	SEA-I				
SGT	1		STG II	STG IV		
TM	1					
VAS	3	VAS				
VIG	8	VIG.I	VIG.II	VT	VIG.I	
VM	4	VM				
(C-I)	1	ANCILLARY	CE			
TA	1		CASH	PAO		
US(T)	2	SA-I	SA-II	CR	Protocol	OSD/IREC
(MVT)		MVT				
(TFS)		TFS				
(OC)	5	OC	FA-IV			
(LTP)	7	CP	LTP			
(F-IV)	1	FA-IV				
Total	78					

TRUE COPY



539.

ANNEXURE B

TABLE - IV

	POSTS OF ACCOUNTS OFFICERS RETAINED IN DOT	
	POST	NUMBER
	AO	2
	AO	1
	AO	1
	AO	1
	PAO	1
	PAO	1
	CAO	1
STUDY	AO	1
	AO	2
TAGE	AO	1
ERED	AO	1
	AO	1

	POST BEING TRANSFERRED TO DSNL	
	AO	2
	AO	2
	AO	2
FORCE	AO	2
	AO	3
	AO	3
	AO	1
	AO	3
	AO	3
ENT CNT	AO	2
	AO	2
	AO	3
	AO	3
	AO	3
	AO	3
	AO	3
	AO	2
ERED	AO	1
	AO	1
	AO	2
TING	AO	1
TES	AO	2

TRUE COPY



True Typed Copy

ANNEXURE-A-3

No.2-29/2000-Restg.
Government of India
Ministry of Communications
Department of telecommunication Services

New Delhi, the 30th September, 2000

OFFICE MEMORANDUM

Subject:- Setting up of Bharat Sanchar Nigam Limited – transfer of staff- orders issued – regarding

In pursuance of new Telecom Policy 1999, the Government of India has decided to corporatize the service provision functions of Department of Telecommunications (DoT). Accordingly, the undersigned is directed to state that the Government of India has decided to transfer the business of providing telecom services in the country currently run and entrusted with the department of Telecom Services (DTS) and the Department of Telecom Operations (DTO) as was provided earlier by the Department of Telecommunications to the newly formed Company viz., Bharat Sanchar Nigam Limited (the Company) with effect from 1st October, 2000. The Company has been incorporated as a company with limited liability by shares under the Companies Act, 1956 with its registered and corporate office in New Delhi.

2. The Department of Telecom. Services and Department of Telecom., Operations concerned with providing telecom services

TRUE COPY

in the country and maintaining the telecom network / telecom factories were separated and cared out of the Department of Telecommunications as a precursor to corporatization. It is proposed to transfer the business of providing telecom. Services and running the telecom factories to the newly set up Company, viz., Bharat Sanchar Nigam Limited w.e.f. 1st October 2000. The Government has decided to retain functions of policy formulation, licencing, wireless spectrum management, administrative control of PSUs, standarisation & validation of equipment and R & D etc. These would be responsibility of Department of Telecommunications (DoT) and Telecom Commission. As such, administrative department for Bharat Sanchar Nigam Limited would be the Department of Telecommunications (DoT).

3. The assets and liabilities of the present Department of Telecom. Services and Department of Telecom. Operations which earlier formed part of DoT will be transferred for this purpose by a separate order.

4. Since it will take some time for the new company to finalise the terms and conditions for staff and to give an opportunity to Officers, staff, employees, and industrial workers working in various circles / offices / units for exercising their options to join the newly created Company, it has been decided to make the following interim arrangements for smooth transition of administration and operations to the new company:-



1:7 542

i) The establishment (officers, staff, employees and industrial workers) sanctioned for exchanges / offices, in various telecom circles, metro districts of Calcutta and Chennai, project circles, civil, electrical and architectural wings, maintenance regions, specialized telecom. Units namely Data Networks, national Center for electronic Switching, Technical and Development circle, Quality Assurance circle (except TEC) training institutions, other units like telecoms factories, stores and electrification projects of DoT/DTS/DTO (belonging to various organized services and cadres given in Annexure A to this letter) and posted in these circles / offices/ units will stand transferred to Bharat Sanchar Nigam Limited along with their posts on existing terms and conditions, on as is where is basis, on deemed deputation, without deputation allowance with effect from 1st October 2000, i.e. the date of taking over of telecom. Operations by the Company from DTS & DTO Bharat Sanchar Nigam Ltd. will exercise control and supervision of staff working against these posts.

ii) The organisational structure of restructured Department of Telecommunications (DoT) is given at Annexure 'B (Tables I to IV giving posts / units to be retained in Dot and to be transferred to BSNL). Consequent to residual work of DTS and DTO being transferred to DoT, it will continue to do the

COPY

work allocated under Allocation of Business Rules. The officers and staff presently working in these posts will continue to work, until further orders, in their existing posts under DoT and all other officers and staff will stand transferred along with their posts on existing terms and conditions, on as is where is basis, on deemed deputation, without deputation allowance, w.e.f. 1.10.2000 to the Company.

iii) The Telecom Engineering Centre (TEC) Centre for Development of Telematics (C-DOT), Wireless Planning and Coordination (WPC) and Wireless Monitoring Organisation (WMO) will remain with the government under the control of the Department of Telecommunications. An expert committee will be constituted for distribution of work of TEC between DoT and the Company. Subsequently, as per the report of the expert committee, allocation of staff will be done accordingly.

iv) Officers and staff belonging to various Central Secretariat Services (mentioned in Annexure A) providing services to offices / units being transferred to the Company will stand transferred along with their posts on as is where is basis, on deemed deputation, without deputation allowance, w.e.f. 1.10.2000 to the Company on existing terms and conditions of service. Further orders in the matter would be decided by

– DoT in consultation with DoPT which is the cadre controlling authority of CSS.

v) Officers and staff shall continue to be subject to all rules and regulations as are applicable to Government servants, including the CCS (CCA) Rules till such time as they are absorbed finally by the Company after they exercise their options. Their pay scales, salaries and allowances will continue to be governed by existing rules, regulations and orders.

vi) The management of Bharat Sanchar Nigam Limited shall have full powers and authority to effect transfers of all the staff at all levels working under it.

vii) Bharat Sanchar Nigam Limited will be competent to create posts as per norm adopted by it, however, it will seek prior approval of the Government for appointments to higher level posts as per provisions of Article 144(1) of its Articles of Association.

viii) Instructions regarding appointing and disciplinary authorities for employees working on deemed deputation and disposal of pending disciplinary and vigilance cases will be issued separately.

Central Administrative Tribunal

ix) Regarding pension, gratuity and retiral benefits separate guidelines and order will be issued.

5. These orders will come into effect from 1st October 2000.

Sd/-
(VINOD VAISH)
Secretary to the Government of India

To

1. The Secretary DoT and Chairman Telecom Commission
2. The Secretary, DTS
3. The secretary, DTO and Member (Prodn.) Telecom Commission
4. Member (Finance) Telecom Commission
5. Member (Services) telecom Commission
6. Member (Technology), Telecom Commission
7. Additional secretary (T) and Secretary Telecom Commission
8. Joint secretary (T) DoT
9. Joint Secretary (A), DoT
10. OSD Corporatisation (DoT) with request to bring it to the notice of the Board of Directors of Bharat Sanchar Nigam Limited
11. All Chief General Manager of Telecom Circles, Metro Districts, Project Circles, Maintenance regions, Telecom Stores, Railway Electrification Projects with request to communicate these orders to all units working under their administrative control.
12. All Principal Chief Engineers / Chief Engineers – Civil and Electrical Wings, with request to communicate these orders to all units working under their administrative control.

Central Administrative Tribunal

13. Chief Architects –Chennai, Calcutta and Mumbai with request to communicate these orders to all units working under their administrative control.
14. All Chief General Managers –Telecom Factories, with request to communicate these orders to all units working under their administrative control
15. Sr. DDG (TEC)
16. Sr. DDsG – (BW) / ARCH.)/ ELECT.)_
17. Sr. DDG (ML – with request to communicate these orders to all PSUs working under their administrative control.
18. Sr. DDG (IC & A)
19. Executive Director, C-DOT
20. Sr. DG (Vigilance) DoT
21. DDG (Pers.)

Copy to:-

1. PS to Minister of Communications
2. PS to minister of State for Communications
3. All Advisors, DOT

Copy also to:-

1. Bharat Sanchar Nigam Limited

TRUE COPY

ANNEXURE

Organisational Structure of Department of Telecommunications

(w.e.f. 1st October 2000)

TABLE – I

Table	Posts being retained in DoT					
			Directors			
Designation	Unit	I	II	III	IV	V
Secretary (DOT)	DOT	OSD				
Member (F)	DOT					
Member (P)	DOT					
Member (T)	DOT					
Member (S)	DOT					
Addl. Secretary (T)	DOT					
Joint Secretary (T)	DOT	DS®				
Joint Secretary (A)	DOT	CP&PR	MVT	D(T)	OL	DS(A)
Legal Advisor	DOT	DLA				
Advisor (O)	DOT					
Advisor (P)	DOT					
Advisor (F)	DOT	FC				
Advisor (T)	DOT					
Advisor (HRD)	DOT					
Sr. DDG (LTP)	DOT	CP	SAT/RN	Comp. II		
SDr. DDG(ML)	DOT	SU	SU-I	SU-II		
Sr. DDG (RS)	DOT	RS				
Sr. DDG (TCF)	DOT		F-IV			
Sr. DDG (VIG)	DOT	VM	V Tech	V&T	VF	

2548.

DDG (BS)	DOT	BS-I	BS-II	~~BS~~-III	
DDG (CMR)	DOT				
DDG (EAF)	DOT		SEA-I		
DDG (ERU)	DOT	ERU			
DDG (Estt.)	DOT	MPP	ST		
DDG (IR)	DOT	LP	TP		
DDG (LF)	DOT	LF			
DDG (LR)	DOT	LR-I	LR-II		
DDG (PIP)	DOT	PIP	OS		
DDG (PG)	DOT	PG			
DDG (SR)	DOT	SR			
DDG (VAS)	DOT	VAS-I	VAS_II	VAS-III	
DDG (WPF)	DOT				

Tribunal

COPY

ANNEXURE 'A'

A. List of cadres in the various entities of the Field Units of DTS/DTO

1. Indian Telecommunication Service group 'A'
2. Indian P & T AFS Group 'A'
3. P & T Building Works Service [Civil, Architectural and Electrical Disciplines] – Group 'A'
4. Group 'A' GCS of Telecom Factories Organisation
5. Telegraph Traffic Service Group 'A'
6. GCS Group 'A' Gazetted Ministerial
7. GCS Group 'A' Gazetted Ministerial
8. GCS Group 'B' Gazetted Ministerial
9. GCS Group 'B' Gazetted Non-Ministerial
10. Telecom Engineering Services Group 'B'
11. Telegraph Traffice Service Group 'B'
12. GCS Group 'B' Gazetted of Telecom Factories Orgainsation [AEs, Metallurgists, Chemists, personnel Officers, Sr. Security Officers etc.]
13. P & T Civil Wing Group 'B' – This also includes Civil, Electrical and Architectural Wings
14. P & T AFS Group 'B' (Telecom Wing) (Sr. AO, AO, AAO & JAO)
15. Official Language Cadre (Gazetted) of filed units of DTS/ DTO
16. Steniographers Cadre (Gazetted) of field units of DTS /DTO
17. CGS Group 'C' Non-Gazetted Ministerial
18. GCS Group 'C' Non-Gazetted Non-Ministerial
19. Other Group 'C' operative / technical cadres of DTS/DTO

TRUE COPY

Central Administrative Tribunal

20. Other Group 'C' non-operative cadres of DTS / DTO
21. Other Group 'D' operative cadres of DTS / DTO
22. Other group 'D' non-operative cadres of DTS/DTO
23. Any other grade/cadre/service which is nont covered above

B. In addition to the various cadres /grades of above cited lsit working at the headquarters of the DTS/DTO, following various cadres /grades controlled by Administration branch, according to the placement in the entities will also stand transferred to the Company, along with their posts, on as is where is basis, on deemed deputation basis, without deputation allowance as per their posts / units given in Annexure 'E'.

1. Central Secretariat Service
2. Central Secretariat Stenographers Service
3. Central Secretariat Clerical Service
4. General central Service Group 'A' Gazetted Ministerial and Non-Ministerial, Group 'B' Gazetted and Non-Gazetted Ministerial and Non-Ministerial and Group 'C' and group 'D' – Ministerial and Non-Ministerial

TRUE COPY

Central Administrative Tribunal

ANNEXURE I –

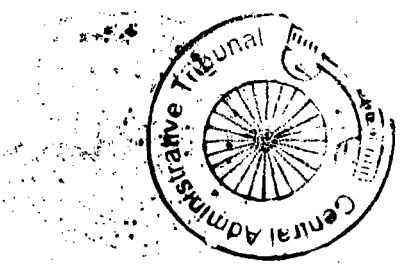
TABLE – II

Table II	Posts being transferred to BSNL					
			Directors			
Designation	Unit	I	II	III	IV	V
Sr. DDG (Arch.)	CE	Arch.				
Sr. DDG (BW)	CE	BW	OS(cwg)	Civil		
Sr. DDG (CS)	CE	CS-I	CS-II	PHE		
Sr. DDG (Elec.0	CE	EW	EW&OC			
Sr. DDG (MS)	CE	MSS	MST	ML		
Sr. DDG (NW/WS)	CE	NW-II	WSE			
Sr. DDG(P)	CE	PD				
Sr DDG (TRF)	CE	TR-I	TR-II			
Sr. DDG (SW)	CE	Eqp.	ES-I	ES-II	SW	TF
Sr. DDG (TX)	CE	L	OF	TAX	SBP	LTP
Sr. DDG (IA&P)	CE	IC-I	IC-II	Trg. F	SEA-II	
DDG (Accis.)	CE	TA-I	TA-II			
DDG (BLF)	CE PFR	PFC				
DDG (T)	CE	Comp. I				
DDG (EFC)	CE	FA-II	Costing	T&C	FA-I	
DDG(MM-I)	CE	MMC	MMD			
DDG(MM-II)	CE	MMS	MMT			
DDG (NM)	CE	MIS	NM			
DDG (NS)	CE	NS				
DDG (PER)	CE	TE	ST-II	WL & Sports		
DDG (PF)	CE	F-III	F-V			
DDG (REG)	CE	REG-I	rEG-II			
DDG(RN)	CE	GP	RDTF			
DDG (SAT)	CE	SAT	NOCC			
DDG (TRG)	CE	DE&VP	TDTF	TRG		

Central Administrative Tribunal

DDG(TS)	CE	TSO	TSP			

TRUE COPY



ANNEXURE

TABLE- III

Table III		LIST OF ADsG AND SECTIONS BEING RETAINED UDNER DOT				
Unit	No ADsG	S-I	S-II	S-III	S-IV	S-V
Admn.	E	A-I	A-III	A-IV	SCT	
BS	2	BS-I	BS-II	BS-III		
Computer	5	Computer	IT			
ADG-CMR	1					
(EB)	1	EB&I				
ERU (ENGG)	1					
ERU (FIN)	1	ERU				
(IR)	5	IR				
(LEGAL)	2	LEGAL				
LF	2	LF				
LR	3	LR				
STC	1	NCG				
STN	2	STN-I				
DC		DC				
PEN	1	PEN PFP				
PAT	1	PAT				
RESTG	2	RESTG				
PARL	2	PARL	TCO			
PP		PP	Library			
SAT	5					
	SEA	1	SEA-I			
SGT	1		STG II	STG III		
TIM	1					
VAS	3	VAS				
VIG	6	VIG.I	VIG.II	VT	VIG III	
VMI	4	VM				
(OL)	1	HINDI TR	OL			
TA	1		CASH	PAO		
US(T)	2	GA.I	GA.II	CR	Protocol	O&M/REC
(MVT)		MVT				
(TFS)		TFS				
(OC)	6	OC	Factory			
(LTP)	7	CP	LTP			
(F-IV)	1	FA-IV				
Total	76					

Central Administrative Tribunal

ANNEXURE B

TABLE – IV

TABLE	PSOTS OF ACCOUNTS OFFICERS RETAINED IN DOT	
Illegible/-	POST	NUMBER
Illegible/-	AO	2
Illegible/-	AO	1
Illegible/-	AO	4
Illegible/-	AO	1
Illegible/-	PAO	1
Illegible/-	PFP	1
Illegible/-	GPF	1
Illegible/-	AO	1
Illegible/-	AO	1
Illegible/-	AO	2
Illegible/-	AO	1
Illegible/-	AO	1
Illegible/-	AO	1
	POST BEING TRANSFERRED TO BSNL	
Illegible/-	AO	3
Illegible/-	AO	2
Illegible/-	AO	2
Illegible/-	AO	2
Illegible/-	AO	3
Illegible/-	AO	3
Illegible/-	AO	1
Illegible/-	AO	4
Illegible/-	AO	2
Illegible/-	AO	2
Illegible/-	AO	2
Illegible/-	AO	2
Illegible/-	AO	3
Illegible/-	AO	2
Illegible/-	AO	3
Illegible/-	AO	3
Illegible/-	AO	2
Illegible/-	AO	1
Illegible/-	AO	1
Illegible/-	AO	2
Illegible/-	AO	1
Illegible/-	AO	2

// TRUE TYPED COPY //

ANNEXURE 4

ANNEXURE-A-4

555

Pension Related Circulars/ Orders

DOT No. 36-15/2000-Pen(T) dated 09.11.2000

Subject: Entitlement for Pension, other Retirement Benefits, Job Security and Carry Over of Leave in respect of Employees to be Absorbed in BSNL.

It has been decided by the Government that the employees of DOT who will be absorbed in Bharat Sanchar Nigam Limited (BSNL) will be entitled to the Government's scheme of pension/family pension even after their absorption in BSNL. Payment of pension will be made by the Government and for this, arrangements, are being worked out for obtaining pension contribution from BSNL to be deposited with the Government. It has also been decided that dismissal or removal from service of an employee after his absorption in the PSU for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his dismissal, removal or retrenchment the decisions of BSNL shall be subject to review by the Administrative Ministry. The Government has already issued Notification dated 30.9.2000 to this effect wherein the pension framework has been made part of the CCS (Pension) Rules, amending Rule 37 using powers under Article 309 of the Constitution of India. (Copy enclosed).

It has further been decided that the Earned Leave and the Half Pay Leave at the credit of the employees on the date of absorption shall stand transferred to the PSU.

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

Enclosure

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Pension and Pensioners' Welfare)

NOTIFICATION

New Delhi, the 30th September, 2000

S.O.904(E) – In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Pension) Rules, 1972, namely:

1. (1) These rules may be called the Central Civil Services (Pension) Amendment Rules, 2000.
   (2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Central Civil Services (Pension) Rules, 1972, after rule 37, the following rule shall be inserted, namely:
"37A. Conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Central autonomous body or a Public Sector Undertaking.

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

Central Administrative Tribunal

546.

(2) The Central Government shall allow the transferred Government servants an option to revert back to the Government or to seek permanent absorption in the public sector undertaking or autonomous body, as the case may be.

(3) The option referred to in sub-rule (2) shall be exercised by every transferred Government servant in such manner and within such period as may be specified by the Government.

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

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

(6) The employees who opt to revert to Government service shall be re-deployed through the surplus cell of the Government.

(7) The employees including quasi-permanent and temporary employees but excluding casual labourers, who opt for permanent absorption in the public sector undertaking or autonomous body, shall on and from the date of absoration, be governed by the rule and regulations or bye-laws of the public sector undertaking or autonomous body, as the case may be.

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

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

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

(11) The benefits of pension and family pension shall be available to quasi-permanent and temporary Transferred Government servants after they have been confirmed in the public sector undertaking or autonomous body.

(12) The Central Government shall create a Pension Fund in the form of a trust and the pensionary benefits of Absorbed employees shall be paid out of such Pension Fund.

(13) The Secretary of the administrative Ministry of the public sector undertaking or autonomous body shall be the Chairperson of the Board of Trustees which shall include representatives of the Ministries of Finance, Personnel, Public Grievances and Pensions, Labour, concerned the public sector undertaking or autonomous body and their employees and experts in the relevant field to be nominated by the Central Government.

Tribunal

COPY

(14) The procedure and the manner in which pensionary benefits are to be sanctioned and disbursed from the Pension Fund shall be determined by the Government on the recommendation of the Board of Trustees.

(15) The Government shall discharge its pensionary liability by paying in lump sum as a one time payment to the Pension Fund the pro rata pension or service gratuity and retirement gratuity for the service rendered till the date of absorption of the Government servant in the public sector undertaking or autonomous body.

(16) The manner of sharing the financial liability on account of payment of pensionary benefits by the public sector undertaking or autonomous body shall be determined by the Government.

(17) Lump sum amount of the pro rata pension shall be determined with reference to Commutation Table laid down in Central Service (Commutation of Pension) Rules, 1981.

(18) The public sector undertaking or autonomous body shall make pensionary contribution to the Pension Fund for the period of service to be rendered by the concerned employees under that undertaking or body at the rates as may be determined by the Board of Trustees so that the Pension Fund shall be self-supporting.

(19) If, for any financial or operational reason, the Trust is unable to discharge its liabilities fully from the Pension Fund and the public sector undertaking or autonomous body is also not in a position to meet the shortfall, the Government shall be liable to meet such expenditure and such expenditure shall be debited to either the Fund or to the public sector undertaking or autonomous body, as the case may be.

(20) Payments of Pensionary benefits of the Pensioners of a Government Department on the date of conversion of it into a the public sector undertaking or autonomous body shall continue to be the responsibility of the Government and the mechanism for sharing its liabilities on this account shall be determined by the Government.

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

(22) For the purpose of payment of pensionary benefits including family pension referred to in sub-rule (21), the Government shall specify the arrangements and manner including the rate of pensionary contributions to be made by Bharat Sanchar Nigam Limited to the Government and the manner in which financial liabilities on this account shall be met.

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

(24) Upon conversion of a Government department into a the public sector undertaking body–

(a) the balance of provident fund standing at the credit of the absorbed employees on the date of their absorption in thepublic sector undertaking or autonomous body shall, with the consent of such undertaking or

Central Administrative Tribunal

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;

(c) the dismissal or removal from service of the public sector undertaking or autonomous body of any employee after his absorption in such undertaking or body for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his dismissal or removal or retrenchment the decision of the undertaking or body shall be subject to review by the Ministry administratively concerned with the undertaking or body.

(25) In case of Government disinvests its equity in any public sector undertaking or autonomous body to the extent of fifty-one per cent or more, it shall specify adequate safeguards for protecting the interests of the absorbed employees of such public sector undertaking or autonomous body.

(26) The safeguards specified under sub-rule (25) shall include option for voluntary retirement or continued service in the undertaking or body, as the case may be, voluntary retirement benefits on terms applicable to Government employees, employees of the public sector undertaking or autonomous body as per option of employees, assured payment of earned pensionary benefits with relaxation in pension of qualifying service, as may be decided by the Government."

DOT No. 40-13/2002/Pen (T) dated 15.01.2003

Subject: Payment of Pension/ Family pension to the Employees Absorbed from DoT/ DTS/ DTO in Bharat Sanchar Nigam Limited with effect from 1.10.2000 – reg.

On introduction of the IDA pay scale by the BSNL by the Office Order no. BSNL/26/SR/2002 dated 07.08.2002 with effect from 1.10.2000 in replacement of existing CDA pay scale for non executive staff (Gr. 'C' and 'D') absorbed from DoT/ DTS/ DTO in Bharat Sanchar Nigam Limited with effect from 1.10.2000, references have been received from various DoT units seeking clarifications for the payment of Pension and Family pension either on CDA pay scale or IDA pay scale. As such doubts raised by various DoT units are clarified as under:

Doubts	Clarifications
1. When pay during last 10 months falls partly in CDA pay scales and partly in IDA pay scales how average emoluments are to be taken for calculating the pension. Nothing is mentioned whether non- practice allowance granted to medical officer in lieu of private practice will also be treated as pay. In addition nothing is mentioned about the stagnation increment whether the same will be treated as pay for the calculation of retirement benefits.	Sub rule 9 of Rule 37 A of CCS (Pension) rules provides that pension of an employee shall be calculated on the basis of his last 10 months average pay. It is implied that for the purpose of calculation of pension, average of last 10 months pay is to be taken irrespective of whether the pay in all 10 months or part thereof is in IDA/ CDA pay scale. Non practicing allowance and the stagnation increment are to be treated as emoluments for calculation of retirement benefits as per Rule 33 of CCS (Pension) Rules and the explanation below Rule 33.



TRUE COPY

ANNEXURE 5

ANNEXURE-A-5

559.

Pension Related Circulars/ Orders

DOT No. 36-15/2000-Pen(T) dated 09.11.2000

Subject: Entitlement for Pension, other Retirement Benefits, Job Security and Carry Over of Leave in respect of Employees to be Absorbed in BSNL.

It has been decided by the Government that the employees of DOT who will be absorbed in Bharat Sanchar Nigam Limited (BSNL) will be entitled to the Government's scheme of pension/family pension even after their absorption in BSNL. Payment of pension will be made by the Government and for this, arrangements, are being worked out for obtaining pension contribution from BSNL to be deposited with the Government. It has also been decided that dismissal or removal from service of an employee after his absorption in the PSU for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his dismissal, removal or retrenchment the decisions of BSNL shall be subject to review by the Administrative Ministry. The Government has already issued Notification dated 30.9.2000 to this effect wherein the pension framework has been made part of the CCS (Pension) Rules, amending Rule 37 using powers under Article 309 of the Constitution of India. (Copy enclosed).

It has further been decided that the Earned Leave and the Half Pay Leave at the credit of the employees on the date of absorption shall stand transferred to the PSU.

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

Enclosure

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Pension and Pensioners' Welfare)

NOTIFICATION

New Delhi, the 30th September, 2000

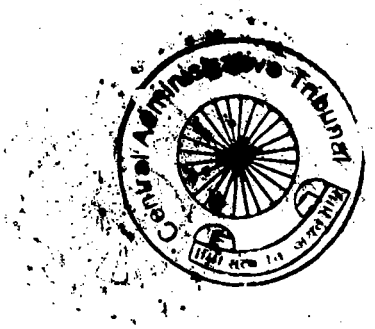
S.O.904(E) – In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Pension) Rules, 1972, namely:

1. (1) These rules may be called the Central Civil Services (Pension) Amendment Rules, 2000.
   (2) They shall come into force on the date of their publication in the Official Gazette.

In the Central Civil Services (Pension) Rules, 1972, after rule 37, the following rule shall be inserted, namely:

"37A. Conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Central autonomous body or a Public Sector Undertaking.

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



ANNEXURE 6

ANNEXURE-A-6

660

BHARAT SANCHAR NIGAM LIMITED
213, INDRAPRASTHA HOTEL,
ASHOK ROAD, NEW DELHI – 110 001
(SR CELL)

No. BSNL/14/SR – 2001 Dated January 14, 2002

Sub: Calling of option for absorption of Group 'B' officers in BSNL

Please find enclosed, a copy of the option form along with the general terms and conditions for exercising option for absorption in BSNL/retention of Government status for Group 'B' officers (4 pages).

1(a) This option for absorption in BSNL will be called from all serving Group 'B' officers who were transferred to BSNL on deemed deputation basis with effect from 01.10.2000 as well as from those who remained in DoT and/or who were on the rolls of DoT/DTS/DTO as on 30.09.2000.

1(b) The effective date of absorption will be 01.10.2000.

2. The exercise of giving option and acknowledgement of the option form shall be at the SSA level for Group 'B' officers in the field and at the office of CGM/JS(A), DOT/Sr.DDG (Pers.), BSNL for officers of circle office/CSS Group 'B'/DOT and BSNL Corporate Office respectively. For other units like MTNL Delhi and Mumbai, Metro districts of Kolkata and Chennai, Projects Circles, Civil, Electrical and Architectural, Maintenance Regions, specialized telecom units namely Data Network, NCES, T&D, QA, TEC, Training Institutions, other units like Telecom Factories, Stores, Electrification etc, the concerned CGM will decide the level and nominate the concerned officer.

3. Four copies of the option form numbered 1 to 4 with one set of general terms and conditions will be sent to each Group 'B' officer latest by 21st January, 2002 and the process of exercising option should be completed not later than 28th February, 2002. All the four copies of the option form will be got filled by each officer and dealt as follows:

- 1st copy (original copy) to go to the service book of the officer.
- 2nd copy to be kept by the authority acknowledging the option form.
- 3rd copy to be sent to the circle office for record and
- 4th copy to be acknowledged by a Group 'A' officer as indicated in para 4 below and returned to the optees.

4. The option exercised by the officers shall be final and should be acknowledged by an officer not below the rank of Sr.Time Scale as designated by the SSA head/CGM as the case may be.

5. As per the classification of posts, a grade whose maximum is Rs.9000 and above but less than Rs.13500 is considered Group 'B'. However, those officials who are placed in the grade of Rs.5500-9000 or higher due to OTBP/BCR/Grade IV/ACP/Ad-hoc promotion/time bound advancement schemes etc. are not considered Group 'B'.

6. Options can be exercised by officials covered in para 5 above as on the date of exercise of the option. In case, these officers have earlier exercised their option for absorption in BSNL/retention of Government status, as the case may be, along with Group 'C' & 'D' employees, the earlier option shall be treated as null and void. Further, this option shall also be exercised by all Group 'B' officers borne on the regular establishment of DOT/erstwhile DTS, DTO (including those on deputation/deemed deputation to other organizations), presently officiating in Group 'A' or equivalent posts on ad-hoc/local officiating basis.

7. BSNL would absorb optees subject to the availability of posts from 01.10.2000. In case the number of optees is more than the number of posts the senior most optees in their cadre/grade would be given preference for absorption. Therefore, for circle cadres CGM will decide and finalize the list of optees based upon the seniority criteria. For all India cadres, CGMs will forward the list of optees and the number of available posts in the cadre/grade to the respective cadre controlling authorities.

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

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

9. Circle cadre officers presently working in MTNL Mumbai and Delhi, Department of Posts, DOT Units like TEC etc. and opting for BSNL, may be deployed in these cities subject to the availability of posts in these cities. In case, sufficient posts are not available in these cities, these optees will be deployed in other circles depending on the availability of posts in the other circles. A list of such officers shall be sent to Sr.DDG (Pers.), BSNL.

10. Officers not exercising any option as prescribed will be deemed to have opted for Government service.

...UE COPY

Central Administrative Tribunal

127 562.

11. Information giving details of total Group 'B' staff, number of optees to BSNL, number of optees to DOT and number of officers giving no option in case of each cadre must reach the undersigned latest by 15.03.2002.

Encl: As above

14/1/2002
(A.K. PATHAK)
DDG (SR), BSNL HQrs.

To
All CGMs, BSNL,
CGM, MTNL Mumbai and Delhi
Sr.DDG (TEC)/Sr.DDG(Finance Pers.)
JS (A), DOT/Sr.DDG (Pers.), BSNL

Copy for information to :

Member (Services)
CMD, BSNL/MTNL
All Directors, BSNL Board
All Sr.DDsG/DDsG in BSNL/DOT

Central Administrative Tribunal

The Secretary to the Government of India
Ministry of Communications
Department of Telecom
New Delhi.

(THROUGH PROPER CHANNEL)

Sub: Option Form for Absorption in BSNL/Retention of Government Status for Group B officers

(To be filled in quadruplicate)
(For DOT/BSNL/MTNL/CSS Group B Officers)

In accordance with the Government decision to convert the DTS /DTO in BSNL w.e.f. 01.10.2000, as communicated under DTS Memo No. 2-29/2000-Restg. Dated 30.09.2000, I give my declaration as under:

1. I hereby agree to be absorbed in BSNL w.e.f. 01.10.2000
OR
I do not agree for absorption in BSNL and want to continue in Government service.
(Strike out whichever is not applicable)

2. I understand that the option exercised by me is final.

3. I understand that on absorption in BSNL, I shall be governed by the Rules and Regulations of BSNL.

4. In case of my option for Government service, I understand that I may be redeployed as per Government rules.

SIGNATURE----------
NAME OF THE EMPLOYEE----------
(In block letters)
Staff No.----------
Place of Posting----------

For Office Use

Acknowledged by (Signature)----------
Name & Designation----------

OPTEE
NON-OPTEE

(Strike out whichever is not applicable)

TRUE COPY



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

1. Service Rules

Till new Service Rules are finalized by the Company, the existing Govt. Rules/ Regulations would be applicable.

2. Option of officers for absorption in (Bharat Sanchar Nigam Limited) BSNL

(a) This option for absorption in BSNL will be called from all serving officers holding Group 'B' posts on substantive basis, who were transferred to BSNL on deemed deputation basis with effect from 01.10.2000 as well as from those who remained in DoT and who were on the rolls of DOT/DTS/DTO as on 30.09.2000. For this purpose, as per the classification of posts, a grade whose maximum is Rs.9000 and above but less than Rs.13500 is considered Group 'B'. However, those officials who are placed in the grade Rs.5500-9000 or higher due to OTBP/BCR/Grade IV/ACP/Ad-hoc/time bound advancement schemes etc. are not considered Group 'B'. Further, this option shall also be exercised by all Group 'B' officers borne on the regular establishment of the DOT/DTS/DTO who are presently officiating in Group 'A' or equivalent posts on ad-hoc/local officiating basis.

(b) BSNL would absorb optees subject to the availability of posts in respective cadre/grade. In case, the number of optees is more than the number of posts available, the senior most optees in their cadre/grade would be given preference.

(c) The effective date of absorption will be 01.10.2000.

(d) The option once exercised would be final.

3. Option of officers facing Disciplinary Cases

The officers with on-going disciplinary cases can also opt for absorption in BSNL but their absorption will be subject to the outcome of the vigilance case. The appeal/petition cases for these officers will also be decided by DOT authorities.

4. Change over to IDA Pay Scales

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

Central Administrative Tribunal

TRUE COPY

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

5. Payment of Pension

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

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

6. Inter-se Seniority

The inter-se seniority of officers in various grades in BSNL will be same as the seniority being maintained in DOT. However, the names of the officers who do not opt for BSNL will be deleted.

7. Promotion

a. The existing rule of promotion to higher grades of parent departments shall continue till BSNL formulates its own rules and regulations.

b. The officers officiating in higher grades on ad-hoc/local officiating basis will be absorbed in BSNL in the substantive grade only. However, they shall continue to get the higher officiating pay so long as the BSNL management continues the officiating arrangements.

8. GPF

The amount of subscription together with interest thereon at credit with the employee in the General Provident Fund account will be transferred to his/her new Provident Fund account under the BSNL as provided for under Sub-rule 24 (a) of Rule 37 A of the CCS (Pension) Rules, as amended from time to time.

9. CGEIS

The CGEIS will continue till 31.12.2001. Meanwhile, BSNL is making efforts to formulate a similar insurance scheme for absorbed employees through LIC.

TRUE COPY

Central Administrative Tribunal

10. Residential Quarters

The DOT officers, who are allottees of BSNL quarters, will continue to occupy the same on "as is where is basis" even after permanent absorption in BSNL. However, the officers, who opt for BSNL and are occupying quarters from the Estate pool, would be allowed to retain the same up to 30.09.2005 on payment of standard License Fee. Similarly, those officers who do not opt of BSNL and are occupying BSNL quarters would also be allowed to retain BSNL quarters up to 30.09.2005 on payment of standard License Fee.

11. Age of Superannuation

Age of superannuation for all the non-Board level officers in BSNL will be regulated in accordance with Government Rules applicable to PSUs.

12. Leave

BSNL has decided to adopt the Government Leave Rules till such time it finalizes its own rules. However, the Earned Leave and Half-pay leave at the credit of the employee shall stand transferred to BSNL on the date of absorption, as provided for under Sub-rule 24 (b) of Rule 37 A of the CCS (Pension) Rules.

13. Para 38 Transfers

BSNL has decided that the para 38 transfers would continue to be applicable to the BSNL officers as in the DOT after absorption till BSNL finalizes its own rules.

14. Compassionate Appointment

BSNL has decided that the DOT policy regarding compassionate appointment would continue in BSNL till BSNL finalizes its own rules.

15. Pending HRD issues

The HRD issues referred to BSNL by DOT would be settled by BSNL.

16. Medical Benefits

It has been decided to extend CGHS facilities to those serving employees of BSNL who were availing CGHS facilities prior to their transfer to BSNL as agreed by Ministry of Health vide their letter No. 4 – 81/2000 – C&P/CGHS-CGHS (P) dated 20.04.2001. The existing medical benefits as admissible in DOT would continue in BSNL till alternative arrangements are made in BSNL.

17. Timeframe for absorption

Group 'B' officers shall exercise their option for permanent absorption in BSNL by 28.02.2002.

TRUE COPY

ANNEXURE

S 67

ANNEXURE A

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

No. 27-1/CSL/Telecomm/Resignation/7882002 Dated: 16-1-2002

ORDER

Sub: Permanent absorption of Shri RAMANKUTTY NAIR P.S. Telegraph Master, Grad IV, BSNL in Bharat Sanchar Nigam Limited.

1. In terms of letter No. TSSR/1/(Sh)/2002 dated: 2.1.2001 on the above subject and in accordance with the provisions of Rule 37-A of CCS (Pension) Rules, as amended from time to time, sanction of the President is hereby conveyed to the permanent absorption of Shri RAMANKUTTY NAIR P.S. in permanent employment of the Department of Telecommunications, in BSNL with effect from the date and under the terms and conditions as indicated below.

2. Date of effect. The permanent absorption shall take effect from 01.10.2000 (forenoon).

3. Pension/Gratuity. Shri RAMANKUTTY NAIR P.S shall be eligible for pensionary benefits including gratuity as per the provisions of Rule 37-A of the CCS (Pension) Rules, as amended from time to time.

4. Family Pension. The family of Shri RAMANKUTTY NAIR P.S shall be eligible for family pension as per the provisions of Rule 37-A read with Rule 54 (11-B) of CCS (Pension) Rules, 1972, as amended from time to time.

5. Recognition of service/Seniority. To be regulated in terms of para 4 of DOT OM No. 49/1/97-SPV (D) dated 5.1.1998.

6. Leave. The Earned Leave and Half Pay Leave at the credit of Shri RAMANKUTTY NAIR P.S shall be transferred to BSNL on the date of absorption as provided for under Sub-rule 2(iii) of Rule 37-A of the CCS (Pension) Rules.

7. Provident Fund. The amount of subscription together with interest shall be transferred to the credit of Shri RAMANKUTTY NAIR P.S in the General Provident Fund, pertain was he contributed to General Provident Fund (Central Service) Rules as provided for under Sub-rule 2(iii) of Rule 37-A of the CCS (Pension) Rules, as amended from time to time.

(K.GOPINATHAN)
DIRECTOR(Estt.-I)
DEPARTMENT OF TELECOM

To:
Chairman and Managing Director,
Bharat Sanchar Nigam Limited,
Sanchar Bhawan,
20 Ashoka Road, New Delhi.

Copy to:
1. The accounts officer (CSA) Circle for maintaining the service book for keeping this order in the service book along with suitable entries.
2. Officer concerned.
3. Circle Wireless Telecom Circle.

ANNEXURE A-

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

No.27-1/TN/CTO-CHENNAI/661/2001 Dated 15/01/02

ORDER

Subject: Permanent absorption of Shri/Smt/Kumari LATHA.V. , SS(O) , Staff No.1229 in Bharath Sanchar Nigam Limited.

1. Pursuant to letter no. BSNL/1/SR/2000 dated 23.2001 on the above subject , and in accordance with the provisions of Rule 37-A of CCS (Pension) Rules, as amended from time to time sanction of the President is hereby conveyed to the permanent absorption of Shri/Smt/Kumari LATHA.V., a permanent/temporary employee of the Department of Telecommunications, in BSNL with effect from the date and under the terms and conditions as indicated below.

2. Date of effect :- The permanent absorption shall take effect from 01.10.2000 forenoon.

3. Pension/Gratuity :- Shri/Smt/Kumari LATHA.V. shall be eligible for pensionary benefits including gratuity as per the provision of Rule 37-A of the CCS (Pension) Rules as amended from time to time.

4. Family Pension :- The family of Shri/Smt/Kumari LATHA.V. shall be eligible for family pension as per provisions of Rule 37-A read with Rule 54 (15-B) of CCS (Pension)Rules ,1972 as amended from time to time.

5. Regulation of Pay on absorption :- To be regulated in terms of para 4 of DOP&PW O.M. No.4/18/87-P&PW (D) dated 5.7.1989.

6. Leave :- The Earned Leave and Half Pay Leave at the credit of Shri/Smt/Kumari LATHA.V. stand transferred to BSNL on the date of absorption as provided for under Sub-rule 24(b) of Rule 37-A of the CCS (Pension) Rules.

7. Provident Fund :- The amount of subscription together with interest there on standing to the credit of Shri/Smt/Kumari LATHA.V. in the General Provident Fund account will be transferred to his/her new Provident Fund account under the BSNL as provided for under Sub-rule 24(4) of Rule 37-A of the CCS (Pension) Rules, as amended from time to time.

(S.BALACHANDRAN)
DIRECTOR (Estt-TN)
DOT.

To,

Chairman and Managing Director,
Bharath Sanchar Nigam Limited,
70,Ashoka Road,New Delhi.

Copy to:

1. SSA/Officer in-charge for maintaining the service book for keeping this order in the service book along with suitable entries.
2. Officer concerned.
3. CGM of the concerned recruiting circle.

569.

ANNEXURE A-

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

No. 27-1/KRL/Thiruvananthapuram/725/2002

Dated 15-1-2002

Sub : Permanent absorption of Shri RAMANKUTTY NAIR, P.S. Telegraph Master, Staff No. E558 in Bharat Sanchar Nigam Limited.

1. Pursuant to letter No. BSNL/4/SR/2000 dated 2.1.2001 on the above subject, and in accordance with the provisions of Rule 37-A of CCS (Pension) rules, as amended from time to time sanction of the Provident is hereby conveyed to the permanent absorption of Shri RAMANKUTTY NAIR P.S. a permanent employee of the Department of Telecommunications, in BSNL, with effect from the date and under the terms and conditions as indicated below.

2. Date of effect – The permanent absorption shall take effect from 01.10.2000 forenoon.

3. Pension / Gratuity Shri RAMANKUTTY NAIR P.S. shall be eligible for pensionary benefits including gratuity as per the provisions of rule 37-A of the CCS (Pension), Rules, as amended from time to time.

4. Family Pension : The family of Shri RAMANKUTTY NAIR P.S. shall be eligible for family pension as per provisions of Rule 37-

570.

A read with Rule 54 (13-B) of CCS (Pension) Rules, 1972, as amended from time to time.

5. Regulation of pay on absorptions – To be regulated in terms of para 4 of DCP & PW O.M. No. 4/18/87—P&PW (O) dated 5.7.1999.

6. Leave : The Earned Leave and Half Pay Leave at the credit of Shri RAMANKUTTY NAIR P.S. stands transferred to BSNL, on the date of absorption as provided for under sub-rule 24(a) of Rule 37-A of the CCS (Pension) Rules.

7. Provident Trust : The amount of subscription together with interest thereon standing to the credit of Shri RAMANKUTTY NAIR P.S. is the General Provident Fund account will be transferred to his new Provident Fund Account under the BSNL as provided for under Sub-rule 24 (a) of Rule 37-A of the CCS (Pension) rules, as amended from time to time.

Sd/-
DIRECTOR (Estt.Kerala)
DEPARTMENT OF TELECOM

To
Chairman and Managing Director
Bharat Sanchar Nigam Limited
20, Ashoka Road, New Delhi.

Copy to :

57.

1. Thiruvananthapuram SSA Officer-in-charge for maintaining the service book for keeping this order in the service book along with suitable entries.

2. Office concerned.

3. COM Kerala Telecom Circle.

TRUE TYPED COPY

572.

ANNEXURE A-

GOVERNMENT OF INDIA
DEPARTMENT OF TELECOMMUNICATIONS

No.27-A/TN/CIO-CHENNAI/601/2001/ Dated : 15/01/02

ORDER

Subject : Permanent absorption of Shri/Smt/Kumari LATHA. V, SS (O), Staff No. 1229 in Bharath Sanchar Nigam Limited

1. Pursuant to letter No. BSNL/4/SR/2000 dated 2.1.2001 on the above subject and in accordance with the provisions of Rules 37-A of CCS (Pension) Rules, as amended from time to time sanction of the Presidents is hereby conveyed to the permanent absorption of Shri / Smt. / Kumari LATHAV, a permanent / temporary employee of the Department of Telecommunications, in BSNL, with effect from the date and under the terms and conditions as indicated below:

2. Date of effect : - The permanent absorption shall take effect from 01.10.2000, forenoon.

3. Pension / Gratuity : - Shri / Smt / Kumari LATHA. V shall be eligible for pensionary benefits including gratuity as per the provision of Rule 37-A of the CCS (Pension) Rules as amended from time to time.

4. Family Pension : The family of Shri / Smt / Kumari LATHA. V shall be eligible for family pension as per provisions of Rule 37-

A read with Rule 54 (13-B) of CCS (Pension) Rules, 1972 as amended from time to time.

5. Regulation of Pay on absorption : To be regulated in terms of para 4 of DOP&FW O.M. No. 4/18/87 P&PW(D) dated 5.7.1989.

6. Leave : The Earned Leave and Half Pay Leave at the credit of Shri / Smt / Kumari LATHA. V stand transferred to BSNL on the date of absorption as provided for under Sub-rule 24 (b) of Rule 37-A of the CCS (Pension) Rules.

7. Provident Fund : The amount of subscription together with interest thereon standing to the credit of Shri / Smt / Kumari LATHA. V in the General Provident Fund account will be transferred to his / her new Provident Fund account under the BSNL as provided for under Sub-rule 24(a) of Rule 37-A of the CCS (Pension) Rules as amended from time to time.

Sd/-
(S. BALACHANDRAN)
DIRECTOR (Estt.TN)
DOT

To,
Chairman and Managing Director
Bharath Sanchar Nigam Limited,
20, Ashoka Road, New Delhi.

Copy to :
1. SSA/Officer in charge for maintaining the service book for keeping this order in the service book along with suitable entries.
2. Officer concerned
3. CGM of the concerned recruiting circle.



TRUE TYPED COPY

ANNEXURE

574.

ANNEXURE A

No.4/61/99-P&PW (D)
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Pension &Pensioners' Welfare)

New Delhi, dated the 20th December, 2002

OFFICE MEMORANDUM

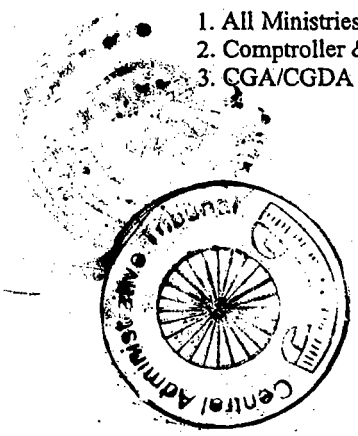
Subject:-Terms and conditions of payment of pensionary benefits in respect of Central Government employees transferred to autonomous bodies/public sector undertakings consequent upon conversion of Govt. Dept./Office into autonomous body/public sector undertaking.

Sub-rule (9) of Rule: 7 A of CCS(Pension) Rules provides that the pension of an employee under sub-rule (8) shall be calculated on the basis of his last 10months average pay. References have been received by this Dept. seeking clarification as to whether the pay of an employee in PSU in the IDA scale should be taken into consideration for calculating average emoluments under sub-rule (9). It is hereby clarified that for the calculation of pensionary benefits under sub-rule (9) of rule 37 A, average emoluments will be calculated on the basis of pay drawn by the absorbed employee during the last 10 months in the PSU prior to retirement and wherever the absorbed employee is drawing pay in IDA scale during this period, his pay in IDA scale will be taken into account for calculation of average emoluments. In addition to the pension or family pension, as the case may be, such absorbed employee shall also be eligible to receive dearness relief as per Industrial DA pattern as per the provisions of sub-rule (10) of Rule 37 A.

(Sujit Datta)
Director (PW)

To

1. All Ministries/Depts. Of the Government of India
2. Comptroller & Auditor General of India (with 200 spare copies)
3. CGA/CGDA (with 200 spare copies)



ANNEXURE

ANNEXURE A 575

F.No.38/37/08-P&PW(A)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Pension & Pensioners' Welfare
Lok Nayak Bhawan, New Delhi-110003
Dated the 1st September, 2008

OFFICE MEMORANDUM

Sub: Implementation of Government's decision on the recommendations of the Sixth Central Pay Commission - Revision of pension of pre-2006 pensioners/family pensioners etc.

1. The undersigned is directed to say that in pursuance of Government's decision on the recommendations of Sixth Central Pay Commission, sanction of the President is hereby accorded to the regulation, with effect from 1.1.2006, of pension/ family pension of all the pre-2006 pensioners/ family pensioners in the manner indicated in the succeeding paragraphs. Separate orders will be issued in respect of employees who retired/died on or after 1.1.2006.

2.1 These orders apply to all pensioners/family pensioners who were drawing pension/family pension on 1.1.2006 under the Central Civil Services (Pension) Rules, 1972, CCS (Extraordinary Pension) Rules and the corresponding rules applicable to Railway pensioners and pensioners of All India Services, including officers of the Indian Civil Service retired from service on or after 1.1.1973.

2.2 Separate orders will be issued by the Ministry of Defence in regard to Armed Forces pensioners/family pensioners.

2.3 These orders do not also apply to retired High Court and Supreme Court Judges and other Constitutional/Statutory Authorities whose pension etc. is governed by separate rules/orders.

3.1 In these orders :

a. Existing pensioner or Existing Family pensioner means a pensioner who was drawing/entitled to pension/family pension on 31.12.2005.

b. Existing pension means the basic pension inclusive of commuted portion, if any, due on 31.12.2005. It covers all classes of pension under the CCS (Pension) Rules, 1972 as also Disability Pension under the CCS (Extraordinary Pension) Rules and the corresponding rules applicable to Railway employees and Members of All India Services.

c. Existing family pension means the basic family pension drawn on 31.12.2005 under the CCS (Pension) Rules and the corresponding rules applicable to Railway employees and Members of All India Services.

4.1 The pension/family pension of existing pre-2006 pensioners/family pensioners will be consolidated with effect from 1.1.2006 by adding together:-

i. The existing pension/family pension.

ii. Dearness Pension, where applicable

iii. Dearness Relief upto AICPI (IW) average index 536 (Base year 1982=100) i.e. @ 24% of Basic Pension/Basic family pension plus dearness pension as admissible vide this Department's O.M. No. 42/2/2006-P&PW(G) dated 5.4.2006

iv. Fitment weightage @ 40% of the existing pension/family pension.

Central Administrative Tribunal

Where the existing pension in (I) above includes the effect of merger of 50% of dearness relief w.e.f. 1.4.2004, the existing pension for the purpose of fitment weightage will be re-calculated after excluding the merged dearness relief of 50% from the pension.

The amount so arrived at will be regarded as consolidated pension/family pension with effect from 1.1.2006.

4.2 The fixation of pension will be subject to the provision that the revised pension, in no case, shall be lower than fifty percent of the minimum of the pay in the pay band plus the grade pay corresponding to the pre-revised pay scale from which the pensioner had retired. In the case of HAG+ and above scales, this will be fifty percent of the minimum of the revised pay scale.

4.3 Since the consolidated pension will be inclusive of commuted portion of pension, if any, the commuted portion will be deducted from the said amount while making monthly disbursements.

4.4 The upper ceiling on pension/family pension laid down in the Department of Pension and Pensioner's Welfare Office Memorandum No 45/86/97-P&PW(A)(Part-I) dated 27.10.1997 has been increased from Rs. 15000/- and Rs. 9000/- to 50% and 30% respectively of the highest pay in the Government (The highest pay in the Government is Rs. 90,000 since 1.1.2006).

4.5 The quantum of pension/family pension available to the old pensioners/ family pensioners shall be increased as follows:-

Age of pensioner/family pensioner	Additional quantum of pension
From 80 years to less than 85 years	20% of revised basic pension/ family pension
From 85 years to less than 90 years	30% of revised basic pension / family pension
From 90 years to less than 95 years	40% of revised basic pension / family pension
From 95 years to less than 100 years	50% of revised basic pension / family pension
100 years or more	100% of revised basic pension / family pension

The amount of additional pension will be shown distinctly in the pension payment order. For example, in case where a pensioner is more than 80 years of age and his/her consolidated pension in terms para 4.1 and 4.2 above is Rs.10,000 pm, the pension will be shown as (I).Basic pension=Rs.10,000 and (ii) Additional pension = Rs.2,000 pm. The pension on his/her attaining the age of 85 years will be shown as (I).Basic Pension = Rs.10,000 and (II) additional pension = Rs.3,000 pm.

4.6 Some of the existing pensioners who retired between 31.3.1985 and 31.12.1985 are in receipt of personal pension. The said personal pension will continue to be granted as a separate element and will not be merged into the pension as consolidated above.

4.7 Since the consolidated pension/family pension arrived at as per paragraph 4.1. includes dearness relief upto average index level 536(Base year 1982=100), dearness relief will be admissible thereon only beyond index average 536 (Base year 1982=100) in accordance with the revised scheme of dearness relief for which orders are being issued separately. The four instalments of dearness relief sanctioned earlier from 1.7.2006, 1.1.2007, 1.7.2007 and 1.1.2008 in this Department's Office Memorandum No. 42/2/2006-P&PW(G) dated the 15.9.2006, Office Memorandum No. 42/2/2006-P&PW(G) dated the 23,3.2007, Office Memorandum No. 42/2/2006-P&PW(G) dated the 18.9.2007 and Office Memorandum No. 42/2/2006-P&PW(G) dated the 19.3.2008 respectively shall be adjusted against revised Dearness Relief becoming due on the consolidated pension/family pension.

5.1 Where the consolidated pension/family pension in terms of paragraph 4 above works out to an amount less than Rs. 3500/- the same shall be stepped upto Rs. 3500/-. This will be regarded as pension/family pension with effect from 1.1.2006. In the case of pensioners who are in receipt of more than one pension, the floor ceiling of Rs. 3500/- will apply to the total of all pensions taken together.

5.2 Where the disability pension under the CCS(EOP) Rules, is drawn in addition to invalid pension under the CCS (Pension) Rules, 1972, the minimum limit of Rs. 3500/- will apply to total of two pensions as indicated in paragraph 5.1. Where the disability pension is drawn in isolation, the minimum limit of Rs. 3500/- will apply for 100% disability. For lesser degree of disability the minimum limit will be proportionately less.

6. The employed/re-employed pensioners/family pensioners are not getting dearness relief on pension at present under the extant orders. In their case the notional dearness relief which would have been admissible to them but for their employment/re-employment will be taken into account for consolidation of their pension in terms of paragraph 4.1. above as if they were drawing the dearness relief. Their pay will be re-fixed w.e.f. 1.1.2006 with reference to consolidated pension becoming admissible to them. Dearness relief beyond 1.1.2006 will, however, not be admissible to them during the period of employment/re-employment.

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

(a) PENSION

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

(b) FAMILY PENSION

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

8. All Pension Disbursing Authorities including Public Sector Banks handling disbursement of pension to the Central Government pensioners are hereby authorised to pay pension/family pension to existing pensioners/family pensioners at the consolidated rates in terms of para 4.1 above without any further authorisation from the concerned Accounts Officers/Head of Office etc. A table indicating the existing basic pension/family pension without Dearness Pension, the basic pension/family pension with dearness pension and the revised consolidated pension/family pension is enclosed for ready reference. **(Annexure I).** This table may be used where the pensioner is in receipt of a single pension only. Where a pensioner is in receipt of more than one pension, consolidation may be done separately in terms of paragraph 4.1 and as indicated in paragraph 5 floor ceiling of Rs. 3500/- may be applied to total pension from all sources taken together. Wherever the age of pensioner/ family pensioner is available on the pension payment order, the additional pension/ family pension in terms of para 4.5. above may also be paid by the pension disbursing authorities immed ately without any further authorisation from the concerned Account Officer/ Head of Office, etc. A suitable entry regarding the revised consolidated pension shall be recorded by the pension Disbursing Authorities in both halves of the Pension Payment Order. An intimation regarding

Central Administrative Tribunal

disbursement of revised pension may be sent by the pension disbursing authorities to the Office of CPAO and Accounts Officer which had issued the PPO in the form given at **Annexure-II** so that the latter can update the Pension payment Order Register maintained by him. An acknowledgement shall be obtained by the Pension Disbursing Authorities from Office of CPAO and the respective Accounts Officers in this behalf.

9 The consolidated pension/family pension as worked out in accordance with provisions of Para 4.1. above shall be treated as final 'Basic Pension' with effect from 1.1.2006 and shall qualify for grant of Dearness Relief sanctioned thereafter.

10 40% of the arrears of pension will be paid in the year 2008-09 and the remaining 60% in the year 2009-10.

11. It shall be the responsibility of the Head of the Department of the Ministry, Department, Office, etc. from which the government servant had retired or where he was working prior to his demise to revise the pension/family pension of all pensioners/ family pensioners with effect from 1st January 2006 in accordance with the provisions mentioned in para 4.1 and 4.2 above and to issue revised Pension Payment Order (PPOs). Action to revise pension/ family pension in terms of these provisions shall be initiated suo moto by the concerned Heads of Departments. In the case of the Defence Civilian Employees, however, the procedure prescribed in this regard by the Ministry of Defence shall be followed. It is emphasised that the Pension Sanctioning Authority, in no case, will ask the pensioner/ family pensioner to surrender his/ her original Pension Payment Order (PPO) for issuing revised authority. In case, however, the age of pensioner/family pensioner is not available on the PPO/office records, the same shall be obtained from the pensioner/family pensioner and indicated in the revised PPO. The authenticity of the age declared by the pensioner/family pensioner shall be verified by the pension sanctioning authority. It may also be ensured that a copy of the revised PPO should be invariably endorsed to the pensioner/ family pensioner.

12. It is considered desirable that the benefit of these orders should reach the pensioners as expeditiously as possible. To achieve this objective it is desired that all Pension Disbursing Authorities should ensure that the revised pension and the first instalment of arrears due to the pensioners in terms of para 4.1. and para 4.5 above is paid to the pensioners or credited to their account by 30th September, 2008 or before positively. Instructions regarding release of second instalment of arrears will be issued later. Concerted efforts should be made by all the authorities concerned to ensure that the revised PPO's are issued, wherever necessary, with the utmost expedition in terms of para 4.1, 4.2. and 4.5 above and arrears are paid in terms of para 10 above within two months from the date of issue of this O.M.

13. In their application to the persons belonging to Indian Audit and Accounts Department these orders issue in consultation with the Comptroller and Auditor General of India.

14. Ministry of Agriculture etc. are requested to bring the contents of these Orders to the notice of Controller of Accounts/Pay and Accounts Officers and Attached and subordinate Offices under them on a top priority basis. All pension disbursing offices are also advised to prominently display these orders on their notice boards for the benefit of pensioners.

15. Hindi version will follow.

RRazdan

(Rajni Razdan)
Secretary to the Government of India

To

All Ministries/ Departments of Government of India

Copy to :as per mailing list

Central Administrative Tribunal

ANNEXURE

F. No 38/37/08-P&PW(A)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Pension & Pensioners' Welfare
Lok Nayak Bhawan, New Delhi-110003

Dated, the 2nd September, 2008

OFFICE MEMORANDUM

Sub: **Implementation of Government's decision on the recommendation of the Sixth Central Pay Commission - Revision of provisions regulating pension/gratuity/commutation of pension/family pension/disability pension/ex-gratia lump-sum compensation.**

1. The undersigned is directed to state that in pursuance of Government's decision on the recommendation of the Sixth Central Pay Commission, the President is pleased to introduce the following modifications in the rules regulating pension, Retirement/Death/Service Gratuity/Family Pension/disability pension and ex-gratia lump-sum compensation under the CCS (Pension) Rules, 1972 (hereafter referred to as Pension Rules) and Commutation of Pension under CCS (Commutation of Pension) Rules, 1981, CCS (Extraordinary Pension) Rules, 1939, etc.

2. These orders apply to Central Government Employees governed by the CCS (Pension) Rules, 1972. Separate orders will be issued by the Ministry of Defence, Ministry of Railways and the AIS Division of the DOPT in respect of Armed Forces personnel, Railway employees and the officers of All India services respectively on the basis of these orders.

DATE OF EFFECT

3.1 Save as otherwise mentioned in these orders, the revised provisions as per these orders shall apply to Government servants who retire/die in harness on or after 1.1.2006. Separate orders have been issued in respect of employees who retired/died before 1.1.2006.

3.2 Where pension/family pension/Gratuity/Commutation of pension, etc has already been sanctioned in cases occurring on or after 1.1.2006, the same shall be revised in terms of these orders. In cases where pension has been finally sanctioned on the pre-revised orders and if it happens to be more beneficial than the pension becoming due under these orders, the pension already sanctioned shall not be revised to the disadvantage of the pensioner in view of Rule 70 of the CCS (Pension) Rules, 1972.

EMOLUMENTS

4.1 The term 'Emoluments' for purposes of calculating various pensionary benefits other than various kinds of Gratuity shall have the same meaning as in Rule 33 of the Central Civil Services (Pension) Rules, 1972.

4.2 Basic pay in the revised pay structure means the pay drawn in the prescribed pay band plus the applicable grade pay but does not include any other type of pay like special pay, etc.

4.3 In the case of all kinds of Gratuity, DA admissible on the date of retirement/death shall continue to be treated as emoluments along with the emoluments as defined in Paragraph 4.1 above.

RRazdan

PENSION

5.1 A Government servant retiring in accordance with the provisions of the CCS(Pension) Rules, 1972 before completing qualifying service of ten years shall not be entitled to pension but he shall continue to be entitled to service gratuity in terms of Rule 49(1) of the CCS(Pension) Rules, 1972.

5.2 Linkage Of full pension with 33 years of qualifying service shall be dispensed with. Once a Government servant has rendered the minimum qualifying service of twenty years, pension shall be paid at 50% of the emolument or average emoluments received during the last 10 months, whichever is more beneficial to him.

5.3 In cases where Government servant becomes entitled to pension on completion of 10 years of qualifying service in accordance with Rule 49(2) of the CCS (Pension) Rules, 1972, pension in those cases shall also be paid at 50% of the emoluments or average emoluments, whichever is more beneficial to the Government servant.

5.4 The revised provisions for calculation of pension in para 5.2 and para 5.3 above shall come into force with effect from the date of issue of this O.M. and shall be applicable to Government servants retiring on or after that date. The government servants who have retired on or after 1.1.2006 but before the date of issue of this O.M. will continue to be governed by the Rules/ orders which were in force immediately before coming into effect of these orders.

5.5 The amount of pension shall be subject to a minimum of Rs.3500/- and maximum upto 50% of highest pay in the Government (The highest pay in the Govt. is Rs. 90,000 since 1.1.2006).

5.6 The provisions of clauses (a) to (c) of sub-rule (2) of Rule 49 of the Pension Rules shall stand modified to the extent mentioned in para 5.1 to para 5.5 above. The other provisions contained in Rule 49 shall continue to apply.

5.7 The quantum of pension available to the old pensioners shall be increased as follows:-

Age of Pensioner	Additional quantum of pension
From 80 years to less than 85 years	20% of basic pension
From 85 years to less than 90 years	30% of basic pension
From 90 years to less than 95 years	40% of basic pension
From 95 years to less than 100 years	50% of basic pension
100 years or more	100% of basic pension

The Pension Sanctioning Authorities should ensure that the date of birth and the age of a pensioner is invariably indicated in the pension payment order to facilitate payment of additional pension by the Pension Disbursing Authority as soon as it becomes due. The amount of additional pension will be shown distinctly in the pension payment order. For example, in case where a pensioner is more than 80 years of age and his pension is Rs.10,000 pm, the pension will be shown as (i) Basic pension=Rs.10,000 and (ii) Additional pension = Rs.2,000 pm. The pension on his attaining the age of 85 years will be shown as (i).Basic Pension = Rs.10,000 and (ii) additional pension = Rs.3,000 pm.

GRATUITY

6.1 The maximum limit of all kinds of gratuity shall be Rs. 10 lakh. Accordingly, first proviso under Rule 50(1)(b) of Pension Rules shall stand modified to the effect that the

RKagdar

amount of retirement gratuity or death gratuity payable under this Rule shall in no case exceed Rs. 10 lakh.

ADDITION TO QUALIFYING SERVICE

7.1 In view of revised provisions for computation of pension in para 5 above, the extant benefit of adding years of qualifying service for the purpose of computation of pension shall stand withdrawn with effect from the date of issue of this O.M. Rules 29, 29-A, 30, 48-B and 48-C of the CCS(Pension) Rules, 1972 shall stand modified to this extent.

FAMILY PENSION 1964

8.1 Family pension shall be calculated at a uniform rate of 30% of basic pay in all cases and shall be subject to a minimum of Rs.3500/-p.m. and maximum of 30% of the highest pay in the Government. (The highest pay in the Govt. is Rs.90,000 since 1.1.2006). Rule 54(2) relating to Family Pension, 1964 under Pension Rules shall stand modified to this extent.

8.2 The enhanced family pension under Rule 54(3)(a)(i) shall be payable to the family of a Government servant **who dies in service** from the date of death of the Government servant for a period of ten years, without any upper age limit. Rule 54(3)(a)(i) shall stand modified to this extent. There will be no change in the period for payment of enhanced family pension to the family in the case of death of a pensioner.

8.3 The quantum of family pension available to the old family pensioners shall be increased as follows:-

Age of family pensioner	Additional quantum of family pension
From 80 years to less than 85 years	20% of basic family pension
From 85 years to less than 90 years	30% of basic family pension
From 90 years to less than 95 years	40% of basic family pension
From 95 years to less than 100 years	50% of basic family pension
100 years or more	100% of basic family pension

The Pension Sanctioning Authorities should ensure that the date of birth and the age of a family pensioner is invariably indicated in the Form 3 (regarding details of family) and the pension payment order to facilitate payment of additional family pension by the pension disbursing authority as soon as it becomes due. The amount of additional family pension will be shown distinctly in the pension payment order. For example, in case where a family pensioner is more than 80 years of age and his/her family pension Rs.10,000 pm, the pension will be shown as (i).Basic family pension=Rs.10,000 and (ii) Additional family pension = Rs.2,000 pm. The family pension on his/her attaining the age of 85 years will be shown as (i).Basic family Pension = Rs.10,000 and (ii) additional pension = Rs.3,000 pm.

8.4 For the purpose grant of Family Pension, the 'Family' shall be categorised as under:

Category-I

(a) Widow or widower, upto the date of death or re-marriage, whichever is earlier;
(b) Son/daughter(including widowed daughter), upto the date of his/her marriage/re-marriage or till the date he/she starts earning or till the age of 25 years, whichever is the earliest .

RRazdan

Category-II

(c) Unmarried/Widowed/Divorced daughter, not covered by Category I above, upto the date of marriage/re-marriage or till the date she starts earning or upto the date of death, whichever is earliest

(d) Parents who were wholly dependent on the Government servant when he/she was alive provided the deceased employee had left behind neither a widow nor a child. Family pension to dependent parents unmarried/divorced/widowed daughter will continue till the date of death.

Family pension to Unmarried/ widowed/ divorced daughters in Category II and dependent parents shall be payable only after the other eligible family members in Category I have ceased to be eligible to receive family pension anc there is no disabled child to receive the family pension. Grant of family pension to children in respective categories shall be payable in order of their date of birth and younger of them will not be eligible for family pension unless the next above him/her has become inelgible for grant of family pension in that category.

8.5 The dependency criteria for the purpose of family pension shall be the minimum family pension along with dearness relief thereon.

8.6 The childless widow of a deceased Government employee shall continue to be paid family pension even after her remarriage subject to the condition that the family pension shall cease once her independent income from all other sources becomes equal to or higher than the minimum prescribed family pension in the Central Government. The family pensioner in such cases would be required to give a declaration regarding her income from other sources to the pension disbursing authority every six months.

COMMUTATION OF PENSION

9.1 A Government servant shall continue to be entitled to commute for a lumpsum payment up to 40% of his pension.

9.2 The existing Table of Commutation Value for Pension Annexed to the CCS (Commutation of Pension) Rules, 1981 shall be substituted by a new Table at Annex. I of this O.M.

9.3 The revised Table of Commutation Value for Pension will be used for all commutations of pension which become absolute after the date of issue of this O.M. In the case of those pensioners, in whose case commutation of pension became absolute on or after 1.1.2006 but before the issue of this OM, the pre-revised Table of Commutation Value for Pension will be used for payment of commutation of pension based on pre-revised pay/pension. Such pensioners shall have an option to commute the amount of pension that has become additionally commutable on account of retrospective revision of pay/pension on implementation of the recommendations of the Sixth Central Pay Commission. On exercising such an option by the pensioner, the revised Table of Commutation Value for Pension will be used for the commutation of the additional amount of pension that has become commutable on account of retrospective revision of pay/pension. In all cases where the date of retirement/commutation of pension is on or after the date of issue of this OM, the revised Table of Commutation Value for Pension will be used for commutation of entire pension.

9.4 Provisions of CCS (Commutation of Pension) Rules, 1981 shall stand modified in accordance with para 9.2 and 9.3 above.

Rajala

CONSTANT ATTENDANT ALLOWANCE

10.1 In the case of pensioners who retired on disability pension under the CCS (Extraordinary) Pension Rules, 1939, for 100% disability (where the individual is completely dependent on somebody else for day to day functions), a Constant Attendant Allowance of Rs. 3000/- p.m. shall be allowed in addition to the disability pension, on the lines existing in Defence Forces. The CCS (Extraordinary) Pension Rules, 1939 shall stand modified to this extent.

EX GRATIA LUMPSUM COMPENSATION

11. In terms of Department of Pension & PW O.M.No.45/55/97-P&PW(C) dated 11.9.1998, an ex gratia lump sum compensation is available to the families of Central Government Civilian employees, who die in the performance of their *bona fide* official duties under various circumstances. The amount of this ex-gratia lump sum compensation shall be revised as under:

(a)	Death occurring due to accidents in the course of performance of duties	Rs. 10.00 lakh
(b)	Death occurring in the course of performance of duties attributable to acts of violence by terrorists, anti-social elements, etc.	Rs. 10.00 lakh
(c)	Death occurring (a) enemy action in international war or border skirmishes and (b) action against militants, terrorists, extremists etc.	Rs. 15.00 lakh
(d)	Death occurring while on duty in the specified high altitude, inaccessible border posts, etc on account of natural disasters, extreme weather conditions.	Rs. 15.00 lakh

The Department of Pension & PW O.M.No.45/55/97-P&PW(C) dated 11.9.1998 shall stand modified to this extent.

12 For the purpose of computing average emoluments in the case of Government servants who have opted for fixation of pay in the revised Pay Structure and retire within 10 months from the date of coming over to the revised Pay Structure, basic pay for 10 months period preceding retirement shall be calculated by taking into account pay as follows:

(i) For the period during which pay is drawn in revised Pay Structure- Pay drawn in the prescribed pay band plus the applicable grade pay

(ii) For the remaining period during which pay is drawn in pre-revised scale of pay-Basic pay plus dearness pay and actual D.A. appropriate to the basic pay at the rates in force on 1.1.2006 drawn during the relevant period.

SPECIAL PROVISION FOR THOSE WHO RETAIN THE PRE-REVISED SCALE OF PAY.

13. The pension and death-cum-retirement gratuity of those, who have elected to continue to draw pay in the pre-revised scale of pay in terms of Rule 5 of the Central Civil Services (Revised Pay) Rules, 2008 and have retired or will be retiring after 01.01.2006, shall be regulated as follows:

RRegta

(i) The term 'Emoluments' will mean 'Pay' as defined in FR 9(21)(a)(i) and will include Dearness pay and DA upto average AICPI 536 (Base year 1982=100).

(ii) Pension will be calculated at 50% of emoluments or average emoluments whichever is more beneficial to the employee.

(iii) Death-cum-retirement gratuity shall be admissible with reference to emoluments at (i) above plus dearness allowance, under the order in force immediately before coming into effect of these orders. The maximum amount of gratuity shall not exceed Rs. 3,50,000/- in terms of Department of Pension and Pensioners Welfare Office Memorandum No. 45/86/97-P&PW(A) (Part-I) dated 27.10.1997.

(iv) Commutation of pension shall be admissible in accordance with the orders in force immediately before coming into effect of these orders.

(v) Family pension shall be allowed in accordance with orders applicable prior to the issue of these orders and shall be calculated with reference to basic pay in the pre-revised scale. To the family pension so calculated dearness relief upto average AICPI 536 (Base year 1982=100) at the rate contained in this Department's Office Memorandum No. 42/2/2006-P&PW(G) dated 5.4.2006 shall be added. The amount so arrived at will be regarded as the family pension for regulating payment of dearness relief beyond average AICPI 536.

14. Formal amendments to CCS (Pension) Rules, 1972, CCS (Extraordinary) Pension Rules, 1939 and CCS (Commutation of Pension) Rules, 1981 in terms of the decisions contained in this order will issue in due course. Provisions of the CCS (Pension) Rules 1972, CCS (Extraordinary) Pension Rules, 1939, and CCS(Commutation of Pension) Rules, 1981 which are not specifically modified by these orders, will remain unaffected.

15. The pension/family pension in terms of these orders will qualify for dearness relief beyond average AICPI 536 under the revised pattern being introduced on the recommendations of the Sixth Central Pay Commission.

16. These orders issue with approval of the Ministry of finance Department of Expenditure vide their U.O. No4871/SE/2008 dated 2.9.2008.

17. In their application to the employees of the Indian Audit and Accounts Department, these orders issue in consultation with Comptroller and Auditor General of India.

18. Ministry of Agriculture etc. are requested to bring the contents of these orders to the notice of Controller of Accounts/Pay and Accounts Officers and Attached and Subordinate Offices under them on a top priority basis.

19. Hindi version will follow.

R Razdan

Rajni Razdan,
Secretary to the Government of India

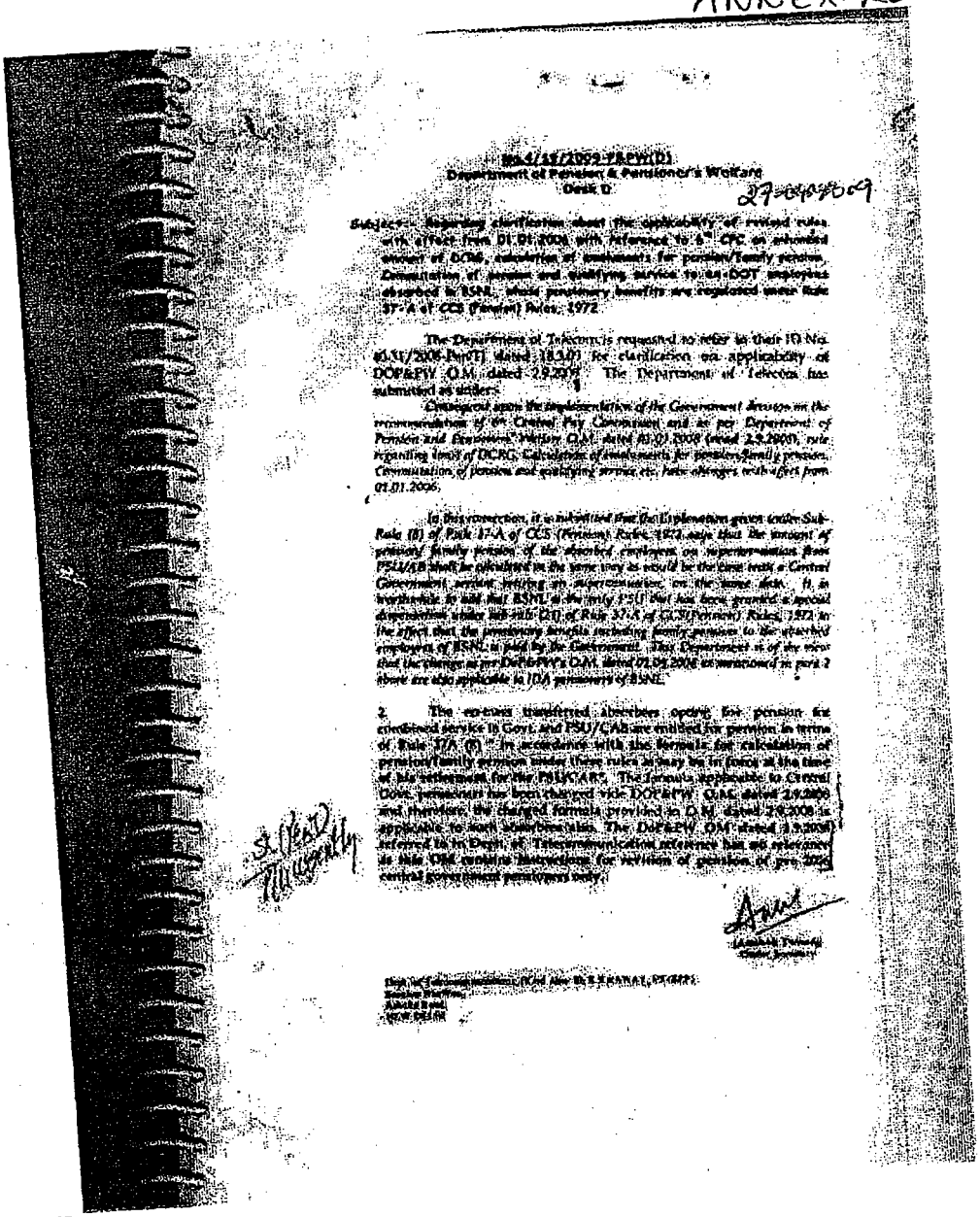
To

All Ministries/ Departments of Government of India
As per mailing list

ANNEXURE

586.

ANNEXURE A.



No.43/15/2009-P&PW(D)
Department of Pension & Pensioner's Welfare
Desk D

27-08-2009

Subject:- Regarding clarification about the applicability of revised rules with effect from 01.01.2006 with reference to 6th CPC on extended version 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. 65-31/2008-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 recommendations of 6th Central Pay Commission and as per Department of Pension and Pensioners' Welfare O.M. dated 01.01.2008 (read 2.9.2008), rate 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 pensionary/family pension of the absorbed employees on superannuation from PSUs/AB shall be calculated in the same way as would be the case with a Central Government servant holding an equivalent post on the same date. It is worthwhile to add that BSNL is the only PSU that has been granted a special dispensation under sub-rule (2) 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. The Department is of the view that the changes as per DoP&PW's O.M. dated 01.09.2008 as mentioned in para 2 above are also applicable to IDA pensioners of BSNL.

2. The ex-Govt 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 for the PSU/CAB". The formula applicable to Central Govt. pensioners has been changed vide DOP&PW O.M. dated 2.9.2008 and therefore, the changed formula provided in O.M. dated 2.9.2008 is applicable to such absorbees also. The DoP&PW OM dated 2.9.2008 referred to by Dept. of Telecommunication reference has also relevance as this OM contains instructions for revision of pension of pre 2006 central government pensioners only.

(Ashwini Kumar)
Under Secretary

To
The Chief General Manager (CAT) for BSNL/MTNL (37 CAT)
Eastern Railway
Admin Block
NEW DELHI

ANNEXURE A-

No. 4/19/2009 – P&PW(D)
Department of Pension & Pensioners' Welfare

27.4.2009

Subject : Regarding clarification about the applicability of revised rules with effect from 01.01.2006 with reference to 6th CPC on enhanced amount of DCRG, calculation of emoluments for pension / family pension, Commutation of pension and qualifying service ~~verifying~~ to ex-DOT employees absorbed in ~~to~~ BSNL, whose pensionary benefits are regulated under Rule 37-A of CCS (Pension) Rules, 1972.

The Department of Telecom is requested to refer to their ID No. 40-31/2008-Pen (T) dated 18.3.09 for clarification on applicability of DoP&PW O.M. dated 2.9.2008. The Department of Telecom has submitted as under :

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

In this connection, it is submitted that the Explanation given under Sub-Rule (8) of Rule 37-A of CCS (Pension) Rules, 1972 says that the amount of pension/family pension of the absorbed employees on superannuation from PSU/AB shall be calculated in the same way

as would be the case with a Central Government servant retiring on superannuation, on the same date. It is worthwhile to add that BSNL is the only PSU that has been granted a special dispensation under sub-rule (21) of Rule 37-A of CCS (Pension) Rules, 1972 to the effect that the pensionary benefits including family pension to the absorbed employees of BSNL is paid by the Government. This Department is of the view that the change as per DoP&PW's OM dated 02.09.2008 as mentioned in para 2 above are also applicable to IDA pensioners of BSNL.

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

Sd/-
(Amitabh Twivedi)
Under Secretary

Dept. of Telecommunication (Kind Attn. Sh.R.S.RAWAT, US (STP)
Sanchar Bhawan, Ashoka Road, New Delhi

TRUE TYPED COPY

589.

ANNEXURE

ANNEXURE A-

Government of India
Ministry of Communications & IT
Department of Telecommunications
Sanchar Bhavan, Ashok Road, New Delhi

No. 40-31/2008-Pen(T) Date : 4th May, 2009

To :

i) All Principle CCAs/CCAs
ii) CMD, BSNL

Subject : Applicability of revised rules of pension calculation as per 6th CPC with regard to limit of DCRG, commutation table, emoluments, qualifying service, etc. to IDA pensioners to BSNL.

The undersigned is directed to intimate that the revised rules for pension calculation as per 6th CPC with regard to limit of DCRG, commutation table, emoluments, qualifying service, etc. is applicable to IDA pensioners of BSNL covered under rule 37-A, w.e.f. 01.01.2006.

This issues with the concurrence of Member (Finance), DOT.

(B.K.Singh)
Director (Estt.)

Copy :
(i) DDG (Accounts), DOT
(ii) DDG (FEB), DOT

ANNEXURE

ANNEXURE A-

Government of India
Ministry of Communications & I.T.
Department of Telecommunications
Sanchar Bhawan, 20, Ashoka Road,
New Delhi-1100 01

F. No.40-31/2008-Pen(T) dated 12th August, 2009

To

(i). All Principal CCAs/CCAs/Joint CCAs

(ii) CMD, BSNL

Subject: Applicability of revised rules of CCS (Pension) Rules, 1972 consequent to the 6th CPC to the Government employees absorbed in BSNL- Clarification reg.

Sir,

I am directed to refer to this Department's letter of even number dated 4th/15th May, 2009 to give the following clarification on the applicability of revised rules of CCS (Pension) Rules, 1972 consequent to 6th CPC to the Government employees absorbed in BSNL with regard to emoluments, qualifying service, family pension, DCRG and commutation of pension:-

Pension

1. Emoluments: The emoluments for the purpose of all pensionary benefits (other than gratuity) shall be equal to Basic pay plus Dearness Pay (wherever applicable). The para 5.2 and 5.3 of DOP & PW shall be applicable from 1.1.2006 subject to provisions of para 2 of DOP & PW's O.M No.38/37/08-P&PW(A) dated 11.12.2008.
2. Qualifying Service: The revised rules shall be applicable from 2.9.2008.
3. Minimum Pension: The present method of calculation of minimum pension which is 50% of the minimum of the lowest pay scale shall continue.
4. Minimum Family Pension: The minimum family pension shall be 50% of the minimum of the lowest pay scale.

DCRG

1. Emoluments: Emoluments for the purpose of all types of gratuities shall be equal to Basic pay plus Dearness Pay (wherever applicable) plus DA (as applicable).
2. Enhancement in maximum limit of DCRG: The enhanced limit for all kinds of gratuities may be made applicable from 1.1.2006.

Central Administrative Tribunal

591

-2-

Commutation of Pension

1. For those retiring between 1.1.2006 to 1.9.2008 (both inclusive):
   Cases have not become absolute as on 2.9.2008: New table shall be made applicable with prevalent pay scale as on date of retirement.
   Cases which have already become absolute: The additional amount of commutable pension due to revision of pay shall be commuted in accordance with new table.
2. For those retiring on or after 2.9.2008: New commutation table shall apply with prevalent pay scale as on date of retirement.

This issues with the approval of the competent authority.

Yours faithfully,

(R. S. RAWAT)
Under Secretary (STP)
Tele: 23036854

Copy for information to :

1. Sr. P.P.S. to Chairman, Telecom Commission, New Delhi.
2. Sr. P.P.S. to all Members, Telecom Commission, Sanchar Bhawan, New Delhi.
3. Sr. P.P.S. to all Advisors, DOT, Sanchar Bhawan, New Delhi.
4. Sr. D.D.G. (TEC), Khurshid Lal Bhawan, New Delhi.
5. Controller General of Accounts, MOF, 7th Floor, L.N. Bhawan, New Delhi-1.
6. DG of Audit (P&T), Sham Nath Marg, Near Old Secte., Civil Lines, New Delhi-54.
7. DDG(A/Cs)/DDG(FEB)/DDG(LF)/DDG(WPF)/DDG(PAF)
8. All Sr. DDGs, /DDGs, DOT, Sanchar Bhawan, New Delhi.
9. DDG (Corporate Accounts), BSNL, Statesman House, New Delhi
10. DDG (PAF), Dak Bhawan, New Delhi.
11. Pay Bill/Cash Section, DOT, Sanchar Bhawan, New Delhi.
12. Guard File/Reference Folder

Central Administrative Tribunal

ANNEXURE-A-14

592

No. 47-35/2014-Pen(T)
Government of India
Department of Telecommunications
20, Ashoka Road, Sanchar Bhavan,
New Delhi.

.....

Dated 23 December, 2014.

To

Shri Amit Kumar Gupta,
1/4 Rajendra Banerjee Road,
Behala,
Kolkata 700034.

Subject: Seeking information under RTI Act, 2005 - Case of Shri Amit Kumar Gupta.

Sir,

Kindly refer to your representation dated 14.11.2014 vide which you have deposited an amount of Rs. 36/- for obtaining the copy of the Cabinet Memo dated 29.12.2010.

2. As desired by you, a copy of the Cabinet Note dated 29th December, 2010 enclosed herewith.

Yours faithfully,

(R.K. Mishra)
DDG(Estt.) & Appellate Authority

Encl: As stated above.

TRUE COPY

593.

SECRET

F.No.40-17/2003-Pen(T)
Government of India
Department of Telecommunications

Copy No. /70

Dated 29th December, 2010

NOTE FOR THE CABINET

Sub: Revision of IDA pension for employees of BSNL, who retired after 01.10.2000 and before 01.01.2007.

1. Background:

1.1 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 (DTO) into a Public Sector Undertaking (PSU). The Government employees in the two departments were transferred en masse to BSNL on deemed deputation basis. The process of absorption of these employees in BSNL took place with effect from 01.10.2000 in accordance with Rule 37A of CCS(Pension) Rules, 1972. On absorption, these absorbed employees started getting their pay in Industrial Dearness Allowance (IDA) based pay scales. As per sub-rule 8 of rule 37A of CCS(Pension) Rules, 1972, these absorbed employees are eligible for pensionary benefits on the basis of the combined service rendered by them with the Central Government and with 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 get pension, and dearness relief thereon as per IDA

Tribunal

pattern. The number of such retired employees as on 31.12.2006 is approximately 47,000. The pension to employees absorbed in BSNL is paid by Government as per sub-rule 21 to 23 of Rule 37-A of CCS (Pension) Rules 1972, while BSNL continues to pay Pension Contribution to the DoT as per rates prescribed under FR-116.

1.2 The Department of Public Enterprises (DPE) issued orders for revision of pay of employees in BSNL with effect from 1.1.2007. No such orders were issued by the government for revision of pension of employees retired from BSNL. As a result, employees who retired from BSNL after 1.1.2007 got about 30% higher pension than the employees who retired before 1.1.2007.

2. Justification:

2.1 In respect of government employees, consequent to pay revision, pension revision has also been carried out in accordance with guidelines issued by the Department of Pension & Pensioners' Welfare (DoP&PW). Though there are only a few PSUs which are paying pension on IDA pay scales, BSNL is a unique PSU where pension continues to be paid by the government to absorbed employees of BSNL. However, consequent to pay revision in BSNL with effect from 1.1.2007, no guidelines have been issued for revision of pension of absorbed employees of BSNL.

Central Administrative

COPY

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

2.2 As on 1.1.2007, Dearness Relief given on IDA pay scales was 68.8% of the basic pension. From 01.01.2007, wage revision in IDA scales for all employees took place in BSNL. The revision was done after merging basic pay with IDA @ 68.8% and applying fitment of 30% thereon i.e. on basic pay plus merged IDA. This resulted in significant rise in basic pension for those employees, who retired after 01.01.2007 in the revised pay scales. However, the BSNL absorbed employees who retired before 1.1.2007 continued to draw pension at lower rates, as no change in the pension was notified. A large number of BSNL pensioners, Service Unions as well as pensioner's Associations/Unions have represented for revision of pension in respect of BSNL absorbed employees retired before 1.1.2007.

2.3 The Department of Pension & Pensioners Welfare (DoP&PW) had earlier advised the Department of Public Enterprises (DPE) to issue instructions to all administrative Ministries for revision of pension (under IDA pattern) of retired en-masse transferees who had opted for combined pension as per formulae under the Central Government rules based on IDA pattern of pay, on the lines of procedure adopted for pay scales of PSU officials. No instructions have, however, been issued by DPE to the administrative ministries for revision of pension, presumably on the ground that IDA pension revision issue is beyond DPE's scope.

2.4 It is therefore felt that for pre-2007 retirees of BSNL, DOT has to process revision of pension on IDA pattern. As per sub-rule 21 of Rule 37-A, pensionary benefits including family pension are to be paid by the Government for employees

SECRET

TRUE COPY

Central Administrative Tribunal

absorbed in BSNL. In the absence of suitable general guidelines for pension revision on IDA pattern, it has been felt necessary to seek Cabinet Approval for such revision. Accordingly, this proposal has been prepared considering the factors given in following paragraphs.

2.5 Pension is linked to pay drawn at the time of retirement as well as pay drawn by employee of similar status in future even after retirement. Pension revision of retired employee is linked to pay revision of existing employees. As per the judgment of Apex Court in case of D. S. Nakara & Others versus Union of India, the Apex Court has ruled that applicability of any liberalised pension scheme should not depend on a fixed date of retirement but the division of pensioners into two classes should be based on some rational principle.

2.6 The annual pension liability of the Government in respect of employees of DoT/DTS/DTO, who retired prior to 1.10.2000 and those who have worked or working in BSNL on deemed deputation and for those who are absorbed in BSNL, shall not exceed 60% of annual receipts to Government from (i) Dividend income from MTNL/BSNL, (ii) License fee from MTNL/BSNL; and (iii) Corporate tax /Excise duty /Service tax paid by BSNL. If the annual pension liability exceeds the figure of 60%, the liability beyond that level will be borne by BSNL. Details of pension liability of government for the year 2009-10 for BSNL are given at Annexure-I (Page 14).

2.7 The pension of pre-2006 Central Government pensioner/family pensioner has been revised as per orders dated 1.9.2008, by adding together (i) the existing

Central Administrative Tribunal

TRUE COPY

pension/family pension; (ii) Dearness pension, where applicable (iii) Dearness relief as on 1.1.2006 i.e. 24% of Basic pension/Basic family pension plus dearness pension; and (iv) Fitment weightage @ 40% of existing pension/family pension. The amount so arrived at will be regarded as consolidated pension/family pension with effect from 1.1.2006. The pension revision factor thus comes out to be 2.26 as on 1.1.2006; of course, with minimum and maximum pension as on 1.1.2006 as Rs.3500/- and Rs.45000/- respectively.

2.8 The pension revision methodology contained in this note is based upon the pay revision parameters of BSNL. The consolidated pension/ family pension will be worked out by adding (i) the existing basic pension/family pension, (ii) Dearness relief as on 1.1.2007 i.e. 68.8% of Basic pension/Basic family pension and (iii) Fitment weightage @ 30% on the sum of existing basic pension/family pension and the dearness relief (IDA) thereon. The pension revision factor thus comes out to be 2.194 as on 1.1.2007.

2.9 Other conditions like minimum and maximum revised pension being Rs. 3500/- and Rs. 45000/- as on 1.1.2007 respectively, age related additional pension for pensioners as prescribed by DoP&PW, and government liability of pension being limited to 60% of receipts will remain similarly applicable.

Central Administrative Tribunal

598

SECRET

F.No.40-17/2008-Pen.(T)
Government of India
Department of Telecommunications

3. Proposal:

3.1 In view of the foregoing, it is proposed that the pension/ family pension of existing BSNL absorbed pre-2007 pensioners/ family pensioners may be revised w.e.f. 1.1.2007 by adding together-

(i) Existing pension/ family pension including commuted portion of pension, if any

(ii) Dearness relief (IDA) @ 68.8%

(iii) Fitment weightage @ 30% of the existing pension/ family pension and dearness relief (IDA) thereon.

3.2 The amount so arrived at will be regarded as the consolidated pension/ family pension w.e.f. 1.1.2007 subject to minimum/ maximum limit prescribed under CCS Pension Revised Rules 2008. 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.

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

3.4 This quantum of pension/family pension available to the old pensioners/family pensioners shall be increased as follows:

SECRET

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

Age of pensioners/ family pensioners	Additional quantum of pension
From 80 years to less than 85 years	20% of revised basic pension/family pension
From 85 years to less than 90 years	30% of revised basic pension/family pension
From 90 years to less than 95 years	40% of revised basic pension/family pension
From 95 years to less than 100 years	50% of revised basic pension/family pension
100 years or more	100% of revised basic pension/family pension

3.5 After this revision, the annual pension liability of the Government in respect of employees of DoT/DTS/DTO, who retired prior to 1.10.2000 and those who have worked or working in BSNL on deemed deputation and for those who are absorbed in BSNL, shall not exceed 60% of annual receipts to Government from (i) Dividend income from MTNL/BSNL, (ii) License fee from MTNL/BSNL; and (iii) Corporate tax /Excise duty /Service tax paid by BSNL. If the annual pension liability exceeds the figure of 60%, the balance amount is to be paid by BSNL.

4. Inter-Ministerial Consultation:

4.1 The draft note was circulated to the Department of Expenditure (Ministry of Finance), Department of Legal Affairs (Ministry of Law and Justice), Department of Pension and Pensioners' Welfare (Ministry of Personnel, Public Grievances and Pensions) and Department of Public Enterprises (Ministry of Heavy Industries & Public Enterprises) on 28.7.2010. The views of the consulted Ministries along with

SECRET

TRUE COPY

Central Administrative Tribunal

counter comments of Department of Telecommunications are placed at Annexure-II (Page 15) to this note.

4.2 The Department of Expenditure vide its OM dated 3.9.2010 conveyed its concurrence to the proposal contained this Cabinet Note. Department of Legal Affairs has opined that if IDA pension is not revised from 1.1.2007 in case of BSNL absorbee pensioners, it may create a huge difference in the pension of employees of the same grade retired before and after 1.1.2007 and the former may resort to their legal right on the basis of the aforesaid judgement of the Hon'ble Supreme Court. There being no legal or constitutional objection to the proposal, they also concurred to the proposal contained in this note on 12.8.2010. Department of Pension and Pensioners' Welfare vide its OM dated 23.8.2010 has agreed with the proposal contained in the Cabinet Note with certain observations which have been duly incorporated in the Cabinet Note. Department of Public Enterprises vide its OM dated 23.9.2010 has indicated no objection to the proposal subject to certain observations which have been duly considered while preparing this cabinet note as mentioned in Annexure-II (Page 15).

5. Financial Implications:

5.1 The additional annual expenditure on account of revision of IDA pension in BSNL comes to around Rs. 110 crores. The additional expenditure for payment of arrears for last 3 years since 1.1.2007 is approximately Rs. 330 crores. The annual liability of the Government on account of this proposed revision of pension in BSNL

TRUE COPY

Central Administrative Tribunal

with effect from 1.1.2007 shall be within the prescribed limits as explained in para 3.5 above.

6. Approval Sought:

6.1 Approval of the Cabinet is sought for revision of pension/ family pension of existing BSNL absorbed pre-2007 pensioners/ family pensioners w.e.f. 1.1.2007 by adding together-

(i) Existing pension/ family pension including commuted portion of pension, if any

(ii) Dearness relief (IDA) @ 68.8%

(iii) Fitment weightage @ 30% of the existing pension/ family pension and dearness relief (IDA) thereon.

6.2 The amount so arrived at will be regarded as the consolidated pension/ family pension w.e.f. 1.1.2007. This will be subject to the conditions of minimum and maximum revised pension, age related additional pension for pensioners, and government liability of pension being limited to 60% of receipts as mentioned in para 3.2 to 3.5 of this note.

7. The statement of Implementation Schedule has been given in Appendix-I (Page 11) to this note.

TRUE COPY

Central Administrative Tribunal

188 602.

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

8. The proposal covered in the note is an administrative issue and therefore criteria of Equity, Innovation and Public Accountability is not relevant in this case. A statement on Equity, Innovation and Public Accountability is attached at **Appendix-II** (Page 13) to this note.

This note has been seen by Hon'ble Minister of Communications & Information Technology.

(Malay Shrivastava)
Joint Secretary to the Govt. of India
Telephone No. 23717411
FAX No. 23372049

TRUE COPY

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

603

APPENDIX – I
(Refer paragraph 7)

STATEMENT OF IMPLEMENTATION SCHEDULE

Sub: Revision of IDA pension for employees of BSNL, who retired after 01.10.2000 and before 01.01.2007.

*****

Gist of decision required	Project benefits/results	Time-frame and manner of implementation / Reporting to Cabinet Secretariat.
Revision of IDA Pension of existing BSNL absorbed pre-2007 pensioners/ family pensioners w.e.f. 1.1.2007 by adding together- (i) Existing pension/ family pension including commuted portion of pension, if any (ii) Dearness relief @ 68.8% (iii) Fitment weightage @ 30% of the existing pension/ family pension and dearness relief (IDA) thereon.	This will fulfill the demand of pension revision of BSNL retirees (who retired between 01.10.2000 and 01.01.2007) in whose case pension is paid by the Government.	Immediately after approval of this Cabinet Note, instructions will be issued to Controllers of Communication Accounts (CCA), in various circles of BSNL to complete the work of pension revision within 6 months.

SECRET

TRUE COPY

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

The revision is subject to the conditions of minimum and maximum revised pension, age related additional pension for pensioners, and government liability of pension being limited to 60% of receipts as mentioned in para 3.2 to 3.5 of this note.		

(Malay Shrivastava)
Joint Secretary to the Govt. of India
Telephone No. 23717411
FAX No. 23372049

Central Administrative Tribunal

TRUE COPY

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

APPENDIX – II
(Refer paragraph 8)

STATEMENT OF EQUITY, PUBLIC ACCOUNTABILITY AND INNOVATION

Sub: Revision of IDA pension for employees of BSNL, who retired after 01.10.2000 and before 01.01.2007.

*****

Sl. No.	The required goal	How does the proposal advance this goal?
1.	Equity or inclusiveness, Public Accountability, Innovation	The proposal covered in the Note is an administrative issue and therefore, the criteria of Equity, Public Accountability and Innovation is not relevant in this case.

(Malay Shrivastava)
Joint Secretary to the Govt. of India
Telephone No. 23717411
FAX No. 23372049

Central Administrative Tribunal

SECRET

TRUE COPY

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

ANNEXURE – I
(Refer paragraph 2.6)

Total Annual Receipt to Government and Pension Liability

S.No.	Item	Amount Rs. Crores
1.	Dividend from BSNL in 2009-10	0.00
2.	Dividend from MTNL in 2009-10	35.44
3.	Licence fees from BSNL in 2009-10	2154.10
4.	Licence fees from MTNL in 2009-10	348.06
5.	Corporate Tax paid (including TDS) in 2009-10	1935.00
6.	Service tax in 2009-10	2914.68
7.	Excise duty	37.75
8.	Total	7425.03
9.	60% of this amount	4455.00
10.	Pension Liability of Government for 09-10	2877.18
11.	Pension Liability of Government for 09-10 after proposed revision	2877.18 + 110.00 = 2987.18
12.	Pension Contribution paid by BSNL to the government for 2009-10	2023.53

Thus the pension liability of the Government after the proposed revision of pension of the BSNL retirees shall also be within the prescribed limit of 60%.

SECRET

TRUE COPY

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

ANNEXURE – II
(Refer paragraph 4.1)

Comments of Ministries Consulted

Comments	Counter Comments of Ministry of Communications &IT
Department of Legal Affairs The proposals contained in the Draft Note are by and large of administrative nature pertaining to DOT and their two PSUs i.e. BSNL and MTNL. It also appears that at present the pension liability towards the absorbed employees are by and large made by the Government from the receipt of their commercial PSUs. Also, so far the service rendered by these employees in the Government before the corporatisation is concerned, the liability to pay pension was of the Central Government. There appears to be no legal or constitutional objection to the proposals contained in the Note, and if approved, we may concur in the said Note.	No comments required
Department of Pension and Pensioners' Welfare DoP&PW is in agreement with the proposal contained in the draft Cabinet Note. However, following observations are communicated:- (i) The Cabinet Note is silent on the issue of modified parity for pensioners as prescribed in para 4.2 of Department of Pension and Pensioners' Welfare O.M. No.38/37/08-P&PW(A) dated 1.9.2008. Para 4.2 is reproduced below:- '4.2. The fixation of pension will be subject to the provision that the revised pension, in no case, shall be lower than fifty percent of the minimum of the pay in the pay band plus the grade pay corresponding to the pre-revised pay scale from which the pensioner had retired. In the case of HAG+ and above scales, this will be fifty percent of the minimum of the revised scale.'	Appropriate provision has been incorporated as para 3.3 of this Cabinet Note.

SECRET

TRUE COPY

Central Administrative Tribunal

(ii) The Cabinet Note is also silent on the issue of age related additional pension for pensioners as prescribed in para 4.5 of Department of Pension and Pensioners' Welfare O.M. No. 38/37/08-P&PW(A) dated 1.9.2008. Para 4.5 is reproduced below:- '4.5 This quantum of pension/family pension available to the old pensioners/family pensioners shall be increased as follows:	Appropriate provision has been incorporated as para 3.4 of this Cabinet Note.

Age of pensioners/ family pensioners	Additional quantum of pension
From 80 years to less than 85 years	20% of revised basic pension/family pension
From 85 years to less than 90 years	30% of revised basic pension/family pension
From 90 years to less than 95 years	40% of revised basic pension/family pension
From 95 years to less than 100 years	50% of revised basic pension/family pension
100 years or more	100% of revised basic pension/family pension

(iii) The Cabinet note in para 3.3 *(para 3.5 of this note)* discusses the modalities of sharing pensionary liability between BSNL and government and states that pension liability of the government after proposed revision of pension of BSNL pensioners would increase by Rs. 110 crores and total liability shall be within prescribed limits. Department of Pension and Pensioners' Welfare has no comments on this financial issue.	No comments required

Central Administrative Tribunal

TRUE COPY

609.

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

(iv) The Department of Telecommunications has adopted the formula for revision of pension of all pensioners of BSNL, which has been used for revision of pay of its Board level and below Board level executives and Non-unionized supervisors as communicated vide Department of Telecommunications communication dated 7.2.2009. It is presumed that the same formula had been adopted while revising the pay of employees of BSNL. In case different formula has been prescribed for employees the same shall be adopted for revision of pension of pensioners of this category (employees).	Same formula has been adopted for revision of pay of executives as well as non-executives in BSNL. Presumption confirmed.

Central Administrative Tribunal

SECRET

TRUE COPY

194

610

True Typed copy

No.47-35/2014-Pen(T)
Government of India
Department of Telecommunications
20, Ashoka Road, Sanchar Bhavan,
New Delhi

Dated 23 December, 2014

To

Shri Amit Kumar Gupta,

1/4 Rajendra Banerjee Road,

Behala,

Kolkata 700034

Subject: Seeking information under RTI Act, 2005 – Case of Shri Amit Kumar Gupta

Sir,

Kindly refer to your representation dated 14.11.2014 vide which you have deposited an amount of Rs.36/- for obtaining the copy of the Cabinet memo dated 29.12.2010.

2. As desired by you, a copy of the Cabinet Note dated 29th December, 2010 enclosed herewith.

Yours faithfully,
Sd/-
(R.K. Mishra)
DDG (Estt.) & Appellate Authority

Encl: As stated above.

Central Administrative Tribunal

// TRUE TYPED COPY //

611.

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

Copy No. /70
Dated 29th December, 2010

NOTE FOR THE CABINET

Sub: Revision of IDA pension for employees of BSNL, who retired after 01.10.2000 and before 01.01.2007

1. **Background:**

1.1. 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 (DTO) into a Public Sector Undertaking (PSU). The government employees in the two departments were transferred en masse to BSNL on deemed deputation basis. The process of absorption of these employees in BSNL took place with effect from 01.10.2000 in accordance with Rule 37A of CCS (Pension) Rules, 1972. On absorption, these absorbed employees started getting their pay in Industrial Dearness Allowance (IDA) based pay scales. As per sub-rule 8 of rule 37A of CCS (Pension) Rules, 1972, these absorbed employees are eligible for pensionary benefits on the basis of the combined service rendered by them with the central Government and with BSNL in accordance with formula for calculation of pension and family pension under CCS (Pension) Rules, 1972 at the time of their retirement from

Central Administrative Tribunal

TRUE COPY

BSNL. The absorbed employees of BSNL who retired after 01.10.2000 get pension, and dearness relief thereon as per IDA pattern. The number of such retired employees as on 31.12.2006 is approximately 47,000. The pension to employees absorbed in BSNL is paid by Government as per sub-rule 21 to 23 of Rule 37-A of CCS (Pension) Rules, 1972 while BSNL continues to pay Pension Contribution to the DoT as per rates prescribed under FR-116.

1.2. The Department of Public Enterprises (DPE) issued orders for revision of pay of employees in BSNL with effect from 1.1.2007. No such orders were issued by the government for revision of pension of employees retired from BSNL. As a result, employees who retired from BSNL after 1.1.2007 got about 30% higher pension than the employees who retired before 1.1.2007.

2. **Justification**

2.1 In respect of government employees, consequent to pay revision, pension revision has also been carried out in accordance with guidelines issued by the Department of Pension & Pensioners' Welfare (DoP&PW). Though there are only a few PSUs which are paying pension on IDA pay scales, BSNL is a unique PSU where pension continues to be paid by the government to absorbed employees of BSNL. However, consequent to pay revision in BSNL with effect

Central Administrative Tribunal
TRUE COPY

from 1.1.2007, no guidelines have been issued for revision of pension of absorbed employees of BSNL.

2.2 As on 1.1.2007, Dearness Relief given on IDA pay scales was 68.8% of the basic pension. From 01.01.2007, wage revision in IDA scales for all employees took place in BSNL. The revision was done after merging basic pay with IDA @ 68.8% and applying fitment of 30% thereon i.e. on basic pay plus merged IDA. This resulted in significant rise in basic pension for those employees, who retired after 01.01.2007 in the revised pay scales. However, the BSNL absorbed employees who retired before 01.01.2007 continued to draw pension at lower rates, as no change in the pension was notified. A large number of BSNL pensioners, Service Unions as well as pensioner's Associations / Unions have represented for revision of pension in respect of BSNL absorbed employees retired before 01.01.2007.

2.3 The Department of Pension & Pensions Welfare (DoP&PW) had earlier advised the Department of Public Enterprises (DPE) to issue instructions to all administrative ministries for revision of pension (under IDA pattern) of retired en-masse transferees who had opted for combined pension as per formulae under the Central Government rules based on IDA pattern of pay, on the lines of procedure adopted for pay scales of PSU officials. No instructions have, however, been

TRUE COPY

issued by DPE to the administrative ministries for revision of pension, presumably on the ground that Ida pension revision issue is beyond DPE's scope.

2.4 It is therefore felt that for pre-2007 retirees of BSNL, DOT has to process revision of pension on IDA pattern. As per sub-rule 21 of Rule 37-A, pensionary benefits including family pension are to be paid by the Government for employees absorbed in BSNL. In the absence of suitable general guidelines for pension revision on IDA pattern, it has been felt necessary to seek cabinet Approval for such revision. Accordingly, this proposal has been prepared considering the factors given in following paragraphs.

2.5 Pension is linked to pay drawn at the time of retirement as well as pay drawn by employee of similar status in future even after retirement. Pension revision of retired employee is linked to pay revision of existing employees. As per the judgment of Apex court in case of D.S. Nakara & Others versus Union of India, the Apex Court has ruled that applicability of any liberalized pension scheme should not depend on a fixed date of retirement but the division of pensioners into two classes should be based on some rational principle.

2.6 The annual pension liability of the Government in respect of employees of DoT/DTS/DTO, who retired prior to 01.10.2000 and those who have worked or working in BSNL

Central Administrative Tribunal

TRUE COPY

on deemed deputation and for those who are absorbed in BSNL, shall not exceed 60% of annual receipts to Government from (i) Dividend income from MTNL/BSNL, (ii) License fee from MTNL/BSNL; and (iii) Corporate tax / Excise duty / Service tax paid by BSNL. If the annual pension liability exceeds the figure of 60%, the liability beyond that level will be borne by BSNL. Details of pension liability of government for the year 2009-10 for BSNL are given at Annexure-I (Page 14).

2.7 The pension of pre-2006 Central Government pensioner/family pensioner has been revised as per orders dated 1.9.2008, by adding together (i) the existing pension/family pension; (ii) Dearness pension, where applicable (iii) Dearness relief as on 1.1.2006 i.e. 24% of Basic pension/Basic family pension plus dearness pension; and (iv) Fitment weightage @ 40% of existing pension/family pension. The amount so arrived at will be regarded as consolidated pension / family pension with effect from 01.01.2006. The pension revision factor thus comes out to be 2.26 as on 01.01.2006; of course, with minimum and maximum pension as on 01.01.2006 as Rs.3500/- and Rs.45000/- respectively.

2.8 The pension revision methodology contained in this note is based upon the pay revision parameters of BSNL. The consolidated pension/family pension will be worked out by

TRUE COPY

Central Administrative Tribunal

adding (i) the existing basic pension/family pension, (ii) Dearness relief as on 1.1.2007 i.e. 68.8% of Basic pension/Basic family pension and (iii) Fitment weightage @ 30% on the sum of existing basic pension/family pension and the dearness relief (IDA) thereon. The pension revision factor thus comes out to be 2.19 as on 1.1.2007.

2.9 Other conditions like minimum and maximum revised pension being Rs.3500/- and Rs.45000/- as on 1.1.2007 respectively, age related additional pension for pensioners as prescribed DoP&PW, and government liability of pension being limited to 60% of receipts will remain similarly applicable.

3. **Proposal**:_

3.1 In view of the foregoing, it is proposed that the pension / family pension of existing BSNL absorbed pre-2007 pensioners/ family pensioners may be revised w.e.f. 1.1.2007 by adding together –

(i) Existing pension / family pension including commuted portion of pension, if any

(ii) Dearness relief (IDA) @ 68.8%

(iii) Fitment weightage @ 30% of the existing pension / family pension and dearness relief (IDA) thereon.

3.2 The amount so arrived at will be regarded as the consolidated pension / family pension w.e.f. 1.1.2007 subject to minimum / maximum limit prescribed under CCS

Pension Revised Rules 2008. 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.

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

3.4 This quantum of pension / family pension available to the old pensioners / family pensioners shall be increased as follows:

Age of pensioners/ family pensioners	Additional quantum of pension
From 80 years to less than 85 years	20% of revised basic pension/family pension
From 85 years to less than 90 years	30% of revised basic pension/family pension
From 90 years to less than 95 years	40% of revised basic pension/family pension
From 95 years to less than 100 years	50% of revised basic pension/family pension
100 years or more	100% of revised basic pension/family pension

3.5 After this revision, the annual pension liability of the Government in respect of employees of DoT/DTS/DTO, who retired prior to 01.10.2000 and those who have worked or

Central Administrative Tribunal

TRUE COPY

working in BSNL on deemed deputation and for those who are absorbed in BSNL, shall not exceed 60% of annual receipts to Government from (i) Dividend income from MTNL/BSNL, (ii0 License fee from MTNL/BSNL; and (iii) Corporate tax/Excise duty/Service tax paid by BSNL. If the annual pension liability exceeds the figure of 60%, the balance amount is to be paid by BSNL.

4. **Inter-Ministerial Consultation**:

4.1 The draft note was circulated to the Department of Expenditure (Ministry of Finance), Department of Legal Affairs (Ministry of Law and Justice), Department of Pension and Pensioners' Welfare (Ministry of Personnel, Public Grievances and Pensions) and Department of Public Enterprises (ministry of Heavy Industries & Public Enterprises) on 28.07.2010. The views of the consulted Ministries along with counter comments of Department of Telecommunications are placed at Annexure-II (Page 15) to this note.

4.2 The Department of Expenditure vide its OM dated 03.09.2010 conveyed its concurrence to the proposal contained this Cabinet Note. Department of Legal Affairs has opined that if IDA pension is not revised from 01.01.2007 in case of BSNL absorbee pensioners, it may create a huge difference in the pension of employees of the

Central Administrative Tribunal

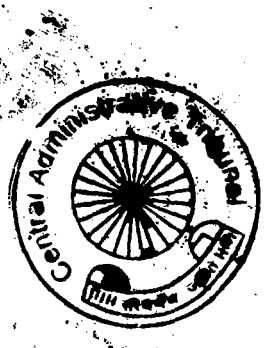
TRUE COPY

same grade retired before and after 01.01.2007 and the former may resort to their legal right on the basis of the aforesaid judgment of the Hon'ble Supreme Court. There being no legal or constitutional objection to the proposal, they also concurred to the proposal contained in this note on 12.08.2010. Department of Pension and Pensioners' Welfare vide its OM dated 23.08.2010 has agreed with the proposal contained in the cabinet Note with certain observations which have been duly incorporated in the Cabinet Note. Department of Public Enterprises vide its OM dated 23.09.2010 has indicated no objection to the proposal subject to certain observations which have been duly considered while preparing this cabinet note as mentioned in Annexure-II (Page 15)

5. **Financial Implications**:

5.1 The additional annual expenditure on account of revision of IDA pension in BSNL comes to around Rs.110 crores. The additional expenditure for payment of arrears for last 3 years since 01.01.2007 is approximately Rs.330 crores. The annual liability of the Government on account of this proposed revision of pension in BSNL with effect from 01.01.2007 shall be within the prescribed limits as explained in para 3.5 above.

TRUE COPY



820.

6. **Approval Sought:**

6.1 Approval of the Cabinet is sought for revision of pension / family pension of existing BSNL absorbed pre-2007 pensioners/ family pensioners w.e.f. 01.01.2007 by adding together-

(i) Existing pension / family pension including commuted portion of pension, if any

(ii) Dearness relief (IDA) @ 68.8%

(iii) Fitment weightage @ 30% of the existing pension / family pension and dearness relief (IDA) thereon.

6.2 The amount so arrived at will be regarded as the consolidated pension / family pension w.e.f. 01.01.2007. This will be subject to the conditions of minimum and maximum revised pension, age related additional pension for pensioners, and government liability of pension being limited to 60% of receipts as mentioned in para 3.2 to 3.5 of this note.

7. The statement of Implementation Schedule has been given in Appendix-I (page 11) to this note.

8. The proposal covered in the note is an administrative issue and therefore criteria of Equity, Innovation and Public accountability is not relevant in this case. A statement on Equity, Innovation and Public Accountability is attached at Appendix-II (Page 13) to this note.

TRUE COPY

This note has been seen by Hon'ble Minister of Communications & Information Technology.

Sd/-
(Malay Shrivastava)
Joint Secretary to the Govt. of India
Telephone No. 23717411
FAX No.23372049

TRUE COPY



SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of telecommunications

APPENDIX-I

(Refer paragraph 7)

STATEMENT OF IMPLEMENTATION SCHEDULE

Sub:- Revision of IDA pension for employees of BSNL, who retired after 01.10.2000 and before 01.01.2007

****

Gist of decision required	**Project benefits / results**	**Time0frame and manner of Implementation / Reporting to Cabinet Secretariat**
Revision of IDA Pension of existing BSNL absorbed pre-2007 pensioners/ family pensioners w.e.f. 01.01.2007 by adding together- (i) Existing pension / family pension including commuted portion of pension, if any (ii) Dearness relief @ 68.8% (iii) Fitment of weightage @ 30% of the existing pension / family pension and	This will fulfill the demand of pension revision of BSNL retirees (who retired between 01.10.2000 and 01.01.2007) in whose case pension is paid by the Government.	Immediately after approval of this Cabinet Note, instructions will be issued to Controllers of Communication Accounts (CCA), in various circles of BSNL to complete the work of pension revision within 6 months.

TRUE COPY

623

dearness relief (IDA) thereon. The revision is subject to the conditions of minimum and maximum revised pension, age related additional pension for pensioners, and government liability of pension being limited to 60% of receipts as mentioned in para 3.2 to 3.5 of this note.		

Sd/-
(Malay Shrivastava)
Joint Secretary to the Govt. of India
Telephone No. 23717411
FAX No.23372049

SECRET

TRUE COPY

Central Administrative Tribunal

624

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

APPENDIX-II
(Refer paragraph 8)

STATEMENT OF EQUITY, PUBLIC ACCOUNTABILITY AND INNOVATION

Sub:- Revision of IDA pension for employees of BSNL, who retired after 01.10.2000 and before 01.01.2007

****

Sl. No.	The required goal	How does the proposal advance this goal?
1.	Equity or inclusiveness, Public Accountability, Innovation	The proposal covered in the Note is an administrative issue and therefore, the criteria of Equity, Public Accountability and Innovation is not relevant in this case.

Sd/-
(Malay Shrivastava)
Joint Secretary to the Govt. of India
Telephone No. 23717411
FAX No.23372049

SECRET

TRUE COPY

625

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

APPENDIX-I
(Refer paragraph 2.6)

Total Annual Receipt to Government and Pension Liability

S.No.	Item	Amount Rs. Crores
1.	Dividend from BSNL in 2009-10	0.00
2.	Dividend from MTNL in 2009-10	35.44
3.	Licence fees from BSNL in 2009-10	2154.10
4.	Licence fees from MTNL in 2009-10	348.06
5.	Corporate Tax paid (including TDS) in 2009-10	1935.00
6.	Service tax in 2009-10	2914.68
7.	Excise duty	37.75
8.	Total	7425.03
9.	60% of this amount	4455.00
10.	Pension Liability of Government for 09-10	2877.18
11.	Pension Liability of Government for 09-10 after proposed revision	2877.18 +110.00 = **2987.18**
12.	Pension Contribution paid by BSNL to the government for 2009-10	2023.53

Thus the pension liability of the government after the proposed revision of pension of the BSNL retirees shall also be within the prescribed limit of 60%

TRUE COPY

Central Administrative Tribunal

826

SECRET

F.No.40-17/2008-Pen(T)
Government of India
Department of Telecommunications

ANNEXURE-II
(Refer paragraph 4.1)

Comments of Ministries Consulted

Comments	Counter Comments of Ministry of Communications & IT
Department of Legal Affairs The proposals contained in the Draft Note are by and large of administrative nature pertaining to DOT and their two PSUs i.e. BSNL and MTNL. It also appears that at present the pension liability towards the absorbed employees are by and large made by the Government from the receipt of their commercial PSUs. Also, so far the service rendered by these employees in the government before the corporatization is concerned, the liability to pay pension was of the Central Government. There appears to be no legal or constitutional objection to the proposals contained in the Note, and if approved, we may	No comments required.

Central Administrative Tribunal

concur in the said Note.	–
Department of Pension and Pensioners' Welfare DoP&PW is in agreement with the proposal contained in the draft Cabinet Note. However, following observations are communicated:- (i) The Cabinet Note is silent on the issue of modified parity for pensioners as prescribed in para 4.2 of Department of Pension and Pensioners' Welfare O.M. No.38/37/08-P&PW(A) dated 01.09.2008. Para 4.2 is reproduced below:- '4.2. The fixation of pension will be subject to the provision that the revised pension in no case, shall be lower than fifty percent of the minimum of the pay in the pay band plus the grade pay corresponding to the pre-revised pay scale from which the pensioner had retired. In the case of HAG+ and above scales, this will be fifty percent of the minimum of the revised scale.'	Appropriate provision has been incorporated as para 3.3 of this Cabinet Note.
(ii) The Cabinet Note is also silent on the issue of age related additional pension for pensioners as prescribed in apra 4.5 of Department of Pension and Pensioners' Welfare O.M. No.38/37/08-	Appropriate provision has been incorporated as para 3.5 of this Cabinet Note.

Central Administrative Tribunal

TRUE COPY

P&PW(A) dated 01.09.2008. Para 4.5 is reproduced below:- '4.5 This quantum of pension / family pension available to the old pensioners / family pensioners shall be increased as follows: Age of pensioners/ family pensioners — Additional quantum of pension From 80 years to less than 85 years — 20% of revised basic pension / family pension From 85 years to less than 90 years — 30% of revised basic pension / family pension From 90 years to less than 95 years — 40% of revised basic pension / family pension From 95 years to less than 100 years — 50% of revised basic pension / family pension 100 years or more — 100% of revised basic pension / family pension (iii) The Cabinet note in para 3.3 (para 3.5 of this note) discusses the modalities of sharing pensionary liability between BSNL and government and states that pension liability of the government after proposed revision of pension of BSNL	No comments required

Central Administrative Tribunal

pensioners would increase by Rs.110 crores and total liability shall be within prescribed limits. Department of Pension and Pensioners' Welfare has no comments on this financial issue.	
(iv) The Department of Telecommunications has adopted the formula for revision of pension of all pensioners of BSNL, which has been used for revision of pay of its Board level and below Board level executives and Non-unionized supervisors as communicated vide Department of Telecommunications communication dated 07.02.2009. It is presumed that the same formula had been adopted while revising the pay of employees of BSNL. In case different formula has been prescribed for employees the same shall be adopted for revision of pension of pensioners of this category (employees.)	Same formula has been adopted for revision of pay of executives as well as non-executives in BSNL. Presumption confirmed.

SECRET

Central Administrative Tribunal

ANNEXURE 5

ANNEXURE A.

F. No. 40-17/2008-Pen(T)-Vol.III
Government of India
Ministry of Communications & Information Technology
Department of Telecommunications
Sanchar Bhawan, 20, Ashoka Road, New Delhi-110001

Dated the 16th March, 2011

OFFICE MEMORANDUM

Sub: Revision of pension of pre-2007 pensioners/ family pensioners of BSNL

1. The employees of erstwhile Department of Telecom (DoT) who were absorbed in BSNL with effect from 1.10.2000 in accordance with Rule 37-A of CCS (Pension) Rules 1972 and have since retired are being paid pension by the Government in accordance with sub-rule 21 of the said rule.

2. The matter regarding revision of Pension in respect of BSNL IDA Pensioners, who retired during the period from 1.10.2000 to 31.12.2006, pursuant to wage revision in BSNL with effect from 1.1.2007 had been under consideration of the Government of India.

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

3.1. These orders shall apply to all pensioners/family pensioners who were drawing/ entitled to draw pension/ family pension on 1.1.2007 under the provisions of sub-rule 21 of Rule 37-A of Central Civil Services (Pension) Rules, 1972, based upon the combined services rendered in Government and in BSNL.

3.2. In these orders:

a. Pre-2007 BSNL pensioner / family pensioner means a pensioner/ family pensioner, who, after retirement from BSNL during the period 1.10.2000 to 31.12.2006, was drawing/ entitled to draw pension based upon his combined service in Government and in BSNL, in accordance with sub-rule 21 of Rule 37-A of CCS(Pension) Rules 1972, as on 31.12.2006.

98/DC/17
17/1

b. Existing pension means the basic pension inclusive of commuted portion, if any, as on 31.12.2006, covered under sub-rule 21 of Rule 37-A of the CCS (Pension) Rules, 1972.

c. Existing family pension means the basic family pension as on 31.12.2006 under sub-rule 21 of Rule 37-A of the CCS (Pension) Rules 1972.

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

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

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

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

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

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

4.3. Since the consolidated pension will be inclusive of commuted portion of pension, if any, the commuted portion will be deducted from the said amount while making monthly disbursements.

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

4.5. The quantum of pension/family pension available to the old pensioners/ family pensioners shall be increased as follows:

Age of Pensioner/family pensioner	Additional quantum of pension
From 80 years to less than 85 years	20% of revised basic pension/ family pension
From 85 years to less than 90 years	30% of revised basic pension/ family pension
From 90 years to less than 95 years	40% of revised basic pension/ family pension
From 95 years to less than 100 years	50% of revised basic pension/ family pension
100 years or more	100% of revised basic pension/ family pension

15/3/21

The amount of additional pension will be shown distinctly in the pension payment order. For example, in case where a pensioner is more than 80 years of age and his/ her consolidated pension in terms para 4.1 and 4.2 above is Rs.10,000 pm, the pension will be shown as (i) Basic pension=Rs.10,000 and (ii) Additional pension = Rs.2,000 pm. The pension on his/ her attaining the age of 85 years will be shown as (i) Basic Pension = Rs.10,000 and (ii) additional pension = Rs.3,000 pm.

4.6. The consolidated pension/family pension arrived at as per paragraph 4.1 includes dearness relief of 68.8% of basic pension corresponding to average Index level upto 126.33 (Base year 2001=100) as on 1.1.07, as per orders issued quarterly by Department of Public Enterprises in respect of serving employees, whose pay scales were revised w.e.f. 1.1.1997. Therefore, dearness relief on the consolidated pension/ family pension will be admissible only beyond index average 126.33 (Base year 2001=100) in accordance with the scheme of dearness allowance which is admissible on pay to serving employees of BSNL, i.e. the quarterly IDA rates notified by Department of Public Enterprises. Sixteen such quarterly installments of Dearness Relief on IDA pension due w.e.f. 1.4.07 upto the date of issue of these orders will be paid on the basis of DPE OM issued from time to time in respect of serving employees of CPSEs whose scales were revised w.e.f 1.1.07. A table indicating dearness relief admissible w.e.f 1.4.2007 to 31.3.2011 is as under:

S. No.	IDA effective from	IDA Rates
1.	01-01-2007	0%
2.	01-04-2007	0.8%
3.	01-07-2007	1.3%
4.	01-10-2007	4.2%
5.	01-01-2008	5.8%
6.	01-04-2008	6.3%
7.	01-07-2008	9.2%
8.	01-10-2008	12.9%
9.	01-01-2009	16.6%
10.	01-04-2009	16.9%
11.	01-07-2009	18.5%
12.	01-10-2009	25.3%
13.	01-01-2010	30.9%
14.	01-04-2010	34.8%
15.	01-07-2010	35.1%
16.	01-10-2010	39.8%
17.	01-01-2011	43.0%

4.7. Where the consolidated pension/family pension in terms of paragraph 4 above works out to an amount less than Rs. 3500, the same shall be stepped upto Rs. 3500.

This will be regarded as pension/ family pension with effect from 1.1.2007. In the case of pensioners who are in receipt of more than one pension, the floor ceiling of Rs. 3500/- will apply to the total of all pensions taken together.

4.8. Cases of BSNL pensioners who are in receipt of any other pension may be referred to this office for issue of orders separately.

5. The annual pension liability of Government in respect of employees retired from DoT prior to 1.10.2000 and those who are working in BSNL on deemed deputation basis or on absorption shall continue to remain within 60% of annual receipts to Government from (i) dividend income from MTNL/BSNL, (ii) License fee from MTNL/BSNL; and (iii) Corporate Tax/ Excise duty/ Service Tax paid by BSNL after this revision. In case it exceeds 60%, excess liability will be borne by BSNL.

6. All administrative offices of BSNL handling preparation of pension papers to the BSNL pensioners are hereby directed to initiate the process of consolidation of pension/ family pension to existing BSNL pensioners/ family pensioners at the consolidated rates in terms of para 4 above immediately, and forward the same to concerned CCA for authorization. A Table showing pre-revised and revised pay scales in BSNL is given in **Annexure-I.**

7. A suitable entry regarding the revised consolidated pension shall be recorded by the pension Disbursing Authorities in both halves of the Pension Payment Order. An intimation regarding disbursement of revised pension may be sent by the pension disbursing authorities to the Office of CCA which had issued the PPO in the form given at **Annexure-II** so that the later can update the Pension Payment Order Register maintained by him. An acknowledgement shall be obtained by the Pension Disbursing Authorities from Office of the respective CCAs in this behalf.

8. The consolidated pension/ family pension as worked out in accordance with provisions of Para 4 above shall be treated as final Basic Pension with effect from 1.1.2007 and shall qualify for grant of Dearness Relief on IDA pattern sanctioned thereafter.

10. It shall be the responsibility of the CCAs/ Heads of the Office, etc. from which the BSNL employee had retired or where he was working prior to his demise to revise the pension/ family pension of all BSNL pensioners/ family pensioners with effect from 1st January 2007 in accordance with the provisions mentioned in para 4.1 and 4.2 above and to issue revised Pension Payment Order (PPOs). Action to revise pension/ family pension in terms of these provisions shall be initiated suo-moto by the concerned Heads of Offices. It is emphasized that the Pension Sanctioning Authority, in no case, will ask the BSNL pensioner/ family pensioner to surrender his/ her original Pension Payment Order (PPO) for issuing revised authority. In case, however, the age of pensioner/family pensioner is not available on the PPO/ office records, the same shall be obtained from the pensioner/ family pensioner and indicated in the revised PPO. The authenticity of the age declared by the pensioner/ family pensioner shall be verified by the pension

15/4/2011

Central Administrative Tribunal

sanctioning authority. It may also be ensured that a copy of the revised PPO should be invariably endorsed to the pensioner/ family pensioner.

11. It is considered desirable that the benefit of these orders should reach the pensioners as expeditiously as possible. To achieve this objective it is desired that all Heads of offices should ensure that the calculation for revised pension due to the pensioners in terms of para 4.1 and para 4.5 above is forwarded to the concerned CCA by 30th April 2011 who in turn will issue the revised PPO within one month of receipt of cases completed in all respects positively. Payment of pension at revised rates should start from the month of July 2011 and payment of arrears should be completed by 30th September 2011. Concerted efforts should be made by all the authorities concerned to ensure that the revised PPO's are issued, wherever necessary, with the utmost expedition in terms of para 4.1, 4.2 and 4.5 above.

(Shakeel Ahmad) 15.3.11
Dy. Director General (Establishment)
Ph: 23710035

To,
Chairman and Managing Director
Bharat Sanchar Nigam Limited
New Delhi

Copy to:

1. The Cabinet Secretary [Attn:Shri K.L.Sharma, Director (Cabinet)]
2. Secretary, Department of Expenditure
3. Secretary, Department of Pension and Pensioners' Welfare
4. Secretary, Department of Legal Affairs
5. Secretary, Department of Public Enterprises
6. PS to Secretary (T)
7. PS to Members(S)/ (T)/ (F), Telecom Commission
8. DDG(TPF& A/C), DoT, for issuing detailed circular to CCA offices for revision of pension/ family pension as per this order; and to match the liability of government for payment of pension limiting to 60% of receipts as envisaged in para 5 of this order.
9. DDG(FEB)/ Director(Finance)/, DoT
10. Dir (IT) with the request to upload the O.M. in the DoT's web site. Hindi version of the O.M. will be sent shortly.

(D.N.Sah) 15/3/2011
U.S. (STP)

Page-5/s

685

ANNEXURE - I

Pay Scales in BSNL

Pay Scale	Pre-revised	Revised	Min revised Pension
Non-Executive			
NE1	4000-120-5800	7760-13320	3880
NE2	4060-125-5935	7840-14700	3920
NE3	4100-125-5975	7900-14880	3950
NE4	4250-130-6200	8150-15340	4075
NE5	4550-140-6650	8700-16840	4350
NE6	4720-150-6970	9020-17430	4510
NE7	5700-160-8100	10900-20400	5450
NE8	6550-185-9325	12520-23440	6260
NE9	7100-200-10100	13600-25420	6800
NE10	7800-225-11175	14900-27850	7450
NE11	8570-245-12245	16370-30630	8185
Executive			
E1A	9850-250-14600	16400-40500	8200
E2A	11875-300-17275	20600-46500	10300
E3	13000-350-18250	24900-50500	12450
E4	14500-350-18700	29100-54500	14550
E5	16000-400-20800	32900-58000	16450
E6	17500-400-22300	36600-62000	18300
E7	18500-450-23900	43200-66000	21600
E9	23750-600-28550	62000-80000	31000
E9A	25000-650-30200	62000-80000	31000

Central Administrative Tribunal

636.

ANNEXURE-II

Form of intimation by the Pension Disbursing Authority to the CCA and Concerned Communication Accounts Officer regarding consolidation of pension in terms of Department of Telecom. Office Memorandum No. 40-17/2008-Pen.(T)-Vol.III dated 15-03-2011.

1. Name of the IDA Pensioner/Family Pensioner :
2. PPO No. :
3. Date of Birth/age :
4. Date of retirement/Death (in case of family pension) :
5. Savings Bank Account No. :
6. Name of the Bank/Paying Branch :
7. Bank Code No. :
8. Computation of consolidated IDA pension/family pension:
   Pension/*Family Pension/*Family Pension (at enhanced rate)

Pension			Family Pension/Enhanced Family Pension		
(A)	Existing basic pension (inclusive of commuted portion)		(A)	Existing basic Family Pension/Enhanced family pension	
(B)	Dearness Relief up to 68.8% of Basic Pension		(B)	Dearness Relief upto 68.8% of Basic Family Pension	
(C)	30% of (A) + (B) above		(C)	30% of (A) + (B) above	
(D)	Consolidated Pension (A+B+C)		(D)	Consolidated Family Pension (A+B+C)	

Note:

(a) The final revision of IDA pension in respect of pensioners of BSNL will be done by the CCA & Accounts Officer concerned.
(b) The final revision of IDA Family Pension will also be done by the CCA & Accounts Officer concerned.

(* If not applicable draw a line across)

9. Whether consolidated IDA pension/family pension is final or allowed as immediate relief.

10. Remarks, if any.

SIGNATURE OF PENSION DISBURSING AUTHORITY

i. CCA concerned
Ministry of Communications & I.T.
Department of Telecommunications

---

ii. Concerned Communications
Accounts Officer



637

NO.40-31/2008-Pen(T)Vol.I Dated 23rd June 2011 **ANNEXURE 6**

Government of India

Department of Telecommunications
(Pension Section)

ANNEXURE A.

To

1. All Principal CCAs/CCAs/Jt.CCAs.
2. CMD BSNL

Subject:- Applicability of revised rules of CCS (Pension) Rules 1972 Consequent of the 6th CPC to the Government employees absorbed in BSNL-- Clarification regarding.

Sir,

With reference to this office letter of even number dated 12th August,2009, it is clarified that the enhanced family pension upto 10 years as mentioned in para 8.2 of PO & PW No.38/37/08-P&PW(A) dated 2-9-2008 and further clarification vide Sl. No.3 of 38/37/08-P&PW(A) Pt.II dated 3-10-2008 are applicable to BSNL IDA pensioners also.

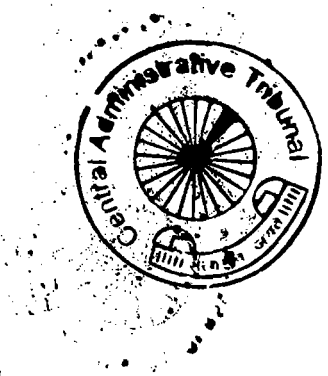
2. The provision contained in Department of pension and pensioners O.M. 8/79/08-P&PW(G) dated 27th,October,2010 regarding payment of Commutation Value of additional amount of pension in respect of employees who retired on/after 1.1.2006 but before 2-9-2008 and expired before exercising option for commutation of additional amount of pension are applicable to BSNL IDA pensioners also.

Sd/-
Deo Nath Sah)
Under Secretary to the Govt.of India
Tel: 2303 6282

Copy for Information to:-

1. Sr. PPS to Chairman, Telecom Commission, New Delhi
2. Sr. PPS to All Members, Telecom Commission, Sanchar Bhavan New Delhi
3. Sr. PPS to All Advisors, DOT,Sanchar Bhavan New Delhi
4. Sr. DDG, TEC,Khurshid Lal Bhavan New Delhi
5. Controller General of Accounts,MoF, Lok 7th, FloorNayak Bhavan New Delhi-3
6. DG of Audit(P&T), Sham Nath Marg,Near Old Secretariat, Civil Lines, New Delhi-54
7. DDG(Accounts)/DDG(FEB)/DDG(LF)/DDG(WPF)/DDG(TFP).
8. All Sr. DDGs/DDGs DOT Sanchar Bhavan, New Delhi
9. DDG (Corporate Accounts), BSNL Statesmans House New Delhi
10. Sr. AO(PFP)/Pay Bill/Cash Section, DOT Sanchar Bhavan New Delhi
11. The Director (IT), Computer Cell, DOT Hqs New Delhi with a request to put the circular on website on DOT Headquarters i.e.www.dot.govt.in (kind attention Shri,Manish Kumar Vimal)
12. Hindi Section with the request to translate and send the hindi version of this letter for putting it in the DOTs website.
13. Guard file/Reference Folder
14. Secretary , All India Central Govt. Pensioners Association CHQ Pune, Branch Jalgaon 425 002 (Maharashtra)

For Minimum & Maximum pension – please refer para 4.4 and
For age-related additional pension – please refer para 4.5 of DoT OM dated 15/3/2011



ANNEXURE-A-17

ANNEXURE

35. का.आ. 1028 (अ), तारीख 25 अप्रैल, 2008

36. का.आ. 829(अ), तारीख 12 अप्रैल, 2010

37. सा.का.नि.176, तारीख 8 जून, 2011

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Pension and Pensioner's Welfare)

NOTIFICATION

New Delhi, the 21st December, 2012

G.S.R. 928(E).—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and, after consultation with the Comptroller and Auditor General of India in relation to conditions of service of persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Pension) Rules, 1972, namely:-

(1) These rules may be called the Central Civil Services (Pension) Amendment Rules, 2012.

(2) Save as otherwise provided, these rules shall come into force on the date of their publication in the Official Gazette.

2. In the Central Civil Services (Pension) Rules, 1972, (hereinafter referred to as the said rules) in rule 5, in sub-rule (2), the proviso shall be omitted and shall be deemed to have been omitted with effect from the 1st Day of January, 1996.

3. In the said rules, rule 29 shall be omitted.

4. In the said rules, for rule 29A, the following rule shall be substituted, namely:-

"29A - Ex-gratia under Special Voluntary Retirement Scheme.- A permanent Government servant, who, on being declared surplus to the establishment in which he was serving, opts for Special voluntary Retirement Scheme, shall be entitled for determination of ex-gratia in addition to the pension".

5. In the said rules, rule 30 shall be omitted.

6. In the said rules, for rule 31, the following rule shall be substituted, namely :–

"31. Deputation to United Nations and other organisations.—A Government servant who is deputed on foreign service to the United Nations' Secretariat or other United Nations' Bodies or the International Monetary Fund or the International Bank of Reconstruction and Development or the Asian Development Bank or the Commonwealth Secretariat or any other

639

International organization and who becomes entitled for pensionary benefits from that Organization, may at his option,—

(a) pay the pension contributions in respect of his foreign service and count such service as qualifying for pension under these rules; or

(b) avail the retirement benefits admissible under the rules of the aforesaid organization and not count such service as qualifying for pension under these rules:

Provided that where a Government servant opts for clause (b), retirement benefits shall be payable to him in India in rupees from such date and in such manner as the Government may, by order, specify:

Provided further that pension contributions, if any, paid by the Government servant, shall be refunded to him".

7. In the said rules, in the rule 32,–

(a) for the marginal heading, the following heading shall be substituted, namely:-

"Verification of qualifying service after eighteen years' service or five years before retirement.—" ;

(b) in sub-rule(1), for the words "twenty-five years", the words "eighteen years" shall be substituted.

8. In the said rules, in rule 36, in clause (b), for the words "Rule 29 of these rules" the words "Special Voluntary Retirement Scheme relating to voluntary retirement of surplus employees." shall be substituted.

9. In the said rules, in rule 37, in sub-rule (3), the words "*pro rata*" shall be omitted.

10. In the said rules, for rule 37A, the following rule shall be substituted, namely;--

"37A. Conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Public Sector Undertaking.-- (1) On conversion of a department of the Central Government into a Public Sector Undertaking, all Government servants of that Department shall be transferred *en-masse* to that Public Sector Undertaking, on terms of foreign service without any deputation allowance till such time as they get absorbed in the said undertaking, and such transferred Government servants shall be absorbed in the Public Sector Undertaking with effect from such date as may be notified by the Government.

4782GI\12-3.

Central Administrative Tribunal

11
298
640

(2) The Central Government shall allow the transferred Government servants an option to revert back to the Government or to seek permanent absorption in the Public Sector Undertaking.

(3) The option referred to in sub-rule (2) shall be exercised by every transferred Government servant in such manner and within such period as may be specified by the Government.

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

(5) Upon absorption of Government servants in the Public Sector Undertaking, the posts which they were holding in the Government before such absorption shall stand abolished.

(6) The employees who opt to revert to Government service shall be re-deployed through the surplus cell of the Government.

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

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

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

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

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

Central Administrative Tribunal

641

(11) The benefits of pension and family pension shall be available to quasi-permanent and temporary transferred Government servants after they have been confirmed in the Public Sector Undertaking.

(12) A Permanent Government servant absorbed in a Pubic Sector Undertaking or a temporary or quasi-permanent Government servant who has been confirmed in the a Public Sector Undertaking subsequent to his absorption therein, shall be eligible to seek voluntary retirement after completing ten years of qualifying service with the Government and the Public Sector Undertaking taken together, and such person shall be eligible for pensionary benefits on the basis of qualifying service.

(13) The Central Government shall create a Pension Fund in the form of a trust and the pensionary benefits of absorbed employees shall be paid out of such Pension Fund.

(14) The Secretary of the administrative Ministry of the Public Sector Undertaking shall be the Chairperson of the Board of Trustees which shall include representatives of the Ministries of Finance, Personnel, Public Grievances and Pensions, Labour, concerned Public Sector Undertaking and their employees and experts in the relevant field to be nominated by the Central Government.

(15) The procedure and the manner in which pensionary benefits are to be sanctioned and disbursed from the Pension Fund shall be determined by the Government on the recommendation of the Board of Trustees.

(16) The Government shall discharge its pensionary liability by paying in lump sum as a one time payment to the Pension Fund the pension or service gratuity and retirement gratuity for the service rendered till the date of absorption of the Government servant in the Public Sector Undertaking.

(17) The manner of sharing the financial liability on account of payment of pensionary benefits by the Public Sector Undertaking shall be determined by the Government.

(18) Lump sum amount of the pension shall be determined with reference to Commutation Table laid down in Central Civil Services (Commutation of Pension) Rules, 1981.

(19) The Public Sector Undertaking shall make pensionary contribution to the Pension Fund for the period of service to be rendered by the concerned employees under that undertaking at the rates as may be determined by the Board of Trustees so that the Pension Fund shall be self-supporting.

(20) If, for any financial or operational reason, the Trust is unable to discharge its liabilities fully from the Pension Fund and the Public Sector Undertaking is also not in a position to meet the shortfall, the Government

Central Administrative Tribunal

830 119
642.

shall be liable to meet such expenditure and such expenditure shall be debited to either the Fund or to the Public Sector Undertaking.

(21) Payments of pensionary benefits of the pensioners of a Government Department on the date of conversion of it into a Public Sector Undertaking shall continue to be the responsibility of the Government and the mechanism for sharing its liabilities on this account shall be determined by the Government.

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

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

(24) The arrangements under sub-rule (23) shall be applicable to the existing pensioners and to the employees who are deemed to have retired from the Government.

(25) Upon conversion of a Government Department into a Public Sector Undertaking,-

(a) the balance of provident fund standing at the credit of the absorbed employees on the date of their absorption in the Public Sector Undertaking shall, with the consent of such undertaking, be transferred to the new Provident Fund Account of the employees in such undertaking;

(b) earned leave and half pay leave at the credit of the employees on the date of absorption shall stand transferred to such undertaking;

(c) the dismissal or removal from service of the Public Sector Undertaking of any employee after his absorption in such undertaking for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his dismissal or removal or retrenchment the decisions of the undertaking shall be subject to review by the Ministry administratively concerned with the undertaking .

(26) In case the Government disinvests its equity in any public sector undertaking to the extent of fifty-one per cent or more, it shall specify adequate safeguards for protecting the interest of the absorbed employees of such Public Sector Undertaking.

(27) The safeguards specified under sub-rule (26) shall include option for voluntary retirement or continued service in the undertaking or voluntary retirement benefits on terms applicable to Government employees or

Central Administrative Tribunal

COPY

employees of the Public Sector Undertaking as per option of the employees and assured payment of earned pensionary benefits with relaxation in period of qualifying service, as may be decided by the Government."

(11) In the said rules, after rule 37A, the following rule shall be inserted, namely;–

"37B. Conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Central Autonomous Body.–

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

(2) The Central Government shall allow the transferred Government servants an option to revert back to the Government or to seek permanent absorption in the Autonomous Body.

(3) The option referred to in sub-rule (2) shall be exercised by every transferred Government servant in such manner and within such period as may be specified by the Government.

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

(5) Upon absorption of Government servants in the Autonomous Body, the posts which they were holding in the Government before such absorption shall stand abolished.

(6) The employees who opt to revert to Government service shall be re-deployed through the surplus cell of the Government.

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

(8) A permanent Government servant who has been absorbed as an employee of an Autonomous Body and his family shall be eligible for pensionary benefits (including commutation of pension, gratuity, family pension or extra-ordinary pension), on the basis of combined service rendered by him in the government and Autonomous Body in accordance with the

Central Administrative Tribunal

formula for calculation of such pensionary benefits as may be in force at the time of his retirement from the Autonomous Body/death or at his option, to receive benefits for the service rendered under the Central Government in accordance with the orders issued by the Central Government.

Explanation:- The amount of pension or family pension in respect of the absorbed employee on retirement from Autonomous Body or death shall be calculated in the same way as would be the case with a Central Government servant retiring or dying, on the same day.

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

(10) In addition to pension or family pension, as the case may be, the absorbed employees who opt for pension on the basis of combined service shall also be eligible to dearness relief as per central dearness allowance pattern.

(11) The benefits of pension and family pension shall be available to quasi-permanent and temporary transferred Government servants after they have been confirmed in the Autonomous Body.

(12) The Central Government shall create a Pension Fund in the form of a trust and the pensionary benefits of absorbed employees shall be paid out of such Pension Fund.

(13) The Secretary of the administrative Ministry of the autonomous body shall be the Chairperson of the Board of Trustees which shall include representatives of the Ministries of Finance, Personnel, Public Grievances and Pensions, Labour, concerned Autonomous Body and their employees and experts in the relevant field to be nominated by the Central Government.

(14) The procedure and the manner in which pensionary benefits are to be sanctioned and disbursed from the Pension Fund shall be determined by the Government on the recommendation of the Board of Trustees.

(15) The Government shall discharge its pensionary liability by paying in lump sum as a one time payment to the Pension Fund the pension or service gratuity and retirement gratuity for the service rendered till the date of absorption of the Government servant in the Autonomous Body.

(16) The manner of sharing the financial liability on account of payment of pensionary benefits by the Autonomous Body shall be determined by the Government.

(17) Lump sum amount of the pension shall be determined with reference to Commutation Table laid down in Central Civil Services (Commutation of Pension) Rules, 1981.

(18) The Autonomous Body shall make pensionary contribution to the Pension Fund for the period of service to be rendered by the concerned employees under that body at the rates as may be determined by the Board of Trustees to that the Pension Fund shall be self-supporting.

(19) If, for any financial or operational reason, the Trust is unable to discharge its liabilities fully from the Pension Fund and the Autonomous Body is also not in a position to meet the shortfall, the Government shall be liable to meet such expenditure and such expenditure shall be debited to either the Fund or to the Autonomous Body, as the case may be.

(20) Payments of pensionary benefits of the pensioners of a Government Department on the date of conversion of it into an Autonomous Body shall continue to be the responsibility of the Government and the mechanism for sharing its liabilities on this account shall be determined by the Government.

(21) Upon conversion of a Government Department into an Autonomous Body .–

(a) the balance of provident fund standing at the credit of the absorbed employees on the date of their absorption in the Autonomous Body shall, with the consent of such body, be transferred to the new Provident Fund Account of the employees in such body.

(b) earned leave and half pay leave at the credit of the employees on the date of absorption shall stand transferred to such body.

(c) the dismissal or removal from service of the Autonomous Body of any employee after his absorption in such body for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his dismissal or removal or retrenchment the decisions of the body shall be subject to review by the Ministry administratively concerned with the body.

(22) In case the Government disinvests its equity in any Autonomous Body to the extent of fifty-one per cent or more, it shall specify adequate safeguards for protecting the interest of the absorbed employees of such Autonomous Body.

(23) The safeguards specified under sub-rule (22) shall include option for voluntary retirement or continued service in the body, as the case may be, or voluntary retirement benefits on terms applicable to Government employees or employees of the Autonomous Body as per option of the employees, assured payment of earned pensionary benefits with relaxation in period of qualifying service, as may be decided by the Government.

(24) Nothing contained in this rule shall be applicable to the officers or employees including members of Indian Information Service, Central Secretariat service or any other service or to the persons borne on cadres outside Akashvani and Doordarshan, serving in the Akashvani and

23
646

Doordarshan and engaged in the performance of functions transferred to Prasar Bharati established under Prasar Bharati (Broadcasting Corporation of India) Act, 1990.

(12) In the said rules, in rule 48A,-

(i) sub-rule (5) shall be omitted.

(ii) in sub-rule (6), for clause (a), the following clause shall be substituted, namely:–

"(a) retires under the Special Voluntary Retirement Scheme relating to voluntary retirement of surplus employees, or"

(13) In the said rules, rule 48B shall be omitted;

(14) In the said rules, rule 48C shall be omitted;

[F. No. 38/80/08-P&PW]
TRIPTI P. GHOSH, Director

Note : The principal rules were published *vide* notification number S.O.934, dated the 1st April, 1972 and were subsequently amended vide notification number–

1. S.O.254, dated the 4th February, 1989
2. S.O.970, dated the 6th May, 1989
3. S.O.2467, dated the 7th October, 1989
4. S.O.899, dated the 14th April, 1990
5. S.O.1454, dated the 26th May, 1990
6. S.O.2329, dated the 8th September, 1990
7. S.O.3269, dated the 8th December, 1990
8. S.O.3270, dated the 8th December, 1990
9. S.O.3273, dated the 8th December, 1990
10. S.O.409, dated the 9th February, 1991
11. S.O.464, dated the 16th February, 1991
12. S.O.2287, dated the 7th September, 1991
13. S.O.2740, dated the 2nd November, 1991
14. GSR 677, dated the 7th December, 1991
15. GSR 399, dated the 1 st February, 1992
16. GSR 55, dated the 15th February, 1992
17. GSR 570, dated the 19th December, 1992
18. S.O.258, dated the 13th February, 1993
19. S.O.1673, dated the 7th August, 1993
20. GSR 449, dated the 11 th September, 1993
21. S.O.1984, dated the 25th September, 1993

22.	GSR 389(E), dated the 18th April, 1994
23.	S.O.1775, dated the 19th July, 1997
24	S.O.259, dated the 30th January, 1999
25.	S.O.904(E), dated the 30th September, 2000
26.	S.O.717(E), dated the 27th July, 2001
27	GSR 75(E), dated the 1st February, 2002
28.	S.O.4000, dated the 28th December, 2002
29.	S.O. 860(E), dated the 28th July, 2003
30.	S.O. 1483 (E), dated the 30th December, 2003
31.	S.O. 1487 (E), dated the 14th October, 2005
32.	GSR 723(E), dated the 23rd November, 2006
33.	S.O. 1821 (E), dated the 25th October, 2007
34	GSR 258 (E), dated the 31st March, 2008
35.	S.O. 1028 (E), dated the 25th April, 2008
36.	S.O. 829(E), dated the12th April, 2010
37.	GSR No. 176 dated 8th June 2011

Printed by the Manager, Government of India Press, Ring Road, Mayapuri, New Delhi-110064
and Published by the Controller of Publications, Delhi-110054.

Central Administrative Tribunal

648 125

ANNEXURE

ANNEXURE A.

File No : 4-12(11)/2012-PAT
Government of India
Department of Telecommunications
Sanchar Bhawan,20,Ashoka Road,
New Delhi-110001

Dated: 20 /2/2014

To,

The Chairman and Managing Director,
Bharat Sanchar Nigam Limited,
Bharat Sanchar Bhawan
H.C. Mathur Lane
Janpath,
New Delhi-11001

Subject:-Extension of CGHS facilities to retired BSNL employees.

Sir,

Reference is invited to BSNL's letter Nos.BSNL/Admn-I/14-15/9(pt.) dated 09.04.2012 and dated 11.1.2013 regarding extension of CGHS facilities to retired BSNL employees. The matter has been examined in consultation with the Ministry of Health & Family Welfare and it has been decided that:

i) The retired employees, who are in receipt of Central Civil Pension/Pro-rata pension only from Central Civil Estimates are eligible for joining CGHS, other retired employees of BSNL are **not** eligible for CGHS.

ii) Since CGHS is in operation only at 25 select locations in the country, the retired employees of BSNL who are in receipt of Central Civil Pension and therefore eligible for CGHS facilities, may also be considered for providing with an option to choose either CGHS or BSNL-MRS post retirement as per their convenience, in recognition of their services rendered to DoT/BSNL.

2 However, it may be noted that the retired BSNL employees who opt for CGHS would have to pay the requisite fee to CGHS as applicable to Government retirees.

3 This issues with the approval of Secretary(T).

Yours faithfully

(Sanjay Agrawal)
ADG(PAT)

Copy for information to:
1.Sr.PPS to Chairman, Telecom Commission.
2.All Members/Advisors/Addl.Secretary/JS(T)/DDGs of DoT.
3.All Principal CCA's/CCA's/Jt.CCA's of DOT
4. Dir (IT), DoT for posting this circular on the web-site of DoT.

649

ANNEXURE

ANNEXURE-A-20

रजि॰ सं॰ डी॰ एल॰-33004/99 REGD. NO. D. L.-33004/99

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 3—उप-खण्ड (i)
PART II—Section 3—Sub-section (i)
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 100] नई दिल्ली, सोमवार, मार्च 3, 2014/फाल्गुन 12, 1935
No. 100] NEW DELHI, MONDAY, MARCH 3, 2014/PHALGUNA 12, 1935

कार्मिक, लोक शिकायत एवं पेंशन मंत्रालय

(पेंशन एवं पेंशनभोगी कल्याण विभाग)

अधिसूचना

नई दिल्ली, 3 मार्च, 2014

सा.का.नि. 138(अ).— राष्ट्रपति, संविधान के अनुच्छेद 309 के परंतुक और अनुच्छेद 148 के खंड 5 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय लेखापरीक्षा और लेखा विभाग में कार्यरत कर्मचारियों की सेवा शर्तों के संबंध में भारत के नियंत्रक और महालेखापरीक्षक से परामर्श करने के पश्चात् केंद्रीय सिविल सेवा (पेंशन) नियम, 1972 में संशोधन करते हुए एतद्वारा निम्नलिखित नियम बनाते हैं अर्थात्:-

1. (1) इन नियमों का संक्षिप्त नाम केंद्रीय सिविल सेवा (पेंशन) दूसरा संशोधन नियम, 2014 है।

(2) ये 1 अक्तूबर, 2000 से प्रवृत्त हुए समझे जाएंगे।

2. केंद्रीय सिविल सेवा (पेंशन) नियम, 1972 के नियम 37 क. में

(क) उप नियम (22) एवं उप नियम (23) में दोनों जगह जहां ये आते हैं 'भारत संचार निगम लिमिटेड' शब्दों के पश्चात 'एवं महानगर टेलीफोन निगम लिमिटेड' शब्द अंत:स्थापित किए जाएंगे।

(ख) उप नियम (24) के स्थान पर निम्नलिखित उप नियम रखा जाएगा अर्थात्:-

"(24) उपनियम (23) के अंतर्गत दी गई व्यवस्था विद्यमान पेंशन योजनाओं तथा उन कर्मचारियों को लागू होगी जिन्हें भारत संचार निगम लिमिटेड और महानगर टेलीफोन निगम लिमिटेड में आवेतन के पश्चात सरकारी सेवा से सेवानिवृत्त हुआ माना गया है और महानगर टेलीफोन निगम लिमिटेड एवं भारत संचार निगम लिमिटेड द्वारा अपनी

भर्ती द्वारा नियुक्त हुए कर्मियों पर यह लागू नहीं होगी जिनके लिए वे स्वयं की पेंशन स्कीमों का उपबंध करेंगे तथा उसके लिए निधिकरण तथा पेंशनिक फायदों के संवितरण की व्यवस्था करेंगे।"

[फ़ा. सं. 4/23/2013-पी एंड पीडब्ल्यू(डी)]

वंदना शर्मा, संयुक्त सचिव

टिप्पण : मूल नियम अधिसूचना संख्या का.आ. 934 तारीख 1 अप्रैल, 1972 द्वारा प्रकाशित किए गए थे तथा तत्पश्चात निम्न अधिसूचना संख्याओं द्वारा समय-समय पर संशोधित किए गए-

1.	का.आ. 254 तारीख 4 फरवरी, 1989	21.	का.आ. 1984, तारीख 25 सितंबर, 1993
2.	का.आ. 970 तारीख 6 मई, 1989	22.	सा.का.नि. 389(अ), तारीख 18 अप्रैल, 1994
3.	का.आ. 2467 तारीख 7 अक्तूबर, 1989	23.	का.आ 1775, तारीख 19 जुलाई, 1997
4.	का.आ. 999 तारीख 14 अप्रैल, 1990	24.	का.आ. 259 तारीख 30 जनवरी, 1999
5.	का.आ. 1454 तारीख 26 मई, 1990	25.	का.आ. 904 (अ) तारीख 30 सितंबर, 2000
6.	का.आ. 2329 तारीख 8 सितंबर, 1990	26.	का.आ. 717 (अ) तारीख 27 जुलाई, 2001
7.	का.आ. 3269 तारीख 8 दिसंबर, 1990	27.	सा.का.नि. 75 (अ) तारीख 1 फरवरी, 2002
8.	का.आ. 3270 तारीख 8 दिसंबर, 1990	28.	का.आ. 4000, (अ) तारीख 26 दिसंबर, 2002
9.	का.आ. 3273 तारीख 8 दिसंबर, 1990	29.	का.आ. 860 (अ) तारीख 22 जुलाई, 2003
10.	का.आ. 409 तारीख 9 फरवरी, 1991	30.	का.आ. 1483 (अ) तारीख 30 दिसंबर, 2003
11.	का.आ. 464 तारीख 16 फरवरी, 1991	31.	का.आ. 1487 (अ) तारीख 14 अक्तूबर, 2005
12.	का.आ. 2287 तारीख 7 सितंबर, 1991	32.	सा.का.नि. 723 (अ) तारीख 23 नवंबर, 2006
13.	का.आ. 2740 तारीख 2 नवंबर, 1991	33.	का.आ. 1821 (अ) तारीख 25 अक्तूबर, 2007
14.	सा.का.नि. 677 तारीख 7 दिसंबर, 1991	34.	सा.का.नि. 258 (अ) तारीख 31 मार्च, 2008
15.	सा.का.नि. 399 तारीख 1 फरवरी, 1992	35.	का.आ. 1026 (अ) तारीख 25 अप्रैल, 2008
16.	सा.का.नि. 55 तारीख 15 फरवरी, 1992	36.	का.आ. 829 (अ) तारीख 12 अप्रैल, 2010
17.	सा.का.नि. 570 तारीख 19 दिसंबर, 1992	37.	सा.का.नि. सं. 176 तारीख 8 जून, 2011
18.	का.आ. 258 तारीख 13 फरवरी, 1993	38.	सा.का.नि. सं. 928(अ) तारीख 21 दिसंबर, 2012
19.	का.आ. 1573 तारीख 7 अगस्त, 1993		
20.	सा.का.नि. 449 तारीख 11 सितंबर, 1993	39.	सा. का. नि. सं 938 (अ) तारीख 27 दिसंबर, 2012

स्पष्टीकरण

महानगर टेलीफोन निगम लिमिटेड में आमेलित कर्मी श्रेणियों (समूह ए, बी, सी, डी) के पहले के सरकारी कर्मचारी जिन्होंने संयुक्त सेवा पेंशन का विकल्प चुना है उनके पेंशन हिस्सेदारों का भुगतान तारीख 01 अक्तूबर, 2000 से भारत संचार निगम लिमिटेड की ही भांति सरकार द्वारा किया जाएगा। तारीख 01 नवंबर, 1998 से महानगर टेलीफोन निगम लिमिटेड में आमेलित कर्मचारियों सहित पहले के सरकारी कर्मी तथा डीओपी एंड पीडब्ल्यू के कार्यालय ज्ञापन सं. 4/18/87-पी एंड पीडब्ल्यू (डी) तारीख 05.07.1989 के अनुसार शामिल कर्मी तारीख 01 अक्तूबर, 2000 से इन नियमों के अंतर्गत आएंगे। दूरसंचार विभाग द्वारा यह प्रमाणित किया जाता है कि इस अधिसूचना को भूतलक्षी प्रभाव देने से किसी पर प्रतिकूल प्रभाव नहीं पड़ेगा।

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Pension and Pensioners' Welfare)

NOTIFICATION

New Delhi, the 3rd March, 2014

G.S.R. 138 (E).—In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and, after consultation with the Comptroller and Auditor General of India in relation to conditions of service of persons serving in the Indian Audit and Accounts Department, the President hereby makes the

following rules further to amend the Central Civil Services (Pension) Rules, 1972, namely:-

1. (1) These rules may be called the Central Civil Services (Pension) Second Amendment Rules, 2014.

(2) They shall be deemed to have come into force with effect from the 1st October, 2000.

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

(a) in sub-rule (22) and sub-rule (23), after the words "Bharat Sanchar Nigam Limited" in both the places where they occur, the words "and Mahanagar Telephone Nigam Limited" shall be inserted;

(b) for sub-rule (24), the following sub-rule shall be substituted, namely:—

"(24) The arrangements under sub-rule (23) shall be applicable to the existing pensioners and to the employees who are deemed to have retired from the Government service for absorption in Bharat Sanchar Nigam Limited and Mahanagar Telephone Nigam Limited and shall not apply to the employees directly recruited by the Bharat Sanchar Nigam Limited and Mahanagar Telephone Nigam Limited for whom they shall devise their own pension schemes and make arrangements for funding and disbursing the pensionary benefits."

{F. No. 4/23/2013-P&PW(D)}
VANDANA SHARMA, Jt. Secy.

Note: The principal rules were published *vide* notification number S.O.934, dated the 1st April, 1972 and were subsequently amended vide notification number—

1.	S.O.254, dated the 4th February, 1989	22.	GSR 389(E), dated the 18th April, 1996
2.	S. O.970, dated the 5th May, 1989	23.	S. O.1775, dated the 19th July, 1997
3.	S. O.2467, dated the 7th October, 1989	24.	S. O.259, dated the 30th January, 1999
4.	S. O.899, dated the 14th April, 1990	25.	S. O.904(E), dated the 30th September, 2000
5.	S. O.1454, dated the 26th May, 1990	26.	S. O.717(E), dated the 27th July, 2001
6.	S. O.2329, dated the 8th September, 1990	27	G.S.R. 75(E), dated the 1st February, 2002
7.	S. O.3269, dated the 8th December, 1990	28.	SO.4000, dated the 28th December, 2002
8.	S. O.3270, dated the 8th December, 1990	29.	S.O. 860(E), dated the 28th July, 2003
9.	S. O.3273, dated the 8th December, 1990	30.	S O. 1483 (E), dated the 30th December, 2003
10.	S. O.409, dated the 9th February, 1991	31.	S.O. 1457 (E), dated the 14th October, 2005
11.	S. O.464, dated the 16th February, 1991	32.	G.S.R. 723(E), dated the 23rd November, 2005
12	S. O.2287, dated the 7th September, 1991	33.	S.O. 1821 (E), dated the 25th October, 2007
13.	S. O.2740, dated the 2nd November, 1991	34.	G.S.R. 258 (E), dated the 31st March, 2008
14.	G.S.R. 677, dated the 7th December, 1991	35.	S.O. 1028 (E), dated the 25th April, 2008
15	G.S.R. 399, dated the 1 st February, 1992	36	S.O. 829(E), dated the 12th April, 2010
16.	G.S.R. 55, dated the 15th February, 1992	37.	G.S.R. No. 476 dated 8th June 2011
17.	G.S.R. 570, dated the 19th December, 1992	38.	G.S.R. No. 928(E) dated 21st December, 2012
18.	S. O.258, dated the 13th February, 1993	39	G.S.R. No. 939(E) dated 27th December, 2012
19.	S. O.1673, dated the 7th August, 1993		
20.	G.S.R. 449, dated the 11 th September, 1993		
21.	S. O.1984, dated the 25th September, 1993		

EXPLANATORY MEMORANDUM

Payment of pensionary benefits to all categories of the erstwhile employees of the Government (Group A, B, C and D) absorbed in Mahanagar Telephone Nigam Limited who have opted for pension on combined service will be made by the Government in the same manner as in Bharat Sanchar Nigam Limited with effect from 1st October, 2000. Such erstwhile Government employees including those absorbed in Mahanagar Telephone Nigam Limited with effect from 1st November, 1998 and governed vide DOP&PW's O.M.No. 4/18/87-P&PW(D) dated 5.7.1989 shall be brought within the purview of these rules with effect from 1st October, 2000. This is certified by the Department of Telecommunication that no one shall be adversely affected by giving retrospective effect to this notification.

Printed by the Manager, Government of India Press, Ring Road, Mayapuri, New Delhi-110064
and Published by the Controller of Publications, Delhi-110054

Central Administrative Tribunal

260

ANNEXURE

ANNEXURE-A-21 652.

No.42-4/2012-Pen(T)
Government of India
Ministry of Communication & IT
Department of Telecommunications

Dated 28.04.2014

OFFICE MEMORANDUM

The issues relating to disbursement of pensionary benefits to all the combined service pension optee absorbed employees of Mahanagar Telephone Nigam Limited (MTNL) have been considered by the Government and the following has been decided:

(a) Payment of pensionary benefits to all categories of the erstwhile employees of the Government (Group A, B, C & D) absorbed in MTNL who have opted for pension on combined service will be made by the Government in the same manner as in BSNL with effect from 01.10.2000. Accordingly, amendment to include the word "and Mahanagar Telephone Nigam Limited" after the word "Bharat Sanchar Nigam Limited" in the sub-rules 22 to 24 of Rule 37-A of CCS (Pension) Rules, 1972 has been notified by DoP&PW vide G.S.R. No. 138 (E) dated 03/03/2014 (Copy enclosed).

(b) Government employees, who were absorbed in MTNL and drawing pension as per DoP&PW's OM dated 05.07.1989 have also been brought within the purview of these rules with effect from 01.10.2000.

(c) The liability of the Government for the payment of aforesaid pensionary benefits shall be restricted to the amount arrived at by calculating pensionary benefits of MTNL absorbed employees based upon the equivalent pay-scales of similarly placed employees in BSNL. As most of the pay-scales in MTNL are higher than that of BSNL, the additional liability arising from the same shall be borne by MTNL, by making advance payment to the Government.

(d) The arrangement as specified in para (c) above shall continue till next wage revision by which time MTNL and BSNL shall achieve pay scale parity by bringing down the pay scales of MTNL to the level of BSNL pay scales.

(e) MTNL shall make pension contribution to the Government as per FR-116 as is applicable in the case of BSNL with equivalent BSNL pay scales.

(f) MTNL shall make pensionary contribution as per para (e) above along with advance payment as indicated in para (c) above to the Government from 1.10.2000, which shall be adjusted against actual payment of pension already made by MTNL.

28/04/2014

(g) The excess amount paid by the MTNL, determined as per para (f) above, shall remain with the Government, to be adjusted against future liabilities of MTNL towards the Government. This amount will not earn any interest.

(h) The mechanism of settlement including verification, payment of pensionary benefits, pension contribution and advance payment by MTNL towards its portion of liability shall be decided by DoT. Detailed instructions in this regard will be issued separately.

Encl: As above

(Prachish Khanna)
Director (Establishment)
Tel No. 23712009
Fax No. 23372302

To,

1. CMD, BSNL
2. CMD, MTNL
3. DDG (Accounts), DoT, New Delhi
4. DDG (FEB), DoT, New Delhi

Copy for Information to:

1. PS to Hon'ble MoC&IT
2. PS to Hon'ble MoSC&IT (D)
3. PS to Hon'ble MoSC&IT (KK)
4. PPS to Secretary (T), DoT
5. PPS to Member (Services)/ Member (Finance)/ Member (Technology), DoT
6. PPS to AS (T)/ JS (T)/ JS (A), DoT

Copy to:

1. DDG (Estt.), DoT, New Delhi
2. All Sr. DDGs/ DDGs of DoT, New Delhi
3. All Principal CCAs/ CCAs
4. Director (IT), DoT, New Delhi, with a request to upload this O.M. on the DoT website

Copy also for information to:

1. Secretary, DoP&PW, New Delhi
2. Secretary, DoPT, New Delhi

Central Administrative Tribunal

ANNEXURE-A-21 654

No.42-4/2012-Pen(T)
Government of India
Ministry of Communication & IT
Department of Telecommunications

Dated 28.04.2014

OFFICE MEMORANDUM

The issues relating to disbursement of pensionary benefits to all the combined service pension optee absorbed employees of Mahanagar Telephone Nigam Limited (MTNL) have been considered by the Government and the following has been decided.

(a) Payment of pensionary benefits to all categories of the erstwhile employee of the Government (Group A, B, C & D) absorbed in MTNL who have opted for pension on combined service will be made by the Government in the same manner as in BSNL with effect from 01.10.2000. Accordingly, amendment to include the word "and Mahanagar Telephone Nigam Limited" after the word "Bharat Sanchar Nigam Limited" in the sub-rules 22 to 24 of Rule 37-A of CCS (Pension) Rules, 1972 has been notified by DOP&PW vide G.S.R. No.138 (E) dated 03/03/2014 (Copy enclosed).

Central Administrative Tribunal

(b) Government employees, who were absorbed in MTNL and drawing pension as per DoP&PW's OM dated 05.07.1989 have also been brought within the purview of these rules with effect from 01.10.2000.

(c) The liability of the Government for the payment aforesaid pensinary benefits shall be restricted to the amount arrived at by calculating pensionary benefits of MTNL absorbed employees based upon the equivalent pay-scales of similarly placed employees in BSNL. As most of the pay-scales in MTNL are higher than that of BSNL, the additional liability arising from the same shall be borne by MTNL, by making advance payment to the Government.

(d) The arrangement as specified in para (c) above shall continue till next wage revision by which time MTNL and BSNL shall achieve pay scale partly by bringing down the pay scales of MTNL to the level of BSNL pay scales.

(e) MTNL shall make pension contribution to the Government as per FR-116 as is applicable in the case of BSNL with equivalent BSNL pay scales.

Central Administrative Tribunal

(f) MTNL shall make pensionary contribution as per para (e) above along with advance payment as indicated in para (c) above to the Government form 1.10.2000, which shall be adjusted against actual payment of pension already made by MTNL.

(g) The excess amount paid by the MTNL, determined as per para (f) above, shall remain with the Government, to be adjusted against future liabilities of MTNL towards the Government. This amount will not earn any interest.

(h) The mechanism of settlement including verification, payment of pensionary benefits, pension contribution and advance payment by MTNL towards its portion of liability shall be decided by DoT. Detailed instructions in this regard will be issued separately.

Encl: As above

Sd/-
28.04.2014
(Prachish Khanna)
Director (Establishment)
Tel No.23712009
Fax No.23372302

To,

1. CMD, BSNL
2. CMD, MTNL
3. DDG (Accounts), DoT, New Delhi

4. DDG (FEB), DoT, New Dehi

Copy for information

1. PS to Hon'ble MoC&IT
2. PS to Hon'ble MoSC&IT (D)
3. PS to Hon'ble MoSC&IT (KK)
4. PPS to Secretary (T), DoT
5. PPS to Member (Services)/Member (Finance)/ Member (Technology), DoT
6. PPS to AS (T)/JS(T)/S (A), DoT

Copy to:

1. DDG (Estt.), DoT, New Delhi
2. All Sr. DDGs/DDGs of DoT, New Delhi
3. All Principal CCAs / CCAs
4. Director (IT), DoT, New Delhi, with a request to upload this O.M. on the DoT website

Copy also for information to:

1. Secretary, DoP&PW, New Delhi
2. Secretary, DoPT, New Delhi

// TRUE TYPED COPY //

ANNEXURE-A-20 135

ANNEXURE

658

No. 40-13/2013-Pen (T)
Government of India
Ministry of Communications
Department of Telecommunications

Dated 20.07.[illegible]

OFFICE MEMORANDUM

Sub: Modifying the liability of BSNL towards the payment of pensionary benefits to the retired employees

As stipulated in Rule 37-A of CCS (Pension) Rules, 1972, the pensionary benefits in the case of BSNL shall be paid by the Government, and the Government shall specify the arrangement and the manner including the rate of pensionary contribution to be made by BSNL and the manner in which financial liabilities on this account shall be met. As per sub-rule 24 of the said Rule, the arrangement thus worked out shall be applicable to the existing pensioners and to the employees who are deemed to have retired from Government.

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

(a) The pension liability in respect of employees of DOT/ 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 24 of Rule 37-A of CCS (Pension) Rules, 1972, lies with the Government of India. The condition that the annual pension liability of the government shall not exceed 60% of the annual receipts to Government from the items specified in the O.M. dated 15.06.2006, is hereby rescinded.

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

(S K [illegible])
DDG (Establishment)
Tel 2303 [illegible]
Fax 2337 [illegible]

To

Chairman and Managing Director, BSNL, New Delhi

Copy to:

1. DDG (B&PEF)/ DDG (Accounts), DoT, New Delhi.
2. Director (IT), DoT, New Delhi for uploading this O.M. on DoT website.

Copy for information to:

1. PS to Hon'ble MOS (IC), Ministry of Communications
2. PPS to Secretary (T), DoT
3. PPS to Member (Services)/ Member (Finance)/ Member (T), DoT
4. PPS to AS (T)/JS(A)/ JS(T), DoT
5. Director (Estt.) DoT, New Delhi

Copy also for information to:

1. Cabinet Secretary [Attn. Shri S G P Varghese, Director]
2. Secretary, Department of Expenditure
3. Secretary, DoP&PW
4. Secretary, Department of Legal Affairs
5. Secretary, Department of Public Enterprise

Central Administrative Tribunal

660

ANNEXURE-A-20

No.40-13/2013-Pen(T)
Government of India
Ministry of Communications
Department of Telecommunications

Dated 20.07.2016

OFFICE MEMORANDUM

Sub: Modifying the liability of BSNL towards the payment of pensionary benefits to the retired employees

As stipulated in Rule 37-A of CCS (Pension) Rules, 1972, the pentionary benefits in the case of BSNL shall be paid by the Government, and the Government shall specify the arrangement and the manner including the rate of pensionary contribution to be made by BSNL and the manner in which financial liabilities on this account shall be met. As per sub-rule 24 of the said Rule, the arrangement thus worked out shall be applicable to the existing pensioners and to the employees who are deemed to have retired from Government.

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

considered by the Government, and the following has been decided.

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

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

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

Sd/-
(S.K. Jain)
DDG (Establishment)
Tel 2303 6500
Fax 23372302

To

Chairman and Managing Director, BSNL, New Delhi

Copy to:

1. DDG (B&PEP)/DDG (Accounts), DoT, New Delhi
2. Director (IT),DoT, New Delhi for uploading this O.M. on DoT website

Copy for information to;

1. PSto Hon'ble MOS(IC), Ministry of Communications
2. PPSto Secretary (T), DoT
3. PPS to Member (Services)/Member (Finance) / Member (T), DoT
4. PPS to AS (T)/IS(A)/JS(T), DoT
5. Director (Estt.), DoT, New Delhi

Copy also for information to:

1. Cabinet Secretary [Attn: Shri S G P Verghese, Director]
2. Secretary, Department of Expenditure
3. Secretary, DoP &PW
4. Secretary, Department of Legal Affairs
5. Secretary, Department of Public Enterprise

// TRUE TPYED COPY //

ANNEXURE-A-21 603.

ANNEXURE

F.No.38/37/2016-P&PW(A) (R)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Pension & Pensioners' Welfare
Lok Nayak Bhawan, New Delhi-110003

Dated the 4th August, 2016.

OFFICE MEMORANDUM

Sub: Implementation of Government's decisions on the recommendations of the Seventh Central Pay Commission - Revision of pension of pre-2016 pensioners/family pensioners etc.

The undersigned is directed to say that in pursuance of Government's decision on the recommendations of Seventh Central Pay Commission, sanction of the President is hereby accorded to the regulation, with effect from 01.01.2016, of pension/ family pension of all the pre-2016 pensioners/ family pensioners in the manner indicated in the succeeding paragraphs. Separate orders are being issued in respect of employees who retired/died on or after 01.01.2016.

2.1 These orders shall apply to all pensioners/family pensioners who were drawing pension/family pension before 1.1.2016 under the Central Civil Services (Pension) Rules, 1972, Central Civil Services (Extraordinary Pension) Rules and the corresponding rules applicable to Railway pensioners and pensioners of All India Services, including officers of the Indian Civil Service retired from service on or after 1.1.1973. A pensioner/family pensioner who became entitled to pension/family pension with effect from 01.01.2016 consequent on retirement/death of Government servant on 31.12.2015, would also be covered by these orders.

2.2 Separate orders will be issued by the Ministry of Defence in regard to Armed Forces pensioners/family pensioners.

2.3 These orders also do not apply to retired High Court and Supreme Court Judges and other Constitutional/Statutory Authorities whose pension etc. is governed by separate rules/orders.

3. In these orders :

a. 'Existing pensioner' or 'Existing Family pensioner' means a pensioner/family pensioner to whom these orders are applicable in terms of para 2.1 above.

b. 'Existing pension' or 'Existing Family Pension' means the basic pension (inclusive of commuted portion, if any) or basic family pension, as had been fixed at the time

of implementation of 6th CPC recommendations, which an existing pensioner or family pensioner was entitled to.

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

Illustration:

Case I

Pensioner 'A' retired at last pay drawn of Rs. 79,000 on 31st May, 2015 under the 6th CPC regime in the scale of Rs. 67000-79000:

		Amount in Rs.
1.	Basic Pension fixed in 5th CPC	39500
2.	Revised Pension fixed under 7th CPC (using a multiple of 2.57)	101515

Case II

Pensioner 'B' retired at last pay drawn of Rs. 4,000 on 31st January, 1989 under the 4th CPC regime in the pay scale of Rs. 3000-100-3500-125-4500:

		Amount in Rs.
1.	Basic Pension fixed in 4th CPC	1940
2.	Basic Pension as revised in 5th CPC	12600
3.	Revised Pension fixed under 7th CPC (using a multiple of 2.57)	32,382

4.2 For this purpose, the existing pension/family pension will be the basic pension/family pension only without the element of additional pension available to the old pensioners/family pensioners of the age of 80 years and above. The additional pension/family pension payable to the old pensioners/family pensioners will be worked out in accordance with para 4.5 of this O.M.

4.3 Since the consolidated pension will be inclusive of commuted portion of pension, if any, the commuted portion will be deducted from the said amount while making monthly disbursements.

4.4 The minimum pension with effect from 01.01.2016 will be Rs. 9000/- per month (excluding the element of additional pension to old pensioners). The upper ceiling on pension/family pension will be 50% and 30% respectively of the highest pay in the Government (The highest pay in the Government is Rs. 2,50,000 with effect from 01.01.2016).

Central Administrative Tribunal

4.5 The quantum of pension/family pension available to the old pensioners/ family pensioners shall continue to be as follows:-

Age of pensioner/family pensioner	Additional quantum of pension
From 80 years to less than 85 years	20% of revised basic pension/ family pension
From 85 years to less than 90 years	30% of revised basic pension / family pension
From 90 years to less than 95 years	40% of revised basic pension / family pension
From 95 years to less than 100 years	50% of revised basic pension / family pension
100 years or more	100% of revised basic pension / family pension

The amount of additional pension will be shown distinctly in the pension payment order. For example, in case where a pensioner is more than 80 years of age and his/her revised pension in terms para 4.1 above is Rs.10,000 pm, the pension will be shown as (i).Basic pension=Rs.10,000 and (ii) Additional pension = Rs.2,000 pm. The pension on his/her attaining the age of 85 years will be shown as (i).Basic Pension = Rs.10,000 and (ii) additional pension = Rs.3,000 pm. Dearness relief will be admissible on the additional pension available to the old pensioners also.

4.6 The revised pension/family pension arrived at as per paragraph 4.1 includes dearness relief sanctioned from 1.1.2016.

5. Where the revised pension/family pension in terms of paragraph 4.1 above works out to an amount less than Rs. 9000/-, the same shall be stepped up to Rs. 9000/-. This will be regarded as pension/family pension with effect from 1.1.2016.

6. The existing instructions regarding regulation of dearness relief to employed/re-employed pensioners/family pensioners, as contained in Department of Pension & Pensioners Welfare O.M. No. 45/73/97-P&PW(G) dated 02.07.1999, as amended from time to time, shall continue to apply.

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

(a) PENSION

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

Central Administrative Tribunal

(b) FAMILY PENSION

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

8. The matter regarding Constant Attendant Allowance admissible to the existing pensioners shall be examined by a Committee comprising Finance Secretary and Secretary (Expenditure) as Chairman and Secretaries of Home Affairs, Defence, Posts, Health & Family Welfare, Personnel & Training and Chairman, Railway Board as Members. Till a final decision is taken based on the recommendations of the Committee, Constant Attendant Allowance shall be paid at existing rates.

9. All Pension Disbursing Authorities including Public Sector Banks handling disbursement of pension to the Central Government pensioners are hereby authorised to pay pension/family pension to existing pensioners/family pensioners at the revised rates in terms of para 4.1 and 5 above without any further authorisation from the concerned Accounts Officers/Head of Office etc. Wherever the age of pensioner/ family pensioner is available on the pension payment order, the additional pension/ family pension in terms of para 4.4. above may also be paid by the pension disbursing authorities immediately without any further authorisation from the concerned Account Officer/ Head of Office, etc. A suitable entry regarding the revised pension shall be recorded by the pension Disbursing Authorities in both halves of the Pension Payment Order.

10 The pension/family pension as worked out in accordance with provisions of Para 4.1. and 5 above shall be treated as 'Basic Pension' with effect from 01.01.2016. The revised pension/family pension includes dearness relief sanctioned from 1.1.2016 and shall qualify for grant of Dearness Relief sanctioned thereafter.

11. Further orders in regard to revision of pension based on the recommendations of the Committee to be constituted in terms of the Government's decision on Item No. 11 of this Department's Resolution No. 38/37/2016-P&PW (A) dated 4th August, 2016, will be issued in due course.

12. After a decision as in para 11 above is taken by the Government and orders are issued in this regard, the Head of the Department of the Ministry, Department, Office, etc. from which the government servant had retired or where he was working prior to his demise will revise the pension/family pension of all pensioners/ family pensioners with

Central Administrative Tribunal

effect from 1st January 2016 in accordance with those orders and issue revised Pension Payment Order (PPOs) accordingly

13. It is considered desirable that the benefit of these orders should reach the pensioners as expeditiously as possible. To achieve this objective it is desired that all Pension Disbursing Authorities should ensure that the revised pension and the arrears due to the pensioners in terms of para 4.1. and para 5 above is paid to the pensioners or credited to their account by 31st August, 2016 or before positively.

14. In their application to the persons belonging to Indian Audit and Accounts Department, these orders issue in consultation with the Comptroller and Auditor General of India.

15. Ministry of Agriculture etc., are requested to bring the contents of these Orders to the notice of Controller of Accounts/Pay and Accounts Officers and Attached and subordinate Offices under them on a top priority basis. All pension disbursing offices are also advised to prominently display these orders on their notice boards for the benefit of pensioners.

16. Hindi version will follow.

(Vandana Sharma)
Joint Secretary to the Government of India

To

All Ministries/ Departments of Government of India

Copy to : As per mailing list

- Central Pension Accounting Office, New Delhi

-CMDs of All Pension Disbursing Banks

Central Administrative Tribunal

ANNEXURE

ANNEXUR-A-23

668

F.No. 47-65/2015-Pen(T)(pt)
Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20, Ashoka Road, New Delhi - 110001

Dated : 16th March 2017

Office Memorandum

Subject: **Implementation of 7th CPC recommendations : Applicability to the BSNL/ MTNL absorbees opting for pension for combined service governed under Rule 37-A of CCS (Pension) Rules, 1972.**

The undersigned is directed to refer to this Department's OM No. 36-02/2016-Pen(T)(i) dated 22.08.2016 and to give the following clarification on the applicability of the revised rules of CCS (Pension) Rules, 1972 to the BSNL/ MTNL absorbees (opting for pension for combined service and whose pension is governed under Rule 37-A of CCS (Pension) Rules) consequent to 7th CPC with regard to DoP&PW's OM No. 38/37/16-P&PW(A)(i) dated 04.08.2016:

2. The rates for payment of death gratuity shall be revised as per para 6.1 of DoP&PW's O.M. No. 38/37/2016-P&PW(A)(i) dated 4th August, 2016. The maximum limit of Death/ Retirement gratuity shall be Rs. 20 lakh w.e.f. 01.01.2016.

3. There is no change in the formula for pension/ family pension w.e.f. 01.01.2016. BSNL/ MTNL absorbee employees will, therefore, continue to get pension based on the same formula.

4. There will be no change in the provisions relating to commutation of pension.

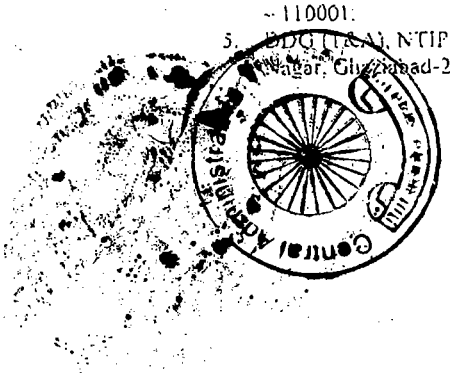
This issues with the approval of competent authority.

Yours faithfully,

(K. S. Dahiya)
Under Secretary (STP)
Tel. 23036260

To

1. All the CCAs/ TERM Cells.
2. Sr. DDG (TEC), Khurshid Lal Bhawan, Janpath, New Delhi.
3. Sr. DWA, 6th Floor, Sanchar Bhwan, 20, Ashoka Road, New Delhi – 110001.
4. DDG (Estt.)/ DDG (Accounts), DoT Hqrs., Sanchar Bhwan, 20, Ashoka Road, New Delhi – 110001.
5. DDG (TEA), NTIPRIT, Admin Building, ALT Centre, Govt. of India Enclave, Near Raj Nagar, Ghaziabad-201002.



6. Director General, National Institute of Communication Finance, Mehrauli-Gurgaon Road, Ghitorni, New Delhi – 110047.
7. Director (Estt.)/ Director (Accts. I)/ Director (Accts II), DoT Hqrs. New Delhi.
8. Executive Director, CENTRE FOR DEVELOPMENT OF TELEMATICS, C-DOT Campus, Mandi Road, Mehrauli, New Delhi – 110030.
9. Director, Telecom Centres of Excellence, C-DoT Campus, Mandi Road, Mehrauli, New Delhi – 110030.
10. CMD, BSNL Corporate Office, Janpath, New Delhi.
11. CMD, MTNL, Khursheed Lal Bhawan, New Delhi.
12. CMD, Bharat Broadband Network Limited (BBNL), C-DoT Campus, Mandigaon Road, Mehrauli, New Delhi – 110030.
13. CMD, Telecommunications Consultants India Limited, TCIL Bhawan, Greater Kailash-I, New Delhi – 110048.
14. CMD, ITI Limited, Regional Office, 201/202, Rohit House, 3, Tolstoy Marg, New Delhi – 110001.
15. Director (IT), DoT(HQ), Sanchar Bhawan, New Delhi for uploading the same on DoT website.

Central Administrative Tribunal

955

ANNEXURE-A-24 870

Bharat Sanchar Nigam Limited
(A Government of India Enterprise)
Corporate Office
(Pension Section)
5th Floor, Bharat Sanchar Bhawan, New Delhi-110001

No. 48-11/2016-Pen(B) Dated: 21/03/2017

To

All Heads of Circles/Telecom Districts/Regions/Projects/ Telecom Stores/Telecom Factories & other Administrative Offices Bharat Sanchar Nigam Limited

SUB: Implementation of 7th CPC recommendations : Applicability to the BSNL aborbees opting for pension for combined service governed under Rule 37-A of CCS (Pension) Rules, 1972 - regarding.

Sir,

I am directed to forward herewith a copy of DOT O.M. No. 47-63/2015-Pen(T)(pt) dated 16/03/2017, on the above mentioned subject and to say that the rates for payment of death gratuity shall be revised as per para 6.1 of DOP&PW's O.M. No. 38/37/2016-P&PW (A)(i) dated 04/08/2016. Further, the maximum limit of Death/Retirement Gratuity shall be Rs. 20 lakh w.e.f. 01/01/2016.

2. Accordingly, the Circles are requested to take necessary action with regard to settlement of pensionary matters including Death/Retirement Gratuity in accordance with the instructions issued by DOT vide above mentioned O.M.

Yours faithfully,

Encl: As above

(S.P. Bhatta) 21.3.17
Asstt. General Manager (Estt.I)
Tele. No. 23037477

Copy to:-

1. PS to CMD, BSNL
2. PS to Dir.(HR)/Dir.(Ent.)/Dir.(CFA)/Dir.(CM)/Dir.(F), BSNL Board
3. PS to all Executive Directors/CS & Sr. GM (Legal)/CVO, BSNL
4. DDG(Estt.)/DDG (SR), DOT for information
5. Al PGMs/Sr.GMs/GMs in BSNLCO
6. General Secretary, BSNLEU/NFTE
7. DM(OL), BSNLCO
8. Guard File

(Sudhanshu Shekhar Ray)
Deputy Manager (Pension)

Central Administrative Tribunal

TRUE COPY

ANNEXURE 5

ANNEXURE-A-25 671

No.38/37/2016-P&PW(A)
Ministry of Personnel, PG & Pensions
Department of Pension & Pensioners' Welfare

3rd Floor, Lok Nayak Bhawan
Khan Market, New Delhi
Dated, the 12th May, 2017

Office Memorandum

Sub:- Implementation of Government's decision on the recommendations of the Seventh Central Pay Commission – Revision of pension of pre-2016 pensioners/family pensioners, etc.

The undersigned is directed to say that the 7th Central Pay Commission (7th CPC), in its Report, recommended two formulations for revision of pension of pre-2016 pensioners. A Resolution No. 38/37/2016-P&PW (A) dated 04.08.2016 was issued by this Department indicating the decisions taken by the Government on the various recommendations of the 7th CPC on pensionary matters.

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

TRUE COPY

Central Administrative Tribunal

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.

Tribunal

TRUE COPY

673

10. The existing instructions regarding regulation of dearness relief to employed/re-employed pensioners/family pensioners, as contained in Department of Pension & Pensioners Welfare O.M. No. 45/73/97-P&PW(G) dated 02.07.1999, as amended from time to time, shall continue to apply.

11. These orders would not be applicable for the purpose of revision of pension of those pensioners who were drawing compulsory retirement pension under Rule 40 of the CCS (Pension) Rules or compassionate allowance under Rule 41 of the CCS (Pension) Rules. The pensioners in these categories would continue to be entitled to revised pension in accordance with the instructions contained in this Department's O.M. No. 38/37/2016-P&PW(A)(ii) dated 4.8.2016.

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

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

14. Since the consolidated pension will be inclusive of commuted portion of pension, if any, the commuted portion will be deducted from the said amount while making monthly disbursements.

15. The quantum of age-related pension/family pension available to the old pensioners/ family pensioners shall continue to be as follows:-

Age of pensioner/family pensioner	Additional quantum of pension
From 80 years to less than 85 years	20% of revised basic pension/ family pension
From 85 years to less than 90 years	30% of revised basic pension / family pension
From 90 years to less than 95 years	40% of revised basic pension / family pension
From 95 years to less than 100 years	50% of revised basic pension / family pension
100 years or more	100% of revised basic pension / family pension

The amount of additional pension will be shown distinctly in the pension payment order. For example, in case where a pensioner is more than 80 years of age and

TRUE COPY

Central Administrative Tribunal

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. 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.



TRUE COPY

23. Ministry of Agriculture etc. are requested to bring the contents of these orders to the notice of Heads of Department/Controller of Accounts, Pay and Accounts Officers, and Attached and Subordinate Offices under them on top priority basis. All Ministries/Departments are requested to accord top priority to the work of revision of pension of pre-2016 pensioners/family pensioners and issue the revised Pension Payment Authority in respect of all pre-2016 pensioners.

24. Hindi version will follow.

(Harjit Singh)
Director

To

1. All Ministries/Departments of Government of India (as per standard mailing list)
2. Central Pension Accounting Office, New Delhi
3. Comptroller & Auditor General of India, New Delhi

TRUE COPY

~~153~~

676

261

ANNEXURE I

EXAMPLES

(Reference Para 16 of OM No.38/37/2016-P&PW(A) dated 12th May, 2017.)

S.No	Description	1st case	2nd Case	3rd Case	4th Case
1.	Date of Retirement	31.12.1984	31.01.1989	30.06.1999	31.05.2015
2.	Scale of Pay (or Pay Band & G.P.) at the time of retirement OR Notional pay scale as on 1.1.1986 for those retired before 1.1.1986	975-1660 (4th CPC Scale)	3000-4500 (4th CPC Scale)	4000-6000 (5th CPC Scale)	67000-79000 (5th CPC Scale)
3.	Pay on retirement OR Notional pay as on 1.1.1986 for those retired before 1.1.1986	1210	4000	4800	79000
4.	Pension as on 01.01.2016 before revision	4191	12600	5424	39500
5.	Family pension as on 01.01.2016 before revision	3500	7560	3500	23700
6.	Family pension at enhanced rate as on 01.01.2016 before revision (if applicable)	NA	N.A.	NA	39500
7.	Revised pension by multiplying pre-revised pension by 2.57	10771	32382	13940	101515
8	Revised family pension by multiplying pre-revised family pension by 2.57	9000	19430	9000	60909
9.	Revised family pension at enhanced rate by multiplying pre-revised enhanced family pension by 2.57	NA	NA	N.A.	101515
10.	Pay fixed on notional basis on 1.1.1996	3710 (3200-4900)	11300 (10000-15200)	N.A.	NA
11.	Pay fixed on notional basis on 1.1.2006	8910 (PB-I, GP 2000)	27620 (PB-3, GP 6600)	11330 (PB-I, GP-2400)	NA
12.	Pay fixed on notional basis on 1.1.2016	23100 (Level -3)	71800 (Level-11)	29600 (Leval-4)	205100 (Level-15)
13.	Revised pension w.e.f 1.1.2016 as per first formulation	11550	35900	14800	102550
14.	Revised family pension w.e.f. 1.1.2016 as per first formulation.	9000	21540	9000	61530
15.	Revised family pension at enhanced rate w.e.f. 1.1.2016 as per first formulation.	NA	N.A.	N.A.	102550
16.	Revised pension payable (Higher of S.No. 7 and 13)	11550	35900	14800	102550
17.	Revised family pension payable (Higher of S.No. 8 and 14)	9000	21540	9000	61530
18.	Revised family pension at enhanced rate payable (Higher of S.No. 9 and 15)	NA	N.A.	N.A.	102550

Central Administrative Tribunal

TRUE COPY

ANNEXURE A- 687

No. W-02/0028/2017-DPE (WC)-GL-XIII/17
Government of India
Ministry of Heavy Industries and Public Enterprises
Department of Public Enterprises

Public Enterprises Bhawan
Block No. 14, C. G. O. Complex,
Lodhi Road, New Delhi-110003
Dated: 3rd August, 2017

OFFICE MEMORANDUM

Subject:-Pay Revision of Board level and below Board level Executives and Non-Unionised Supervisors of Central Public Sector Enterprises (CPSEs) w.e.f. 01.01.2017.

The last revision of the scale of pay of Board level and below Board level Executives and Non-Unionized Supervisors of Central Public Sector Enterprises (CPSEs) was made effective from 01.01.2007 for a period of 10 years. As the next Pay Revision became due from 01.01.2017, the Government had set up the 3rd Pay Revision Committee (PRC) under the chairmanship of Justice Satish Chandra (Retd.) to recommend revision of pay and allowances for above categories of employees following IDA pattern of pay scales with effect from 01.01.2017. The Government, after due consideration of the recommendations of the 3rd PRC have decided as follows:

2. **Revised Pay Scales** - The revised Pay scales for Board and below Board level executives would be as indicated in Annexure-I. There will be no change in the number and structure of pay scales and every executive has to be fitted into the corresponding new pay scale. In case of CPSEs which are yet to be categorized, the revised pay scales as applicable to the Schedule 'D' CPSEs would be applicable.

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

Central Administrative Tribunal

Fitment Benefit:

(i) In case additional financial impact in the year of implementing the revised pay-package of a CPSE is within 20% of average PBT of last 3 years, a uniform full fitment benefit of 15% would be provided.

(ii) If the additional financial impact in the year of implementing the revised pay-package is more than 20% of the average PBT of last 3 Financial Years (FYs), then the revised pay-package with recommended fitment benefit of 15% of BP+DA should not be implemented in full but only partly, as per the part-stages recommended below:-

Part stages	Additional financial impact of the full revised pay package as a % of average PBT of last 3 FYs	Fitment benefit (% of BP+DA)
I	More than 20% but upto 30% of average PBT of last 3 FYs	10%
II	More than 30% but upto 40% of average PBT of last 3 FYs	5%

No fitment or any other benefit of pay revision will be implemented in the CPSEs where the additional financial impact of the revised pay package is more than 40% of the average PBT of last 3 financial years.

(iii) At the time of implementation of pay revision, if the additional financial impact after allowing full / part fitment exceeds 20% of the average PBT of last 3 years, then PRP payout / allowances should be reduced so as to restrict impact of pay revision within 20%.

(iv) Subsequent to implementation of pay revision, the profitability of a CPSE would be reviewed after every 3 years and

a) if there is improvement in the average PBT of the last 3 years, then full pay package/ higher stage of pay package would be implemented while ensuring that total additional impact (sum total of previously implemented part pay package and proposed additional package) stays within 20% of the average of PBT of last 3 years.

b) if the profitability of a CPSE falls in such a way that the earlier pay revision now entails impact of more than 20% of average PBT of last 3

Tribunal Administrative

year, then PRP/ allowances will have to be reduced to bring down impact.

5. **Methodology for pay fixation:** To arrive at the revised Basic Pay as on 1.1.2017 fitment methodology shall be as under:

A		B		C		D (Revised BP as on 1.1.2017) *
Basic Pay + Stagnation Increment(s) as on 31.12.2016 (Personal Pay / Special Pay not to be included)	+	Industrial Dearness Allowance (IDA) @119.5% as applicable on 1.1.2017 under the IDA pattern computation methodology linked to All India Consumer Price Index (AICPI) 2001=100 series]	+	15% /10%/5% of (A+B)	=	Aggregate amount rounded off to the next Rs.10/-.

* *In case revised BP as on 1.1.2017 arrived so is less than the minimum of the revised pay scale, pay will be fixed at the minimum of the revised pay scale.*

4. **Pay revision in respect of Non-unionized Supervisors of CPSEs:** The revision of scales of pay for Non-unionized Supervisory staff would be decided by the respective Board of Directors.

5. The applicability of affordability clause in respect of certain types of CPSEs is given at Annexure II.

6. **Increment:-** A uniform rate of 3% of BP will be applicable for both annual increment as well as promotion increment. The details regarding Stagnation Increment and Bunching of pay are given at Annexure-III (A).

7. **Dearness Allowance:** 100% DA neutralization would be continued for all the executives and non-unionised supervisors, who are on IDA pattern of scales of pay w.e.f. 01.01.2017. Thus, DA as on 01.01.2017 will become zero with link point of All India Consumer Price Index (AICPI) 2001=100, which is 277.33 (Average of AICPI for the months of September, October & November, 2016) as on 01.01.2017. The periodicity of adjustment will be once in three months as per the existing practice.

Central Administrative Tribunal

The quarterly DA payable from 01.01.2017 will be as per new DA given at Annexure-III(B).

8. **House Rent Allowance (HRA)/ Lease Accommodation and House Rent Recovery (HRR):** Separate guidelines would be issued later on these allowances. Till then, the existing allowance at the existing rate may be continued to be paid at pre-revised pay scales.

9 **Perks & Allowances:** The Board of Directors of CPSEs are empowered to decide on the perks and allowance admissible to the different categories of the executives, under the concept of 'Cafeteria Approach', subject to a ceiling of 55% of BP. Under the concept of 'Cafeteria Approach' the executives are allowed to choose from a set of perks and allowances. The recurring cost incurred on running and maintaining of infrastructure facilities like hospitals, colleges, schools etc. would be outside the ceiling of 55% of BP. As regards company owned accommodation provided to executives, CPSEs would be allowed to bear the Income Tax liability on the non-monetary perquisite of which 50% shall be loaded within the ceiling of 55% of BP on perks and allowances.

10. **Certain other perks & Allowances:** Separate guidelines would be issued on location based Compensatory Allowance, Work based Hardship Duty Allowances and Non-Practicing Allowance. Till then the existing allowances at the existing rate would continue to be paid at the pre-revised pay scales.

11. **Performance Related Pay (PRP):-** The admissibility, quantum, and procedure for determination of PRP has been given in Annexure-IV. The PRP model will be effective from FY 2017-18 and onwards. For the FY 2017-18, the incremental profit will be based on previous FY 2016-17. The PRP model will be applicable only to those CPSEs which sign Memorandum of Understanding (MOU), and have a Remuneration Committee (headed by an Independent Director) in place to decide on the payment of PRP within the prescribed limits and guidelines.

12. **Superannuation Benefits:** The existing provisions regarding superannuation benefits have been retained as per which CPSEs can contribute upto 30% of BP plus

DA towards Provident Fund (PF), Gratuity, Post-Superannuation Medical Benefits (PRMB) and Pension of their employees.

12.1 The ceiling of gratuity of the executives and non-unionised supervisors of the CPSEs would be raised from Rs 10 lakhs to Rs 20 lakhs with effect from 01.01.2017 and the funding for the entire amount of Gratuity would be met from within the ceiling of 30% of BP plus DA. Besides, the ceiling of gratuity shall increase by 25% whenever IDA rises by 50%.

12.2 The existing requirement of superannuation and of minimum of 15 years of service in the CPSE has been dispensed with for the pension.

12.3 The existing Post-Retirement Medical Benefits will continue to be linked to requirement of superannuation and minimum of 15 years of continuous service for other than Board level Executives. The Post-Retirement medical benefits shall be allowed to Board level executives (without any linkage to provision of 15 years of service) upon completion of their tenure or upon attaining the age of retirement, whichever is earlier.

13 **Corpus for medical benefits for retirees of CPSEs:** The corpus for post – retirement medical benefits and other emergency needs for the employees of CPSEs who have retired prior to 01.01.2007 would be created by contributing the existing ceiling of 1.5% of PBT. The formulation of suitable scheme in this regard by CPSEs has to be ensured by the administrative Ministries/Departments.

14. **Club Membership:** The CPSEs will be allowed to provide Board level executives with the Corporate Club membership (upto maximum of two clubs), co-terminus with their tenure.

15. **Leave regulations/management:** CPSEs would be allowed to frame their own leave management policies and the same can be decided based on CPSEs operational and administrative requirements subject to the principles that:

a. Maximum accumulation of Earned Leave available are not permitted beyond 300 days for an employee of CPSE. The same shall not be permitted for encashment beyond 300 days at the time of retirement.

b. CPSEs should adopt 30 day's month for the purpose of calculating leave encashment.

c. Casual and Restricted Leave will continue to be lapsed at the end of the calendar year.

16. **Periodicity:** The next pay revision would take place in line with the periodicity as decided for Central Government employees but not later than 10 years.

17. **Financial Implications:** Expenditure on account of pay revision is to be entirely borne by the CPSEs out of their earnings and no budgetary support will be provided by the Government.

18. **Issue of Presidential directive, effective Date of implementation and payment of allowances.** The revised pay scales will be effective from 01.01.2017(except the allowances mentioned in the paras 8 and 10 above). The Board of Directors of each CPSE would be required to consider the proposal of pay revision based on their affordability to pay, and submit the same to the administrative Ministry for approval. The administrative Ministry concerned will issue the Presidential Directive with the concurrence of its Financial Adviser in respect of each CPSE separately. Similarly presidential directives would be issued by the administrative Ministry concerned based on the result of review which is to be done after every 5 years subsequent to implementation. A copy of the Presidential Directives, issued by the administrative Ministry/Department concerned may be endorsed to the Department of Public Enterprises.

19. **Issue of instructions/clarification and provision of Anomalies Committee:** The Department of Public Enterprises (DPE) will issue necessary instructions/clarifications wherever required, for implementation of the above decisions. An Anomalies Committee consisting of Secretaries of Department of Public Enterprises (DPE), Department of Expenditure and Department of Personnel & Training is being constituted for a period of two years to look into further specific issues/problems that may arise in implementation of the Government's Decision on 7th pay revision. Any anomaly should be forwarded with the approval of Board of Directors to the administrative Ministry/Department who will examine the same and dispose of the same. However, if it is not possible for the administrative

Central Administrative Tribunal

Ministry/Department to sort out the issue, they may refer the matter to DPE, with their views for consideration of the Anomalies Committee.

(Rajesh Kumar Chaudhry)
Joint Secretary to the Government of India

Administrative Ministry / Department (Secretary by Name) of the Government of India

Copy to Chief Executives of CPSEs.

Copy also to:

i) Financial Advisors in the Administrative Ministry/Department.
ii) Comptroller & Auditor General of India, 9 Deen Dayal Upadhyay Marg, New Delhi.
iii) Department of Expenditure, EV Branch, North Block, New Delhi
iv) Department of Personnel & Training (CPC Pay I), North Block, New Delhi.
v) Chairman, PESB/Secretary, PESB, CGO Complex New Delhi

Copy also to

i) Prime Minister's Office (Shri Tarun Bajaj, Addl. Secretary)
ii) Cabinet Secretariat (Shri S.A.M. Rizvi, Joint Secretary)

Copy for information to

i) PS to Minister (HI&PE)
ii) PS to MoS (HI&PE)
iii) PS to Secretary, PE
iv) AS & FA (PE)
v) All Officers of DPE
vi) NIC Cell, DPE with the request to upload the OM on the DPE website.

(Samsul Haque)
Under Secretary to the Government of India

Central Administrative Tribunal

684

Annexure-I

(Para 2)

Grade	Existing(Rs)	Revised(Rs)
E0	12600-32500	50000-120000
E1	16400-40500	40000-140000
E2	20600-46500	50000-160000
E3	24900-50500	60000-180000
E4	29100-54500	70000-200000
E5	32900-58000	80000-220000
E6	36600-62000	90000-240000
E7	43200-66000	100000-260000
E8	51300-75000	120000-280000
E9	62000-80000	150000-300000
Grade	**Existing(Rs)**	**Revised(Rs)**
Director(Sch-D)	43200-66000	100000-260000
CMD(D)	51300-75000	120000-280000
Director(Sch-C)	51300-75000	120000-280000
CMD(C)	65000-75000	160000-290000
Director(Sch-B)	65000-75000	160000-290000
CMD(B)	75000-90000	180000-320000
Director(Sch-A)	75000-100000	180000-340000
CMD(A)	80000-125000	200000-370000

*E7 only in CPSEs of Schedule A, B & C

*E8 only in CPSEs of Schedule A & B

*E9 only in CPSEs of Schedule A

Central Administrative Tribunal

Annexure II (Para 5)

Affordability to certain types of CPSEs:

a) In respect of Sick CPSEs referred to erstwhile Board for Industrial and Financial Reconstruction (BIFR) / Appellate Authority for Industrial and Financial Reconstruction (AAIFR), the revision of pay scales should be in accordance with rehabilitation packages approved by the Government after providing for the additional expenditure on account of pay revision in these packages.

b) The affordability condition shall also be applicable to the CPSEs registered under Section 25 of the Companies Act, 1956, or under Section 8 of the Companies Act, 2013 (which by the very nature of their business are not-for profit companies) for implementation of the revised compensation structure (including Performance Related Pay) as being recommended for other CPSEs.

c) There are also certain CPSEs which have been formed as independent Government companies under a statute to perform a specific agenda / regulatory functions. The revenue stream of such CPSEs are not linked to profits from the open market in a competitive scenario but are governed through the fees & charges, as prescribed and amended from time to time by the Government. There is no budgetary support provided by the Government to such CPSEs. In consideration that the impact of the revised compensation structure (including Performance Related Pay) would supposedly form the part of revenue stream for such CPSEs, the affordability condition shall not be applicable to these CPSEs, however the implementation of same shall be subject to the approval of Administrative Ministry upon agreeing and ensuring to incorporate the impact of the revised compensation structure into the revenue stream.

d) As regards the CPSEs under construction which are yet to start their commercial operations, the implementation of pay-revision would be decided by the Government based on the proposal of concerned Administrative Ministry and after consideration of their financial viability.

e) In case of Coal India Limited (CIL), the holding company and its subsidiaries would be considered as a single unit for the affordability clause as per past precedent.

Central Administrative Tribunal

Annexure-III (A)

(Para 6)

Stagnation Increment: In case of reaching the end point of pay scale, an executive would be allowed to draw stagnation increment, one after every two years upto a maximum of three such increments provided the executives gets a performance rating of 'Good' or above.

Bunching of Pay: - In CPSEs where a lower fitment benefit (i.e. 10% or 5%) is granted due to affordability, there is a possibility of bunching at different grades due to revised Basic Pay falling short of reaching starting point of revised pay-scale. The revised BP due to bunching of pay in these cases would be the higher of the followings -

- Adding the difference between the 'pre-revised Basic Pay' and 'the minimum of the pre-revised pay scale' to the starting point of revised pay scale.
- The revised BP as arrived after applying the fitment benefit (ie 10% or 5% of BP plus DA).

[Example for Basic Pay revision in cases of bunching in a Grade/level]

Sl. No.	Parameters		Pre-revised pay-scale of E-6 level (in Rs.)			
			Minimum /Starting of pay-scale	Minimum + 1 increment @3%	Minimum + 2 increments @3%	Minimum + 3 increments @3%
			(A)	(B)	(C)	(D)
1.	E-6 level Pre-revised BP	(31.12.16)	36600	37700	38840	40010
2.	DA (1.1.2017)	Say: 120%	43920	45240	46608	48012
3.	Total	(1) + (2)	80520	82940	85448	88022
4.	Fitment benefit	% of BP+DA	5%	5%	5%	5%
5.	Fitment benefit amount	(4) x (3)	4026.0	4147.0	4272.4	4401.1
6.	Net amount to arrive at revised BP	(3) + (5)	84546.0	87087.0	89720.4	92423.1
7.	Rounded off	Next Rs.10/-	84550	87090	89730	92430
8.	Minimum of E-6's revised pay-scale	Starting point	90000	90000	90000	90000

9.	Difference between the pre-revised Basic Pay and the minimum of the pre-revised pay scale	Linked to figure at Column (A) mentioned at Sl. No.1	(A) - (A) i.e.36600 -36600	(B) - (A) i.e.37700 -36600	(C) - (A) i.e.38840 -36600	(D) - (A) i.e.40010 -36600
10.	Difference amount	=	0	1100	2240	3410
11.	Net of difference added to starting point of revised pay-scale	(8) + (10)	90000	91100	92240	93410
12.	*Revised Pay-scale*	*Higher of (7) or (11)*	*90000*	*91100*	*92240*	*93410*

Annexure-III (B)
(Para 7)

Rates of Dearness Allowances for the employees of CPSEs following IDA pattern

Effective Date	Rate of Dearness Allowance (in percentage)
01.01.2017	0
01.04.2017	-1.1
01.07.2017	-0.2

Annexure-IV

(para 11)

Performance Related Pay

(I) Allocable profits:

a. The overall profits for distribution of PRP shall be limited to 5% of the year's profit accruing only from core business activities (without consideration of interest on idle cash / bank balances), which will be exclusively for executives and for non-unionized supervisors of the CPSE. The ratio of break-up of profit accruing from core business activities for payment of PRP between relevant year's profit to Incremental profit shall be 65:35 to arrive at the Allocable profits and the Kitty factor.

(I) PRP differentiator components:

(A) PRP payout is to be distributed based on the addition of following parts / components:-

Part-1 : CPSE's performance component:-

(a) Weightage = 50% of PRP payout

(b) Based on CPSE's MOU rating:

MOU rating	%age eligibility of PRP
Excellent	100%
Very Good	75%
Good	50%
Fair	25%
Poor	Nil

Part-2 : Team's performance component:-

(a) Weightage = 50% of PRP payout

(b) Based on Team rating (i.e. linked to Plant / Unit's productivity measures and operational / physical performance):

Central Administrative Tribunal

Team rating	%age eligibility of PRP
Excellent	100%
Very Good	80%
Good / Average	60%
Fair	40%
Poor	Nil

* In case of a CPSE not having Plants/Units and if there is a no Team Performance areas/rating, then the PRP for such CPSE will be determined based specifically on MoU rating after merging the weightage of Team performance component to the Company's performance component.

(c) The Team rating shall be linked to individual Plant / Unit's productivity measures and operational / physical performance, as primarily derived from CPSEs' MOU parameters and as identified by CPSE depending on the nature of industry / business under the following suggested performance areas:-

- 'Achievement Areas', in which performance has to be maximized (e.g. market shares, sales volume growth, product output / generation, innovations in design or operation, awards and other competitive recognition, etc.); and

- 'Control Areas' in which control has to be maximized (e.g. stock / fuel loss, operating cost control, litigation cost; safety, etc.).

(d) For office locations of CPSEs, the Team rating should be linked to the Plant / Unit as attached to the said office; and if there is more than one Plant / Unit attached to an office or in case of Head Office / Corporate Office of the CPSE, the Team rating shall be the weighted average of all such Plants / Units. The weighted average shall be based on the employee manpower strength of the respective Plants / Units.

[Plants/Units shall primarily mean the work place where industry's manufacturing process is carried out and in case of a CPSE not having any manufacturing process, it shall mean the work place where the main business is carried out. The individual department/section within a work place shall not be recognized as a Plant/Unit.]

Part-3 : Individual's performance component:-

(a) **Weightage = 20% of PRP payout**

(b) **Based on Individual performance rating (i.e. as per the CPSE's Performance Management System):**

Individual performance rating	%age eligibility of PRP
Excellent	100%
Very Good	80%
Good / Average	60%
Fair	40%
Poor	Nil

(c) The forced rating of 10% as below par / Poor performer shall not be made mandatory. Consequently, there shall be discontinuation of Bell-curve. The CPSEs are empowered to decide on the ratings to be given to the executives; however, capping of giving Excellent rating to not more than 15% of the total executive's in the grade (at below Board level) should be adhered to.

(II) Percentage ceiling of PRP (%age of BP):

(a) The grade-wise percentage ceiling for drawal of PRP within the allocable profits has been rationalized as under:-

Grade	Ceiling (% of BP)
E0	40%
E1	40%
E2	40%
E3	40%
E4	50%
E5	50%
E6	60%
E7	70%
E8	80%

Central Administrative Tribunal

E9	90%
Director (C&D)	100%
Director (A&B)	125%
CMD / MD (C&D)	125%
CMD / MD (A&B)	150%

Note:
1.For Non- Unionized supervisors, the PRP as percentage of BP will be decided by the respective Board of Directors of the CPSE.

(III) **Kitty factor.** After considering the relevant year's profit, incremental profit and the full PRP payout requirement (computed for all executives based on Grade-wise ceilings, CPSE's MOU rating, Team rating & Individual performance rating), there will be two cut-off factors worked out based on the PRP distribution of 65:35. The first cut-off shall be in respect of PRP amount required out of year's profit, and the second cut-off shall be in respect of PRP amount required out of incremental profit, which shall be computable based on the break-up of allocable profit (i.e. year's 6% of profit bifurcated into the ratio of 66:35 towards year's profit and incremental profit).

The sum of first cut-off factor applied on 65% of Grade PRP ceiling *and* the second cut-off factor applied on 35% of Grade PRP ceiling will result in Kitty factor. The Kitty factor shall not exceed 100%.

(IV) Based on the PRP components specified above, the PRP pay-out to the executives should be computed upon addition of the following three elements:-

(a) Factor-X (% of BP):

Weightage of 50% *Multiplied with* Part-1 (CPSE's MOU rating) *Multiplied with* Kitty factor.

(b) Factor-Y (% of BP):

Weightage of 30% *Multiplied with* Part-2 (Team's performance) *Multiplied with* Kitty factor.

(c) Factor-Z (% of BP):

Weightage of 20% *Multiplied with* Part-3 (Individual's performance) *Multiplied with* Kitty factor.

(d) Net PRP= Factor X + Factor Y + Factor Z =Net %age of Annual BP

EXAMPLES

Performance Related Pay (PRP): Examples for calculating Kitty factor/Allocable profit

- PRP Kitty Distribution: within 6% of profit accruing from core business activities (hereinafter, for brevity, referred to as Profit).
- Ratio of relevant year's profit : incremental profit = 65 : 35

Example – 1:

Sl.	Parameters	Amount (Rs.)/ %age
1	FY 2016-17	Profit = 5000 crore
2.	FY 2017-18 [for which PRP is to be distributed]	Profit = 6000 crore
3	Incremental profit	1000 crore
4	6% of the year's profit	300 crore
5	*Allocable profit out of current year's 6% of profit based on distribution in the ratio of 65:35 towards the year's profit and incremental profit*	
a.	PRP payout from year's profit	196 crore [i.e. 65% out of 300 crore]
b.	PRP payout from incremental profit	105 crore [i.e. 35% out of 300 crore]. [105 crore can be fully utilized as incremental profit is 1000 crore.]
6	Full PRP Payout requirement [computed for all executives based on Grade-wise ceilings, CPSE's MOU rating, Team rating & Individual performance rating) – *but without applying kitty factor related to year's profit or Incremental profit*	500 crore
7	*PRP payout break-up based on 65:35 distribution out of year's profit and incremental profit.*	
a	PRP amount required out of year's profit (i.e. 65% of Sl. No. 6)	65% of 500 crore = 325 crore
a1	Cut-off factor(1) (in %age) for year's PRP payout with reference to Sl. No. 5(a) & 7(a)	196 crore / 325 crore = 60.00%
b	PRP amount required out of incremental profit (i.e. 35% of Sl. No. 6)	35% of 500 crore = 175 crore
b1	Cut-off factor(2) (in %age) for incremental	105 crore / 175 crore = 60.00%

Central Administrative Tribunal

	PRP payout with reference to Sl. No. 5(b) & 7(b)	
8	Thus, total Profit amount allocated for PRP distribution	195 crore + 105 crore = 300 crore [i.e. 5% of Core business / operating profit]
9	Kitty factor for respective Grade (in %age)	[65% x Grade PRP ceiling (%) x Cut-off factor(1)] *Plus (+)* [35% x Grade PRP ceiling x Cut-off factor(2)] = Kitty factor

Administrative Tribunal

PRP Payout to Individual Executives
Example – 1 : For Grade E-1

Sl	Parameter	Amount (Rs.)/ %age payout
A	CPSE's MOU rating [Weightage = 50%]	75% (Very Good)
B	Team's rating [Weightage = 30%]	100% (Excellent)
C	Individual's performance rating [Weightage = 20%]	60% (Good/Average)
D	Grade ceiling (E1) (Max. of 40% of BP)	40% of BP
E	Cut-off factor (1)	60.0%
F	Cut-off factor (2)	60.0%
G	Kitty Factor for Grade E1 i.e. [65% x D (Grade PRP ceiling) x E (Cut-off factor(1))] *Plus (+)* [35% x D (Grade PRP ceiling) x F (Cut-off factor(2))]	[65% x 40% x 60.00%] + [35% x 40% x 60.00%] = 15.60% + 8.40% = 24.00%
E	Net PRP	
i	Factor-X [Company's performance component]	Wtg.(50%) x A x G
	i.e.	50% x 75% x 24.0% = 9.00%
ii	Factor-Y [Team's performance component]	Wtg.(30%) x B x G
	i.e.	30% x 100% x 24.00% = 7.20%
iii	Factor-Z [Individual's performance component]	Wtg.(20%) x C x G
	i.e.	20% x 60% x 24.00% = 2.88%
H	PRP payout distribution	Factor X + Factor Y + Factor Z = 19.08% of Basic Pay

Central Administrative Tribunal

Performance Related Pay (PRP): Examples for calculating Kitty factor/Allocable profit

- **PRP Kitty Distribution : within 5% of profit accruing from core business activities (hereinafter, for brevity, referred to as Profit).**
- **Ratio of relevant year's profit : incremental profit = 65 : 35**

Example – 2:

Sl.	Parameters	Amount (Rs.)/ %age
1	FY 2016-17	PBT - 7000 crore
2	FY 2017-18 [for which PRP is to be distributed]	PBT - 6000 crore
3	Incremental profit	Nil
4	5% of the year's profit	300 crore
5	*Allocable profit out of current year's 5% of profit based on distribution in the ratio of 65:35 towards the year's profit and incremental profit:*	
a	PRP payout from year's profit	195 crore [i.e. 65% out of 300 crore]
b	PRP payout from incremental profit	105 crore [i.e. 35% out of 300 crore]. [Nil amount to be allocated as profit is Nil.]
6	Full PRP Payout requirement (computed for all executives based on Grade-wise ceilings, CPSE's MOU rating, Team rating & Individual performance rating) – *but without applying kitty factor related to year's profit or incremental profit*	500 crore
7	*PRP payout break-up based on 65:35 distribution out of year's profit and incremental profit:*	
a	PRP amount required out of year's profit (i.e. 65% of Sl. No. 6)	65% of 500 crore = 325 crore
a1	Cut-off factor(1) (in %age) for year's PRP payout with reference to Sl. No. 5(a) & 7(a)	195 crore / 325 crore = 60.00%
b	PRP amount required out of incremental profit (i.e. 35% of Sl. No. 6)	35% of 500 crore= 175 crore
b1	Cut-off factor(2) (in %age) for incremental PRP payout with reference to Sl. No. 5(b) & 7(b)	Nil / 175 crore = 0.00%
8	Thus, total Profit amount allocated for PRP distribution	195 crore + 0 crore = 195 crore [i.e. 3.25% of Core business/operating profit]
9	Kitty factor for respective Grade (in %age):	[65% x Grade PRP ceiling (%) x Cut-off factor(1)] *Plus (+)* [35% x Grade PRP ceiling x Cut-off factor(2)] = Kitty factor

Central Administrative Tribunal

PRP Payout to Individual Executives
Example – 2 : For Grade E-1

Sl	Parameter	Amount (Rs.)/ %age payout
A	CPSE's MOU rating [Weightage = 50%]	75% (Very Good)
B	Team's rating [Weightage = 30%]	100% (Excellent)
C	Individual's performance rating [Weightage = 20%]	60% (Good/Average)
D	Grade ceiling (E1) (Max. of 40% of BP)	40% of BP
E	Cut-off factor (1)	60.0 %
F	Cut-off factor (2)	00.0%
G	Kitty Factor for Grade E1 i.e. [65% x D (Grade PRP ceiling) x E (Cut-off factor(1))] *Plus (+)* [35% x D (Grade PRP ceiling) x F (Cut-off factor(2))]	[65% x 40% x 60.00%] + [35% x 40% x 0.00%] = 15.60% + 0.00% = 15.60%
E	Net PRP	
i	Factor-X [Company's performance component]	Wtg.(50%) x A x G
	i.e.	50% x 75% x 15.60% = 5.85%
ii	Factor-Y [Team's performance component]	Wtg.(30%) x B x G
	i.e.	30% x 100% x 15.60% = 4.68%
iii	Factor-Z [Individual's performance component]	Wtg.(20%) x C x G
	i.e.	20% x 60% x 15.60% = 1.87%
H	PRP payout distribution	Factor X + Factor Y + Factor Z = 12.40% of Basic Pay

Central Administrative Tribunal

ANNEXURE-A-35 1098

334 **ANNEXURE**

मनोज सिन्हा
MANOJ SINHA



राज्य मंत्री (स्वतंत्र प्रभार)
दूरसंचार
एवं
रेल राज्य मंत्री, भारत सरकार
Minister of State (Independent Charge)
for Communications
and
Minister of State for Railways
Government of India

D.O. No.40-16/2017-Pen(TT)

Dear Shri Ajay Nishad Ji,

Kindly refer to your D.O. letter No.738/MP/AN/17 dated 28/08/2017 regarding revision of pension of BSNL pensioners/family pensioners who were permanently absorbed in BSNL from DoT and are getting pensions/family pensions from the Government of India, in terms of the OM No. 38/37/2016-P&PW(A) dated 12/05/2017.

The case was sent for examination. After examination, it has been found that the OM dated 12/05/2017 is in continuation of the OM of even number dated 04/08/2016. Para 3 (a) of the latter clearly states that when the Government servants on permanent absorption in PSUs continue to draw pension separately from the Government, 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 on CDA pattern based on their service in Government only.

On the other hand, the employee who were permanently absorbed in BSNL from DoT are getting pension on the basis of combined service in DoT and BSNL on IDA pattern in terms of Sub-Rule (10) of Rule 37-A of CCS (Pension) Rules, 1972. It is stated that pension revision follows pay revision. Earlier also, pension of permanent absorbees in BSNL drawing pension on IDA pattern has been revised on implementation of 2nd PRC in 2007.

Accordingly, case of pension revision of the employees permanently absorbed in BSNL will be taken up as and when 3rd PRC is implemented in BSNL.

With regards.

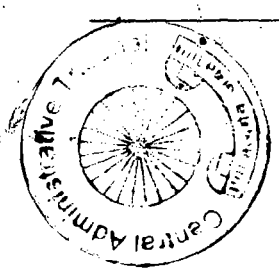
Yours sincerely

ISSUED

(MANOJ SINHA)

Shri Ajay Nishad
Member of Parliament (Lok Sabha),
197, North Avenue,
New Delhi - 110001

Room No. 105, Sanchar Bhawan, 20 Ashoka Road, New Delhi - 110001
Phone: 011-23739101, 23032107 Fax: 91-11-23739238



ANNEXURE-A-35

MANOJ SINHA

Minister of state (Independent Charge)
for communications
and
Minister of State for Railways
Government of India

23 OCT 2017

D.O. No.40-16/2017-Pen(T)

Dear Shri Ajay Nishad Ji,

Kindly refer to your D.O. letter No.738/MP/AN/17 dated 28/08/2017 regarding revision of pension of BSNL pensioners/family pensioners who were permanently absorbed in BSNL from DoT and are getting pensions/family pensions from the Government of India, in terms of the OM No.38/37/2016-P&PW(A) dated 12/05/2017.

The case was sent for examination. After examination, it has been found that the OM dated 12/05/2017 is in continuation of the OM of even number dated 04/08/2016. Para 7(a) of the letter clearly states that when the Government servants on permanent absorption in PSUs continue to draw pension separately from the Government, 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

Central Administrative Tribunal

absorption in PSUs on pro-rata basis on CDA pattern based on their service in Government only.

On the other hand, the employee who were permanently absorbed in BSNL from DoT are getting pension on the basis of combined service in DoT and BSNL on IDA pattern in terms of Sub-Rule (10) of Rule 37-A of CCS (Pension) Rules, 1972. It is stated that pension revision follows pay revision. Earlier also, pension of permanent absorbees in BSNL drawing pension in IDA pattern has been revised on implementation of 2nd PRC in 2007.

Accordingly, case of pension revision of the employees permanently absorbed in BSNL will be taken up as and when 3rd PRC is implemented in BSNL.

With regards,

Yours sincerely,
Sd/-
(MANOJ SINHA)

Shri Ajay Nishad
Member of Parliament (Lok Sabha)
197, North Avenue,
New Delhi

Room No.105, Sanchar Bhawan, 20 Ashoka Road, New Delhi-110 001
Phone 91-11-23739191 23372177 Fax 91-11-23723330

// TRUE TYPED COPY //

701

ANNEXURE

ANNEXURE A-

Exhibit P2

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

OA/180/00 346 /2018

All India BSNL Pensioners' Welfare Association

& another Applicants

V.

Union of India & others Respondents

INDEX

Sl. No.	Particulars	Page No
	COMPILATION I	
1	Original Application	01 - 11
	COMPILATION II	
2	Annexure A-1: True copy of the Department of Pension & Pensioners' Welfare OM F. No. 38/37/08-P&PW(A) dated 10.12.2009	12 - 13
3	Annexure A-2: True copy of the Department of Telecom letter No. 40-31/2008-Pen(T) dated 16.8.2010	14
4	Annexure A-3: True copy of the Department of Pension & Pensioner's Welfare Resolution No. 38/37/2016-P&PW(A) dated 4.8.2016	15 - 19
5	Annexure A-4: True copy of the Department of Pension & Pensioner's Welfare OM No. 38/37/2016-P&PW(A)(ii) dated 4.8.2016	20 - 24
6	Annexure A-5: True copy of the Department of Pension & Pensioners' Welfare OM No. 38/37/2016-P&PW(A) dated 12.5.2017	25 – 30
7	Annexure A-6: True copy of the representation dated 23.6.2017 submitted by the 1st applicant Association to the 1st respondent	31 – 32

Dated this the th day of April 2018

R. Sreeraj
Counsel for the Applicant

For the use in the Tribunal Office:
Date of Filing or
Date of receipt by post
Registration No: Signature of the Registrar

ADMINISTRATIVE TRIBUNAL
902
09 APR 2018
ERNAKULAM

Administrative Tribunal

1702

P2/2

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL ERNAKULAM BENCH

OA/180/00 946 /2018

All India BSNL Pensioners' Welfare Association & another — Applicants

V.

Union of India & others — Respondents

SYNOPSIS

With the advent of the OM dated 12.5.2017, bringing parity in pension between Pre-2016 and Post-2016 pensioners, in effect, the pension formula of 50% of the last pay drawn or 50% of the last 10 months average pay which ever is more advantageous, became applicable to the Pre-2006 pensioners as well. Grievance of the applicants is that despite the existence of the agreement and the Gazette Notification dated 30.9.2000 and more importantly Explanation to Sub Rule 8 of Rule 37-A of CCS (Pension) Rules, 1972 which ensures DoT absorbed BSNL pensioners equal treatment as that of Central Government pensioners, the benefit of Annexure A-5 OM is not being extended to them. This results in an invidious discrimination and an unreasonable classification. It is against this denial of equality, illegal classification and invidious discrimination that this Original Application is filed.

R. Sreeraj
Counsel for the Applicants

703

P2/3

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA/180/00 346 /2018

APPLICANT

1. All India BSNL Pensioners' Welfare Association (Regd. 1833/09), Central Headquarters, AH 189/61, 3rd Street, Aurovile Flats, Anna Nagar, Chennai-600 040 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-682 001.

RESPONDENTS

1. Union of India represented by the Secretary, Department of Telecom, Sanchar Bhavan, 20, Asoka Road, New Delhi-110 001.

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

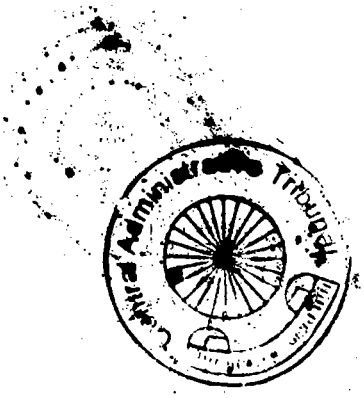
3. The Secretary, Government of India, Ministry of Heavy Industries & Public Enterprises, Department of Public Enterprises, Public Enterprises Bhawan, Block No. 14, CGO Complex, Lodhi Road, New Delhi-110 001.

4. The Secretary, Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Pensions and Pensioners' Welfare, New Delhi-110001.

5. The Controller of Communication Accounts, BSNL Bhawan, Kerala Circle, Trivandrum-695033.

1. PARTICULARS OF THE ORDERS AGAINST WHICH THE APPLICATION IS FILED

NOT AGAINST ANY PARTICULAR ORDER



704
O

2. JURISDICTION OF THE TRIBUNAL P2/4

The applicants declare that the subject matter of the application is within the jurisdiction of the Administrative Tribunal.

3. LIMITATION

The applicants further declare that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985.

4. FACTS OF THE CASE

1) The 1st applicant is the All India BSNL Pensioners' Welfare Association represented by its President and the 2nd applicant is a member of the said Association who is an aggrieved individual.

2) The Government, on acceptance of the recommendations of the 6th Central Pay Commission, issued orders for 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. Consequential amendments were made to the CCS (Pension) Rules, 1972 as well. Since the DoT absorbed BSNL employees are also covered under the CCS (Pension) Rules, 1972, the benefit was extended to those who retired after 1.1.2006 from the BSNL as well. The impact was that, from 1.1.2006, all those with a qualifying service of 10 years, became entitled for full pension. In other words, 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. A true copy of the Department of Pension & Pensioners' Welfare OM F. No. 38/37/08-P&PW(A) dated 10.12.2009 is produced herewith and marked as Annexure A-1. A true copy of the Department of Telecom letter No. 40-31/2008-Pen(T) dated 16.8.2010 is produced herewith and marked as Annexure A-2.

705

P2/5

3) It is submitted that the 7th Central Pay Commission, in its Report, recommended 2 formulations for revision of pension of pre-2016 pensioners. In acknowledgment of the same, the Department of Pension & Pensioner's Welfare issued Resolution No. 38/37/2016-P&PW(A) dated 4.8.2016 indicating the decisions taken by the Government on the various recommendations of the 7th CPC on pensionary matters. 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 as per the Department of Pension & Pensioner's Welfare OM No. 38/37/2016-P&PW(A)(ii) dated 4.8.2016. It was provided therein 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. A true copy of the Department of Pension & Pensioner's Welfare Resolution No. 38/37/2016-P&PW(A) dated 4.8.2016 is produced herewith and marked as Annexure A-3. A true copy of the Department of Pension & Pensioner's Welfare OM No. 38/37/2016-P&PW(A)(ii) dated 4.8.2016 is produced herewith and marked as Annexure A-4.

4) In accordance with the decisions mentioned in Annexure A-3 and Annexure A-4, the feasibility of the first option recommended by the 7th CPC was examined by a Committee headed by Secretary, Department of Pension & Pensioners' Welfare. After considering the recommendations of the said committee, the Government decided that the revised pension/family pension with effect from 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 7th CPC in the level corresponding to the pay in the pay scale/pay band and grade pay 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. A true copy of the Department of Pension & Pensioners' Welfare OM No. 38/37/2016-P&PW(A) dated 12.5.2017 is produced herewith and marked as Annexure A-5.

5) Annexure A-5 OM introduced a new and a drastic concept. According to Annexure A-5 OM, the last pay drawn by a pre-2016 pensioner undergoes change notionally after every pay commission till the 7th CPC and the pension is fixed ultimately at 50% of that notional pay finally arrived at. This has 2 impacts

(i) Pro-rata pension, for less than 33 years of qualifying service, is dispensed with even for those who retired prior to 1.1.2006 and

(ii) Ultimately it is 50% of last pay drawn (though notionally) which amounts to pension.

Further Annexure A-5 OM gives an option to the pensioner to choose either the multiplication factor of 2.57 as per OM dated 4.8.2016 or 50% of the notional pay as per the Annexure A-5 OM whichever is more beneficial.

6) Unfortunately, the impact of Annexure A-5 has been totally lost as far as the pre-2006 pensioners of BSNL are concerned. While Para 12 of Annexure A-5 OM says that 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 those orders, so far BSNL pensioners of pre-2006 era are denied the same. In essence, 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, when Annexure A-5 OM unites the two classes.

7) In these circumstances, objecting to this invidious discrimination, the 1st applicant Association has submitted a representation to the Secretary, Department of Telecom, Sanchar Bhavan, 20, Asoka Road, New Delhi-110 001. A true copy of the representation dated 23.6.2017 submitted by the 1st applicant Association to the 1st respondent is produced herewith and marked as Annexure A-6.

8) So far, there is no response to Annexure A-6 representation. In these circumstances, the applicants are constrained to approach this Hon'ble Tribunal for appropriate relief.

5. GROUNDS FOR RELIEF WITH LEGAL PROVISIONS

A) The further classification of BSNL IDA pensioners as those retired prior to 1.1.2006 and those retired after 1.1.2006 suffers from the vice of under inclusion and violates Art 14 and 16 of the Constitution of India. The cut off date chosen has nexus with the object sought to be achieved and it has no rationale behind it. It brings in an artificial classification among a homo genus class that strikes at the very root of the concept of equality enshrined in the Constitution.

B) The legal position in this regard has been succinctly laid down by the Hon'ble Supreme Court in a catena of decisions and followed by the Hon'ble High Court in its judgment in Kamala Devi v. K.S.F.E Ltd. reported in 2002(1) KLT 157 as follows:

> *"6. Article 14 guarantees equality before law and equal protection of laws, but the same does not prohibit classification. A classification will not be hit by Art 14, if the*

Central Administrative Tribunal

same satisfies the twin tests:- P2/8

(1) there is an intelligible differentia between those included in one group and those excluded from it;

(2) it has a rational nexus with the object of the law.

The Supreme Court has held that if the classification suffers from the vice of under inclusiveness, the same will be hit by Art 14. The Supreme Court has explained the said principle pithily in In Re Special Courts Bill, 1978, in the following words: (AIR 1979 (1) SC 478):

"120. The Court in Mohammed Shujath Ali v. Union of India,(1975)1SCR 449 at p. 477:(AIR 1974 SC 1631 at p.1653) has explained the constitutional facet of classification:

This doctrine recognises that the legislature may classify for the purpose of legislation but requires that the classification must be reasonable. It should ensure that persons or things similarly situated are all similarly treated. The measure of reasonableness of a classification is the degree of its success in treating similarly those similarly situated.

But the question is: what does this ambiguous and crucial phrase similarly situated means? Where are we to look for the test of similarity of situation which determines the reasonableness of a classification? The inescapable answer is that we must look beyond the classification to the purpose of the law. A reasonable classification is one which includes all persons or things similarly situated with respect to the purpose of the law".

121. After having stated the general proposition,

P2/9

the Court struck a note of warning which is the main crux of the present controversy: ibid at p. 478:(at pp.1653,1654 of AIR)

"The fundamental guarantee is of equal protection of the laws and the doctrine of classification is only a subsidiary rule evolved by courts to give a practical content to that guarantee by accommodating it with the practical needs of the society and it should not be allowed to submerge and down the precious guarantee of equality. The doctrine of classification should not be carried to a point where instead of being a useful servant, it becomes a dangerous master, for otherwise, as pointed out by Chandrachud,J in State of Jammu and Kashmir v. Triloki Nath Khosa (1974) 1 SCC 19: (AIR 1974 SC 1), "the guarantee of equality will be submerged in class legislation masquerading as laws meant to govern well marked classes characterised by different and distinct attainments."...That process will inevitably end in substituting the doctrine of classification for the doctrine of equality: the fundamental right to equality before the law and equal protection of the laws may be replaced by the overworked methodology of classification. Our approach to the equal protection clause must, therefore, be guided by the words of caution uttered by Krishna Iyer, J. in State of Jammu and Kashmir v. Triloki Nath Khosa. "Mini classifications based on micro distinctions are false to our egalitarian faith and only substantial and straight forward classification plainly promoting relevant goals can have constitutional validity. To overdo classification is to undo equality."

122. Mathew, J in State of Gujarath v. Shri Ambika Mills, Ahmedabad,(1974) 3 SCR 760 at p 782:(AIR 1974 SC 1300 at pp 1312,1313) placed the same accent from the angle of under inclusion:

"The equal protection of the laws is a pledge of the protection of equal laws. But laws may classify.....A reasonable classification is one which includes all who are similarly situated and none who are not. The question is what does the phrase "similarly situated" means? The answer to the question is that we must look beyond the classification to the purpose of the law. The purpose of a law may be either the elimination of a public mischief or the achievement of some public good.

A classification is under inclusive when all who are included in the class are tainted with the mischief but there are others also tainted whom the classification does not include. In other words, a classification is bad as under inclusive when a State benefits or burdens persons in a manner that further a legitimate purpose but does not confer the same benefit or place the same burden on others who are similarly situated. A classification is over inclusive when it includes not only those who are similarly situated with respect to the purpose but others who are not so situated as well."

The ratio of the decisions cited above apply squarely to the facts and circumstances of the present case.

C) The non extension of the benefit of Annexure A-5 OM to the BSNL IDA pensioners who retired from service prior to 1.1.2006 amounts to negation of the rights conferred on them as per the Explanation to Sub

P2/11

Rule 8 of Rule 37-A of the CCS (Pension) Rules, 1972 which interalia 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.

6.DETAILS OF THE REMEDIES EXHAUSTED

No other statutory remedy.

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

The applicants further declare that the applicants have not filed any application, writ petition or suit, regarding the matter in respect of which the application is made, before any Court or any other authority or any other Bench of this Hon'ble Tribunal nor any such application or suit is pending before any of them.

8.RELIEF(S) SOUGHT

1) 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.

Central Administrative Tribunal

7892

9.INTERIM ORDER,IF ANY PRAYED FOR

Pending final disposal of the Original Application, this Hon'ble Tribunal may be pleased to

Direct the respondents to consider Annexure A-6 representation and communicate a decision thereupon to the applicants

10.NOT APPLICABLE

11.PARTICULARS OF POSTAL ORDER IN RESPECT OF APPLICATION FEE

1. No. of the Indian Postal Order
2. Date of issue of the Postal Order
3. Name of the issuing Post Office
4. Post Office at which payable

12.LIST OF ENCLOSURES

1. Compilation 1 & 2
2. Vakalath
3. Postal Order

IN VERIFICATION

We, (1) All India BSNL Pensioners' Welfare Association (Regd. 1833/09), Central Headquarters, AH 189/61, 3rd Street, Aurovile Flats, Anna Nagar, Chennai-600 040 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 and (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-682 001 do hereby verify that the contents from Para 1 to 12 are true to the best of our personal knowledge and belief and that we have not suppressed any material facts.

Dated this the 8th day of April, 2018 at Ernakulam

P.S. Ramankutty

2) P. Vadivel

R. Sreeraj
Counsel for the Applicants

713

ANNEXURE

ANNEXURE-A-38

मनोज सिन्हा
MANOJ SINHA

राज्य मंत्री, संचार मंत्रालय
राज्य मंत्री, पृथ्वी विज्ञान मंत्रालय
भारत सरकार
Minister of State for Communications &
Minister of State for Earth Sciences
Government of India

D.O.No.34-19/2018-Pen(U)

Dear Shri Gopal Shetty Ji,

Kindly refer to your letter dated 17.05.2018 regarding revision of pension of MTNL employees who are Central Services Pensioners drawing pension from DoT on combined service rendered in DoT and MTNL under Rule 37-A of CCS(Pension) Rules, 1972, in accordance with the Govt. formula given by 7th CPC.

The case was sent for examination and it has been found that pension revision for these pensioners. Further also, pension of similarly placed combined service pensioners, who had retired on/after 2nd PRC, was revised after implementation of 2nd PRC in BSNL & MTNL in 2000.

Accordingly, case of proper revision of the concerned employees of MTNL who had retired on and after the 2nd PRC is implemented in MTNL.

With best wishes,

Yours sincerely,

(MANOJ SINHA)

Shri Gopal Shetty
Member of Parliament (Lok Sabha)
8th South Avenue,
NEW DELHI-110001

Central Administrative Tribunal

(Cz)

194

Annexure-A-38

MANOJ SINHA

Minister of state (Independent Charge)
for communications
and
Minister of State for Railways
Government of India

13 JUN 2018

D.O.No.34-19/2018-Pen(T)

Dear Shri Gopal Shetty Ji,

Kindly refer to your letter dated 13/03/2018 regarding revision of pension of MTNL, retirees who are Central Service Pensioners drawing pension from GoI on combined service rendered in DoT and MTNL under Rule 37-A of CCS (Pension) Rules, 1972, in accordance with fitment formula given by 7th CPC.

The case was sent for examination and it has been found that pension revision follows pay revision. Earlier also, pension of similarly placed combined service pensioners, who had retired before 2nd PRC, was revised after implementation of 2nd PRC in BSNL/MTNL in 2007.

Accordingly, case of pension revision of the concerned employees in MTNL will be taken up as and when the 3rd PRC is implemented in MTNL.

With regards,

Yours sincerely,
Sd/-
(MANOJ SINHA)

Shri Gopal Shetty
Member of Parliament (Lok Sabha)
197, North Avenue,
New Delhi

ISSUED
Sd/-

Room No.105, Sanchar Bhawan, 20 Ashoka Road, New Delhi-110 001
Phone 91-11-23739191 23372177 Fax 91-11-23723330

// TRUE TYPED COPY //

ANNEXURE 715

ANNEXURE-A-39

RTI MATTER/ SPEED POST

No.A-11012018-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 the 04th July, 2018

To

Amit Kumar Gupta,
1/4 , Rajendra Banerjee Road,
Behala, Kolkata-700034

Subject: - Orders of Central Information Commission vide File No. CIC/DP&PW/A/2017/ 121215 dated 27-06-2018

Sir,

Kindly refer to the Order of Central Information Commission issued vide File No. CIC/DP&PW/A/2017/121215 dated 27-06-2018 (Copy enclosed) .

2. The revised point-wise reply in respect of the points raised by Shri Amit Kumar Gupta in his RTI application dated 07-09-2016 is as under

S.No	Query	Response
1.	The Pensioners of which Departments/PSUs will be covered under the provisions of above two paras 2.1 & 7(a) of DoP&PW vide O.M. F.No. 38/37/2016-P&PW(A)(ii) dated 04-08-2016.	This Department had issued OM No 38/37/2016-P&PW(A)(ii) dated 04-08-2016 (Copy enclosed) for revision of pension of pre-2016 Central Government Civilian Pensioners who had retired in CDA pay scales before 01-01-2016. Para 2.1 of this OM provided that these Orders shall apply to all pensioners/family pensioners who were drawing pension/family pension before 01-01-2016 under the Central Civil Services (Pension) Rules, 1972. Further, Para 7(A) of this OM provided that the Government servants who were absorbed in PSUs, etc. and were getting monthly pension from Government were also eligible for revision of pension under this order. However, these who were absorbed in PSUs, etc. and who were entitled to pension in CDA pattern based on the combined service in Government and PSU are not covered by these Orders. In their cases, the

Central Administrative Tribunal

366 716

		concerned PSU/Administrative Ministry has to issue orders for revision of pension, if any. 2. The RTI was also transferred to CPIO, Department of Telecommunication (DoT) vide letter no. 4/1/2016-P&PW(D) dated 31-10-2016/25-11-2016. CPIO, DoT vide their letter no. 47-35/2014-Pen(T) dated 22-12-2016 (Copy enclosed) replied as under: "It is mentioned that in pursuance of Government's decision on the recommendation of the Seventh Central Pay Commission, DOP&PW vide its OM No. 38/37/2016-P&PW(A)(ii) dated 04-08-2016. As per Para 2.1 of the said OM, "These orders shall apply to all pensioners/family pensioners who were drawing pension/family pension before 01-01-2016 under the Central Civil Services (Pension) Rules, 1972". As per Para 7(a) of the said OM, "Where the Government servants on permanent absorption in public sector undertaking/ autonomous bodies continue to draw pension separately from the Government, the pension of such absorbee 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". As such DOP&PW's OM dated 04-08-2016 is applicable to Govt. Servant permanently absorbed in PSU/AB and drawing pro-rata pension only.
2	Whether the absorbee pensioners of BSNL, who fulfil conditions mentioned in para 2.1 & 7 (a) of the said order are covered by the said order and their pension will be revised from 1-1-2016 in terms of the said order DoP&PW O.M. F.No. 38/37/2016-P&PW(A)(ii) dated 04-08-2016.	As mentioned in the reply dated 31-10-2016 of this CPIO, orders for revision of pension of absorbee pensioners of BSNL/MTNL who are getting pension under IDA pattern are issued by Department of Telecommunications (DoT). Therefore, a copy of his RTI application was transferred to CPIO, Department of Telecommunications for providing the requisite information to the applicant. The CPIO, DoT in

Central Administrative

TRUE

3	Whether the absorbee pensioners of MTNL, were fulfil the conditions mentioned in para 2.1 & 7(a) of the said order are covered by the said order and their pension will be revised from 01-01-2016 in terms of the said order dated 4-8-2016	her reply dated 27-12-2016 has informed the applicant/appellant that DoP&PW OM dated 04-08-2016 is applicable to Government servants permanently absorbed in Public Sector Undertakings/ Autonomous Bodies and drawing pro-rata pension only (Copy enclosed).
4	If the answer to the questions 3 above is negative, then kindly furnish the information on BSNL absorbees ineligibility of getting covered under the order dated 4-8-2016 in spite of fulfilling the conditions laid down in para 2.1 & 7(a) of the said order DoP&PW O.M. F.No. 38/37/2016-P&PW(A)(ii) dated 04-08-2016	2. It may be mentioned that after 6th Central Pay Commission also, the Orders for revision of pension of Government pensioners were not applicable for revision of pension of the absorbee pensioners of BSNL/MTNL drawing pension under IDA pattern. DoT had issued one such separate Order for revision of pension of pre-2007 pensioners/family pensioners of BSNL vide OM No. 43-17/2008-PenRT)-Vol.III dated 15-03-2011 (Copy enclosed).
5	If the answer to the questions 3 above is negative, then kindly furnish the information on MTNL absorbees ineligibility of getting covered under the order dated 04-08-2016 in spite of fulfilling the conditions laid down in para 2.1 & 7(a) of the said order DoP&PW O.M. F.No. 38/37/2016-P&PW(A)(ii) dated 04-08-2016	3. Therefore, further action for revision of pension of BSNL/MTNL combined service absorbee pensioners after 7th Central Pay Commission is required to be taken by DoT. A copy of this reply is also being endorsed to the CPIO, DoT to directly inform you in regard to the action taken, if any, for revision of pension of BSNL/MTNL absorbee pensioners after 7th Central Pay Commission

Yours faithfully,

Encl: As above.

(Subhash Chandra)
Under Secretary to the Govt. of India/ CPIO
Tel No. 24644632

Copy to

(1) Sh. Sanjay Agarwal, Director & CPIO, Department of Telecommunications, Sanchar Bhawan 20, Ashoka Road, New Delhi-110001. Further action for revision of pension of BSNL/MTNL combined service absorbee pensioners after 7th Central Pay Commission is required to be taken by DoT. It is requested to directly inform Sh. Amit Kumar Gupta in regard to the action taken, if any, for revision of pension of BSNL/MTNL absorbee pensioners after 7th Central Pay Commission.

(2) US(RTI), Department of Pension and Pensioners' Welfare, Lok Nayak Bhawan, New Delhi

Four typed copies 3-2 ~~118~~

ANNEXURE-A-39

RTI MATTER / SPEED POST

No.4/1/2018-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 the 04th July, 2018

To

Amit Kumar Gupta

1/4, Rajendra Banerjee Road,

Behala, Kolkata-700034

Subject:- **Orders of Central Information Commission vide File No.CIC/DP&PW/A/201/121215 dated 27.06.2018**

Sir,

Kindly refer to the Order of Central Information Commission issued vide File No.CIC/DP&PW/A/2017/121215 dated 27.06.2018 (Copy enclosed).

2. The revised point-wise reply in respect of the points raised by Shri Amit Kumar Gupta in his RTI application dated 07.09.2016 is as under.

S.No.	Query	Response
1.	The pensioners of which Departments/PSUs will	This Department had issued OM No.38/37/2016-P&PW(A)(ii)

	be covered under the provisions of above two paras 2.1 & 7(a) of DoP &PW vide O.M. F.No.38/37/2016-P&PW(A)(ii) dated 04.08.2016.	dated 04.08.2016 (Copy enclosed) for revision of pension of pre-2016 Central Government Civilian Pensioners who had retired in CDA pay scales before 01.01.2016. Para 2.1 of this OM provided that these Orders shall apply to all pensioners/family pensioners who were drawing pension/ family pension before 01.01.2016 under the Central Civil Services (Pension) Rules, 1972. Further Para 7(A) of this OM provided that the Government servants who were absorbed in PSUs, etc. and were getting monthly pension from Government were also eligible for revision of pension under this order. However, those who were absorbed in PSUs, etc. and who were entitled to pension in IDA pattern based on combined

(17)

service in Government and PSU are not covered by these Orders. In their cases, the concerned PSU/Administrative Ministry has to issue orders for revision of pension, if any.

2. The RTI was also transferred to CPIO, Department of Telecommunication (DoT) vide letter no.4/1/2016-P&PW(D) dated 31.10.2016/25-11-2016. CPIO DoT vide their letter no.47-35/2014-Pen(T) dated 27.12.2016. (Copy enclosed) replied as under.

"It is mentioned that in pursuance of Government's decision on the recommendation of the Seventh Central Pay Commission, DOP&PW vide its OM

Central Administrative Tribunal

No.38/37/2016-P&PW(A)(ii) dated 04.08.2016. As per Para 2.1 of the said OM, "These orders shall apply to all pensioners / family pensioners who were drawing pension / family pension before 01.01.2016 under the Central Civil Services (Pension) Rules, 1972". As per Para 7(a) of the said OM, "Where the Government servants on permanent absorption in public sector undertaking / autonomous bodies continue to draw pension separately from the Government, the pension of such absorbee 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 pension and have become entitled to the restoration of one-third

Central Administrative Tribunal

(22)

		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". As such DOP&PW's OM dated 04.08.2016 is applicable to Govt. Servant permanently absorbed in PSU/AB and drawing pro-rata pension only.
2.	Whether the absorbee pensioners of BSNL, who fulfil conditions mentioned in para 2.1 & 7(a) of the said order are covered by the said order and their pension will be revised from 01.01.2016 in terms of the said order DoP&PW O.M. F.No.38/37/2016-	As mentioned in the reply dated 31.10.2016 of this CPIO, orders for revision of pension of absorbee pensioners of BSNL/MTNL who are getting pension under IDA pattern issued by Department of Telecommunications (DoT). Therefore, a copy of his RTI application was transferred to CPIO, Department of

Central Administrative Tribunal

	P&PW(A)(ii) dated 04.08.2016.	Telecommunications for providing the requisite information to the applicant. The CPIO, DoT in her reply dated 27.12.2016 has informed the applicant/appellant that DoP&PW OM dated 04.08.2016 is applicable to Government servants permanently absorbed in Public Sector Undertakings / Autonomous Bodies and drawing pro-rata pension only (Copy enclosed).
3.	Whether the absorbee pensioners of MTNL, who fulfil the conditions mentioned in para 2.1 & 7(a) of the said order are covered by the said order and their pension will be revised from 01.01.2016 in terms of the said order dated 04.08.2016.	
4.	If the answer to the questions 2 above is negative, then kindly furnish the information on BSNL absorbees ineligibility of getting covered under the order dated 04.08.2016 in spite of fulfilling the conditions laid down in	2. It may be mentioned that after 6th Central Pay Commission also, the Orders for revision of pension of Government pensioners were not applicable for revision of pension of the absorbee pensioners of BSNL/MTNL, drawing pension under IDA pattern. DoT had issued no such separate Order for revision

	para 2.1 & 7(a) of the said order DoP&PW O.M. F.No.38/37/2016-P&PW(A)(ii) dated 04.08.2016.	of pension of pre-2007 pensioners/family pensioners of BSNL, vide OM No.40-17/2008-Pen(T)-Vol.III dated 15.03.2011 (Copy enclosed).
5.	If the answer to the questions 3 above is negative, then kindly furnish the information on MTNL absorbees ineligibility of getting covered under the order dated 04.08.2016 in spite of fulfilling the conditions laid down in para 2.1 & 7(a) of the said order DoP&PW O.M. F.No.38/37/2016-P&PW(A)(ii) dated 04.08.2016.	3. Therefore, further action for revision of pension of BSNL / MTNL combined service absorbee pensioners after 7th Central Pay Commission is required to be taken by DoT. A copy of this reply is also being endorsed to the CPIO, DoT to directly inform you in regard to the action taken, if any, for revision of pension of BSNL/MTNL, absorbee pensioners after 7th Central Pay Commission.

Yours faithfully,

Sd/-

Encl: As above

(Subhash Chander)
Under Secretary to the Govt. Of India / CPIO
Tel. No.24644632

Copy to:

(1) Sh. Sanjay Agarwal, Director &CPIO, Department of Telecommunications, Sanchar Bhawan 20, Ashoka Road, New Delhi-110001. Further action for revision of pension of BSNL / MTNL combined service absorbee pensioners after 7th Central Pay Commission is required to be taken by DoT. It is requested to directly inform Sh. Amit Kumar Gupta in regard to the action taken, if any, for revision of pension of BSNL / MTNL absorbee pensioners after 7th Central Pay Commission.

(2)US(RT), Department of Pension and Pensioners' Welfare, Lok Nayak Bhawan, New Delhi.

// TRUE TYPED COPY //

ANNEXURE 30/706

ANNEXURE-A-31

No. 47-35/2014-Pen (T)
Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20 – Ashoka Road
New Delhi – 110 001

Dated the 13th July, 2018

Sh. Amit Kumar Gupta,
1/4 Rajendra Banerjee Road,
Behala, Kolkata-700034.

Subject: Orders of Central Information Commission vide file No.CIC/DP&PW/A/2017/121215 dated 27.06.2018 – reg.

Kindly refer to DOP&PW letter No.4/1/2018-P&PW(D) dated 04.07.2018 on the above mentioned subject received in this office on 06.07.2018 alongwith a copy of the CIC order dated 27.06.2018 requesting this office to inform you regarding the action taken for revision of pension of BSNL/MTNL absorbee pensioners after 7th CPC.

2. Regarding the revision of pension of BSNL/MTNL pensioners/family pensioners who were absorbed permanently in BSNL/MTNL from DoT as per 7th CPC in terms of DOP&PW OM dated 04.08.2016 & 12.05.2017, it is stated that these orders are applicable to CDA pensioners only. Further, these orders are applicable for the pensioners who are drawing monthly pension from Government on permanent absorption in PSUs on pro-rata basis on CDA pattern based on their service in Government only. However, these order are not applicable for revision of pension of the employees who were permanently absorbed in BSNL/MTNL from DoT and are getting pension on the basis of combined service in DoT & BSNL/MTNL on IDA pattern in terms of Rule 37-A of CCS (Pension) Rules, 1972. It is stated that the pension revision follows pay revision. Earlier also, pension of permanent absorbees in BSNL drawing pension in IDA pattern has been revised on implementation of 2nd PRC in 2007. Accordingly, case of pension revision of the permanent absorbees in BSNL/MTNL will be taken up as and when 3rd PRC is implemented in BSNL/MTNL.

3. Moreover, it is mentioned that the above explained position & facts w.r.t. the revision of pension of BSNL/MTNL absorbee pensioners have also been conveyed to Sh. Ajay Nishad, Hon'ble MP(LS) and Sh. Gopal Shetty, Hon'ble MP(LS) by the Hon'ble MoSC(IC) vide DO letters dated 28.10.2017 & 13.06.2018 respectively. Copies of the DO letters dated 28.10.2017 & 13.06.2018 are enclosed herewith for information.

Encl: As above.

(Sanjay Agrawal)
Director (Estt.II) & CPIO
Tel: 2303 6500

Copy to: Sh. Subhash Chander, CPIO/Under Secretary, DOP&PW, Ministry of Personnel, PG Pension, 3rd Floor, Lok Nayak Bhawan, Khan Market, New Delhi w.r.t. letter No. 4/1/2018-P&PW(D) dt. 04.07.2018.

True Typed Copy

ANNEXURE-A-31

No.47-35/2014-Pen(T)
Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20 – Ashoka Road
New Delhi-110 001

Dated 13th July, 2018

Sh. Amit Kumar Gupta,
1/4, Rajendra Banerjee Road,
Behala, Kolkata-700034

Subject: Orders of Central Information Commission vide file No.CIC/DP&PW/A/2017/121215 dated 27.06.2018 – reg.

Kindly refer to DOP&PW letter No.4/1/2018-P&PW(D) dated 04.07.2018 on the above mentioned subject received in this office on 06.07.2018 alongwith a copy of the CIC order dated 27.06.2018 requesting this office to inform you regarding the action taken for revision of pension of BSNL/MTNL absorbee pensioners after 7th CPC.

2. Regarding the revision of pension of BSNL/MTNL pensioners/family pensioners who were absorbed permanently in BSNL/MTNL from DoT as per 7th CPC in terms of DOP&PW OM

dated 04.08.2016 & 12.05.2017, it is stated that these orders are applicable to CDA pensioners only. Further, these orders are applicable for the pensioners who are drawing monthly pension from Government on permanent absorption in PSUs on pro-rata basis on CDA pattern based on their service in Government only. However, these orders are not applicable for revision of pension of the employees who were permanently absorbed in BSNL/MTNL from DoT and are getting pension on the basis of combined service in DoT & BSNL/MTNL on IDA pattern in terms of Rule 37-A of CCS (Pension) Rules, 1972. It is stated that the pension revision follows pay revision. Earlier also, pension of permanent absorbees in BSNL drawing pension in IDA pattern has been revised on implementation of 2nd PRC in 2007. Accordingly, case of pension revision of the permanent absorbees in BSNL/MTNL will be taken up as and when 3rd PRC is implemented in BSNL/MTNL.

3. Moreover, it is mentioned that the above explained position & facts w.r.t. the revision of pension of BSNL/MTNL absorbee pensioners have also been conveyed to Sh. Ajay Nishad, Hon'ble MP(LS) and Sh. Gopal Shetty, Hon'ble MP(LS) by the Hon'be MoSC(IC) vide DO letters dated 28.10.2017 & 13.06.2018 respectively. Copies of the DO letters dated 28.10.2017 & 13.06.2018 are enclosed herewith for information.

Encl: As above

Sd/-

(Sanjay Agrawal)

Director (Estt.II) & CPIO

Tel: 2303 6500

Copy to: Sh. Subhash Chander, CPIO/Under Secretary, DOP&PW, Ministry of Personnel, PG Pension, 3rd Floor, Lok Nayak Bhawan, Khan Market, New Delhi w.r.t. letter No.4/1/2018-P&PW(D) dt. 04.07.2018

// TRUE TYPED COPY //

Central Administrative Tribunal

730
ANNEXURE

ANNEXURE A-

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH, ERNAKULAM

O.A. NO.346/2018

All India BSNL Pensioner's Welfare Association :Applicant

Union of India and Another :Respondents

REPLY STATEMENT FILED

BY THE RESPONDENTSNo.1,3,4 AND 5

K. C. MURALEEDHARAN (ACGSC)

Counsel for the Respondents



731

BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH, ERNAKULAM

O.A. NO.346/2018

All India BSNL Pensioner's Welfare Association :Applicant

Union of India and Another : Respondents

INDEX

SL No.	Particulars	Page No
1	Reply Statement	1-8
2	**Annexure R1**-Copy of Rule 37-A of CCS(Pension) Rules,1972	9-12
3	**Annexure R2**-Copy of OM No.40-31/2008-Pen (T) dated 16.03.2017	13

Dated this the day of September 2018.

K. C. MURALEEDHARAN (ACGSC)

Counsel for the Respondents 1,3 to 5

209
732

BEFORE THEHON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH, ERNAKULAM

O.A. NO.346/2018

All India BSNL Pensioner's Welfare Association :Applicant

Union of India and Another :Respondents

REPLY STATEMENT ON BEHALF OF RESPONDENTS No.1,3,4&5

I, T Radhakrishnan, S/o Late T Thukkan, aged 53 years, working as Dy. Controller of Communication Accounts in the Office of the Controller of Communication Accounts, Department of Telecommunications, Ministry of Communication, Kerala, under the replying respondent, do hereby solemnly affirm and declare as under: -

1. That I am acquainted with facts and circumstances of the present case. I am competent and authorized to depose this reply affidavit on behalf of respondents 1,3,4&5 in my official capacity.

2. That I have read the contents of the present application under reply and I state that the contents mentioned therein to the extent they are inconsistent with the submissions made hereinafter in this reply affidavit are incorrect and denied. Unless any averment and contention is specifically admitted or traversed, the same may be treated as denied.

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 (DTO) 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

टी. राधाकृष्णन / T. RADHAKRISHNAN
उप संचार सेवा नियंत्रक / Deputy Controller of Communication Accounts
संचार सेवा नियंत्रक का कार्यालय
O/o the Controller of Communication Accounts
भारत सरकार, दूरसंचार विभाग
Govt. of India, Dept. of Telecommunications
संचार मंत्रालय / Ministry of Communications
केरल, तिरुवनंतपुरम - 33 / Kerala, Thiruvananthapuram-33

733

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 **(Annexure R1)**. 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. 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 22 of Rule ibid.

5. In case of BSNL absorbed employees, IDA pension was made applicable with effect from 01.10.2000 onwards and it was subsequently revised with effect from 01.01.2007 after implementation of the recommendations of the 2nd Pay Revision Committee (PRC) for serving employees. Thus, the applicants of the OAs are ex-absorbed combined services pension optee employees 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 R-1)**.

टी. राधाकृष्णन/ T. RADHAKRISHNAN
उप संचार लेखा नियंत्रक/Deputy Controller of Communication Accounts
संचार लेखा नियंत्रक का कार्यालय
O/o the Controller of Communication Accounts
भारत सरकार, दूरसंचार विभाग
Govt. of India, Dept. of Telecommunications
संचार मंत्रालय / Ministry of Communications
केरल,तिरुवनंतपुरम - 33 / Kerala, Thiruvananthapuram-33

6. DoP&PW's OM dated 12.05.2017 (Annexure A-5 of the OA) is in continuation of their OM dated 04.08.2016 (Annexure A-4 of the OA). Para 7(a) of the latter 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 (Annexure A-5 of the OA) 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 No.38/37/2016-P&PW(A) dated 12.05.2017 (Annexure A-5 of the OA) 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 of OA No. 180/00346/2018.

7. From the above, it is abundantly clear that DoP&PW OM No.38/37/2016-P&PW(A) dated 12.05.2017 (Annexure A-5 of the OA) is meant for Central Government CDA pensioners and pro-rata pension optee BSNL absorbees drawing pension on CDA pattern for Government service period only and not for combined service pension optee BSNL IDA pensioners. However, certain benefits of the DoP&PW OM No. 38/37/2016-P&PW(A)(i) dated 04.08.2016 (Annexure A-4 of the OA) has been extended to them, vide DoT OM No.40-31/2008-Pen (T) dated 16.03.2017 **(Annexure R-2)**.

8. With regard to para 1 to para 3 no comments is needed as they being matter of record.

9. With regard to para 4.1 to 4.7 it is respectfully submitted that as submitted in the above background note, after absorption in BSNL, the applicants in the OA 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-

Central Administrative Tribunal

टी. राधाकृष्णन / T. RADHAKRISHNAN
उपनियंत्रक लेखा निदेशक / Deputy Controller of Communication Accounts
संचार लेखा निदेशक का कार्यालय
O/o the Controller of Communication Accounts
भारत सरकार, दूरसंचार विभाग
Govt. of India, Dept. of Telecommunications
संचार मंत्रालय / Ministry of Communications
केरल, तिरुवनंतपुरम - 33 / Kerala, Thiruvananthapuram-33

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 22 of Rule ibid. In case of BSNL absorbed employees, IDA pension was made applicable with effect from 01.10.2000 onwards and it was subsequently revised with effect from 01.01.2007 after implementation of the recommendations of the 2nd Pay Revision Committee (PRC). Thus, the applicants of the OA are ex-absorbed combined service pension optee employees 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 R-1**). DoP&PW OM dated 12.05.2017 (Annexure A-5 of the OA) is in continuation of their OM dated 04.08.2016 (Annexure A-4 of the OA). Para 7(a) of the latter 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 (Annexure A-5 of the OA) 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 No.38/37/2016-P&PW(A) dated 12.05.2017 (Annexure A-5 of the OA) 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 of OA No. 180/00346/2018. From the above, it is abundantly clear that DoP&PW OM No.38/37/2016-P&PW(A) dated 12.05.2017 (Annexure A-5 of the OA) is meant for Central Governmen

टी. राधाकृष्णन् / T. RADHAKRISHNAN
उप संचार लेखा नियंत्रक / Deputy Controller of Communication Accounts
संचार लेखा नियंत्रक का कार्यालय
O/o the Controller of Communication Accounts
भारत सरकार, दूरसंचार विभाग
Govt. of India, Dept. of Telecommunications
संचार मंत्रालय / Ministry of Communications
केरल,तिरुवनंतपुरम - 33 / Kerala, Thiruvananthapuram-33

Central Administrative Tribunal

CDA pensioners and pro-rata pension optee BSNL absorbees drawing pension on CDA pattern for Government service period only and not for combined service pension optee BSNL IDA pensioners. However, certain benefits of the DoP&PW OM No. 38/37/2016-P&PW(A)(i) dated 04.08.2016 (Annexure A-4 of the OA) have been extended to them, vide DoT OM No.40-31/2008-Pen (T) dated 16.03.2017 **(Annexure R-2)**.

10. With regard to para 5 A to 5 C it is respectfully submitted that as submitted in the above background note, after absorption in BSNL, the applicant in the OAs 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 22 of Rule ibid. In case of BSNL absorbed employees, IDA pension was made applicable with effect from 01.10.2000 onwards and it was subsequently revised with effect from 01.01.2007 after implementation of the recommendations of the 2nd Pay Revision Committee for serving employees. Thus, the applicants of the OAs are ex-absorbed employees of BSNL and they are getting their pension/family pension in IDA from Government as per Rule 37-A of CCS (Pension) Rules, 1972 **(Annexure R-1)**. DoP&PW OM dated 12.05.2017 (Annexure A-5 of the OA) is in continuation of their OM dated 04.08.2016 (Annexure A-4 of the OA). Para 7(a) of the latter clearly indicates that when the Government servant on permanent absorption in PSUs continue to draw pension from the Government

टी. राधाकृष्णन / T. RADHAKRISHNAN
उप संचार लेखा नियंत्रक / Deputy Controller of Communication Accounts
संचार लेखा नियंत्रक का कार्यालय
O/o the Controller of Communication Accounts
भारत सरकार, दूरसंचार विभाग
Govt. of India, Dept. of Telecommunications
संचार मंत्रालय / Ministry of Communications
केरल, तिरुवनंतपुरम - 33 / Kerala, Thiruvananthapuram-33

737

separately, the pension of such absorbees will be updated in terms of these orders. Accordingly, para 12 of the OM dated 12.05.2017 (Annexure A-5 of the OA) 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 No.38/37/2016-P&PW(A) dated 12.05.2017 (Annexure A-5 of the OA) 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 of OA No. 180/00346/2018. From the above, it is abundantly clear that DoP&PW OM No.38/37/2016-P&PW(A) dated 12.05.2017 (Annexure A-5 of the OA) is meant for Central Government CDA pensioners and pro-rata pension optee BSNL absorbees drawing pension on CDA pattern for Government service period only and not for combined service pension optee BSNL IDA pensioners. However, certain benefits of the DoP&PW OM No. 38/37/2016-P&PW(A)(i) dated 04.08.2016 (Annexure A-4 of the OA) has been extended to them, vide DoT OM No.40-31/2008-Pen (T) dated 16.03.2017 **(Annexure R-2)**.

11. With regard to para 6 and 7 it is respectfully submitted that these this para need no comments, they being matter of record.

12. With regard to para 8 and 9 it is respectfully submitted that as submitted in the above background, DoP&PW's OMs dated 04.08.2016 (Annexure A-4 of the OA) and dated 12.05.2017 (Annexure A-5 of the OA) are to give effect to the recommendations of the 7th CPC, which deals with Government pensioners receiving their pension/family pension in CDA. It is also applicable to some of the Government employees, who are permanently absorbed in PSUs and are drawing pro-rata pension in CDA for the service rendered in Government only. The applicants in this OA were permanently absorbed in BSNL and are getting pension/family pension in IDA pattern for combined service in DoT and BSNL and,

टी. राधाकृष्णन / T. RADHAKRISHNAN
उप संचार लेखा नियंत्रक / Deputy Controller of Communication Accounts
संचार लेखा नियंत्रक का कार्यालय
O/o the Controller of Communication Accounts
भारत सरकार, दूरसंचार विभाग
Govt. of India, Dept. of Telecommunications
संचार मंत्रालय / Ministry of Communications
केरल, तिरुवनंतपुरम - 33 / Kerala, Thiruvananthapuram-33

therefore, OMs No.38/37/2016-P&PW(A) dated 04.08.2016 (Annexure A-4 of the OA) and dated 12.05.2017 (Annexure A-5 of the OA) issued by DoP&PW consequent to the recommendations of 7th Central Pay Commission (CPC) revising the pension/family pension of ex-Government employees are not applicable to them. Thus, it is abundantly clear that DoP&PW's OMs dated 04.08.2016 (Annexure A-4 of the OA) and 12.05.2017 (Annexure A-5 of the OA) are meant for Central Government CDA pensioners and pro-rata pension optee BSNL absorbees drawing pension in CDA pattern for Government service period only and not for combined service pension optee BSNL IDA pensioners. However, certain benefits of the DoP&PW OM No. 38/37/2016-P&PW(A)(i) dated 04.08.2016 (Annexure A-4 of the OA) have been extended to the latter vide DoT OM No.40-31/2008-Pen (T) dated 16.03.2017 **(Annexure R-2)**.

In view of the above, the applicant is not entitled to any of the reliefs sought for and the OA is liable to be dismissed as devoid of merits with cost to these respondents.

VERIFICATION

I, T Radhakrishnan, S/o Late T Thukkan, aged 53 years, working as Dy. Controller of Communication Accounts in the Office of the Controller of Communication Accounts, Department of Telecommunications, Ministry of Communication, Kerala, do hereby verify that the contents of the above paragraphs are to the best of my knowledge information and belief and that I have not deliberately suppressed any material facts in connection with the above original application.

Dated this the 12th day of September 2018.

Deponent

टी. राधाकृष्णन / T. RADHAKRISHNAN
उप संचार लेखा नियंत्रक / Deputy Controller of Communication Accounts
संचार लेखा नियंत्रक का कार्यालय
O/o the Controller of Communication Accounts
भारत सरकार, दूरसंचार विभाग
Govt. of India, Dept. of Telecommunications
संचार मंत्रालय / Ministry of Communications
केरल,तिरुवनंतपुरम - 33 / Kerala, Thiruvananthapuram-33

ATTESTATION

Solemnly offered and signed before me by the deponent at my office at Thiruvananthapuram on this the 12th day of September 2018.

बी. राजेश / B. RAJESH
सहायक लेखा अधिकारी / Asst. Accounts Officer
संचार लेखा नियंत्रक का कार्यालय
O/o the Controller of Communication Accounts
Attesting Officer
Govt. of India, Dept. of Telecommunications
संचार मंत्रालय / Ministry of Communications
केरल / Kerala, Thiruvananthapuram-33

K.C.MUIRALEEDHARAN
Advocate and ACGSC

Central Administrative Tribunal

ANNEXURE R-1

740

In the said rules, for rule 37A, the following rule shall be substituted, namely;--

"37A. Conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Public Sector Undertaking.-- (1) On conversion of a department of the Central Government into a Public Sector Undertaking, all Government servants of that Department shall be transferred *en-masse* to that Public Sector Undertaking, on terms of foreign service without any deputation allowance till such time as they get absorbed in the said undertaking, and such transferred Government servants shall be absorbed in the Public Sector Undertaking with effect from such date as may be notified by the Government.

(2) The Central Government shall allow the transferred Government servants an option to revert back to the Government or to seek permanent absorption in the Public Sector Undertaking.

(3) The option referred to in sub-rule (2) shall be exercised by every transferred Government servant in such manner and within such period as may be specified by the Government.

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

(5) Upon absorption of Government servants in the Public Sector Undertaking, the posts which they were holding in the Government before such absorption shall stand abolished.

(6) The employees who opt to revert to Government service shall be re-deployed through the surplus cell of the Government.

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

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

टी. राधाकृष्णन / T. RADHAKRISHNAN
उप संचार नियंत्रक लेखा / Deputy Controller of Communication Accounts
संचार लेखा नियंत्रक का कार्यालय
O/o the Controller of Communication Accounts
भारत सरकार, दूरसंचार विभाग
Govt. of India, Dept. of Telecommunications
संचार मंत्रालय / Ministry of Communications
केरल,तिरुवनंतपुरम - 33 / Kerala, Thiruvananthapuram-33

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

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

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

(11) The benefits of pension and family pension shall be available to quasi-permanent and temporary transferred Government servants after they have been confirmed in the Public Sector Undertaking.

(12) A Permanent Government servant absorbed in a Pubic Sector Undertaking or a temporary or quasi-permanent Government servant who has been confirmed in the a Public Sector Undertaking subsequent to his absorption therein, shall be eligible to seek voluntary retirement after completing ten years of qualifying service with the Government and the Public Sector Undertaking taken together, and such person shall be eligible for pensionary benefits on the basis of qualifying service.

(13) The Central Government shall create a Pension Fund in the form of a trust and the pensionary benefits of absorbed employees shall be paid out of such Pension Fund.

(14) The Secretary of the administrative Ministry of the Public Sector Undertaking shall be the Chairperson of the Board of Trustees which shall include representatives of the Ministries of Finance, Personnel, Public Grievances and Pensions, Labour, concerned Public Sector Undertaking and their employees and experts in the relevant field to be nominated by the Central Government.

(15) The procedure and the manner in which pensionary benefits are to be sanctioned and disbursed from the Pension Fund shall be determined by the Government on the recommendation of the Board of Trustees.

(16) The Government shall discharge its pensionary liability by paying in lump sum as a one time payment to the Pension Fund the pension or service gratuity and retirement gratuity for the service rendered till the date of absorption of the Government servant in the Public Sector Undertaking.

(17) The manner of sharing the financial liability on account of payment of pensionary benefits by the Public Sector Undertaking shall be determined by the Government.

O/o the Controller of Communication Accounts
Govt. of India, Dept. of Telecommunications
संचार मंत्रालय / Ministry of Communications
केरल,तिरुवनंतपुरम - 33 / Kerala, Thiruvananthapuram-33

(18) Lump sum amount of the pension shall be determined with reference to Commutation Table laid down in Central Civil Services (Commutation of Pension) Rules, 1981.

(19) The Public Sector Undertaking shall make pensionary contribution to the Pension Fund for the period of service to be rendered by the concerned employees under that undertaking at the rates as may be determined by the Board of Trustees so that the Pension Fund shall be self-supporting.

(20) If, for any financial or operational reason, the Trust is unable to discharge its liabilities fully from the Pension Fund and the Public Sector Undertaking is also not in a position to meet the shortfall, the Government shall be liable to meet such expenditure and such expenditure shall be debited to either the Fund or to the Public Sector Undertaking.

(21) Payments of pensionary benefits of the pensioners of a Government Department on the date of conversion of it into a Public Sector Undertaking shall continue to be the responsibility of the Government and the mechanism for sharing its liabilities on this account shall be determined by the Government.

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

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

(24) The arrangements under sub-rule (23) shall be applicable to the existing pensioners and to the employees who are deemed to have retired from the Government.

(25) Upon conversion of a Government Department into a Public Sector Undertaking,-

(a) the balance of provident fund standing at the credit of the absorbed employees on the date of their absorption in the Public Sector Undertaking shall, with the consent of such undertaking, be transferred to the new Provident Fund Account of the employees in such undertaking;

(b) earned leave and half pay leave at the credit of the employees on the date of absorption shall stand transferred to such undertaking ;

(c) the dismissal or removal from service of the Public Sector Undertaking of any employee after his absorption in such undertaking for any subsequent misconduct shall not amount to forfeiture of the retirement benefits for the

Central Administrative Tribunal

टी. राधाकृष्णन / T. RADHAKRISHNAN
उप संचार लेखा नियंत्रक / Deputy Controller of Communication Accounts
संचार लेखा नियंत्रक का कार्यालय
O/o the Controller of Communication Accounts
भारत सरकार, दूरसंचार विभाग
Govt. of India, Dept. of Telecommunications
संचार मंत्रालय / Ministry of Communications
केरल,तिरुवनंतपुरम - 33 / Kerala, Thiruvananthapuram-33

service rendered under the Government and in the event of his dismissal or removal or retrenchment the decisions of the undertaking shall be subject to review by the Ministry administratively concerned with the undertaking.

(26) In case the Government disinvests its equity in any public sector undertaking to the extent of fifty-one per cent or more, it shall specify adequate safeguards for protecting the interest of the absorbed employees of such Public Sector Undertaking.

(27) The safeguards specified under sub-rule (26) shall include option for voluntary retirement or continued service in the undertaking or voluntary retirement benefits on terms applicable to Government employees or employees of the Public Sector Undertaking as per option of the employees and assured payment of earned pensionary benefits with relaxation in period of qualifying service, as may be decided by the Government."

(11) In the said rules, after rule 37A, the following rule shall be inserted, namely;--

"37B. **Conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Central Autonomous Body.--**

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

(2) The Central Government shall allow the transferred Government servants an option to revert back to the Government or to seek permanent absorption in the Autonomous Body.

(3) The option referred to in sub-rule (2) shall be exercised by every transferred Government servant in such manner and within such period as may be specified by the Government.

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

(5) Upon absorption of Government servants in the Autonomous Body, the posts which they were holding in the Government before such absorption shall stand abolished.

टी. राधाकृष्णन / T. RADHAKRISHNAN
उप संचार लेखा नियंत्रक / Deputy Controller of Communication Accounts
संचार लेखा नियंत्रक का कार्यालय
O/o the Controller of Communication Accounts
भारत सरकार, दूरसंचार विभाग
Govt. of India, Dept. of Telecommunications
संचार मंत्रालय / Ministry of Communications
केरल,तिरुवनंतपुरम - 33 / Kerala, Thiruvananthapuram-33

Central Administrative Tribunal

ANNEXURE R-2 744

No.40-31/2008-Pen(T)*
Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20 – Ashoka Road
New Delhi – 110 001
*****

Dated: 16th March, 2017.

OFFICE MEMORANDUM

Subject: Implementation 7th CPC recommendations: Applicability to the BSNL/MTNL absorbees opting for pension for combined service governed under Rule 37-A of CCS(Pension) Rules, 1972.

The undersigned is directed to refer to this Department's OM No.36-02/2016-Pen(T)(i) dated 22.08.2016 and to give the following clarification on the applicability of the revised rules of CCS(Pension) Rules, 1972 to the BSNL/MTNL absorbees (opting for pension for combined service and whose pension is governed under Rule 37-A of CCS(Pension) Rules) consequent to 7th CPC with regard to DoP&PW's OM No. 38/37/16-P&PW(A)((i) dated 04.08.2016:

2. The rates for payment of death gratuity shall be revised as per para 6.1 of DoP&PW's O.M. No. 38/37/2016-P&PW(A)(i) dated 4th August, 2016. The maximum limit of Death/Retirement gratuity shall be Rs 20 lakh w.e.f. 01.01.2016.

3. There is no change in the formula for pension/family pension w.e.f. 01.01.2016. BSNL/MTNL absorbee employees will, therefore, continue to get pension based on the same formula.

4. There will be no change in the provisions relating to commutation values.

This issues with the approval of competent authority.

Yours faithfully,

(K.S. Dahiya)
Under Secretary (STP)
Tel. 23036260

To:
1. All the CCAs/ TERM Cells.
2. Sr. DDG(TEC), Khurshid Lal Bhavan, Janpath, New Delhi.
3. Sr. DWA, 6th floor, Sanchar Bhawan, 20-Ashoka Rd, New Delhi-110001.
4. DDG(Estt.)/DDG(Accounts), DoT, Hqrs, New Delhi.
5. DDG (T & A), NTIPRIT, Admin Building, ALT Centre, Govt. of India Enclave, Near Raj Nagar, Ghaziabad-201002.

***Amended vide No. No.40-31/2008-Pen(T) dated 19.04.2017.**

टी. राधाकृष्णन / T. RADHAKRISHNAN
उप संचार लेखा नियंत्रक / Deputy Controller of Communication Accounts
संचार लेखा नियंत्रक का कार्यालय
O/o the Controller of Communication Accounts
भारत सरकार, दूरसंचार विभाग
Govt. of India, Dept. of Telecommunications
संचार मंत्रालय / Ministry of Communications
केरल, तिरुवनंतपुरम - 33 / Kerala, Thiruvananthapuram-33

745

ANNEXURE-A-32

ANNEXURE

Regn. No. S/00108/NE-/2010

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

CHQ ADDRESS: C-8/230, YAMUNA VIHAR, DELHI-110053, www.aibsnlreld.org

OFFICE BEARERS:

1. President
   Rakesh Srivastava (Delhi)
   M.: 09868876677
2. Vice President-I
   Manaş Roy (WB)
   M.: 09434009002
3. Vice President-II
   T. Ravindran (Kerala)
   M.: 09447815400
4. General Secretary
   Kishan Singh (Delhi)
   M.: 09968270611
5. Asstt. General Secretary-I
   Amit Kr. Gupta (Kolkata)
   M.: 09433000088
6. Asstt. General Secretary-II
   K. Jairam (AP)
   M.: 09440000212
7. Asstt. General Secretary-III
   Pradeep Goel (Lucknow)
   M.: 09415315111
8. Asstt. General Secretary-IV
   P. Mukharjee (Assam)
   M.: 09433400560
9. Asstt. General Secretary-(HQ)
   N.C. Jain (Ghaziabad)
   M.: 09871915573
10. Finance Secretary
    A.K. Jain (Delhi)
    M.: 09868838456
11. Assistant Finance Secretary
    R. Chandrasekhar (TN)
    M.: 09486100045
12. Organising Secretary (East)
    Swapan Mukharjee (Kolkata)
    M.: 09433400210
13. Organising Secretary (West)
    Amlendu Guha (Ahmedabad)
    M.: 09426643434
14. Organising Secretary (South)
    R.B. Athani (Karnataka)
    M.: 09449658299
15. Organising Secretary (North)
    O.N. Verma (UP East)
    M.: 09415339695
16. Editor
    J. Saibaba (AP)
    M.: 09490667899
17. Advisor

To
Ms Aruna Sundararajan
Secretary & Chairman TC
Department of Telecommunication
20 Ashoka Road New Delhi.

No: AIRBSNLEWA/CHQ/2018 Dated.. 04/09/2018

Sub: Pension Revision of BSNL absorbed DOT pensioners on IDA

Respected Madam,

Kindly refer our earlier communications on the subject. In spite of our repeated submission, DOT is maintaining its stand that

1) CPC recommendations on pension revision is not for BSNL IDA pensioners

2) Pension Revision of BSNL Pensioners will be only after pay revision of BSNL employees as per 3rd PRC.

At the time of formation of BSNL, in the year 2000, Department of Telecommunication (DOT) has promised vide 36-15/2000-Pen(T) dated 09-11-2000 the following to its employees. (copy enclosed)

> "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 Govt scheme of pension/family pension even after their absorption in BSNL."

The words "Govt scheme of pension" obviously means the complete pension and Pensionary benefits including periodical pension revision. Accordingly all the elements of pension and Pensionary benefits of other Govt. pensioners were made applicable for BSNL pensioners also. The only exception is the pension revision which is denied because they are in IDA scale. If all the benefits of other Govt pensioners as per the CPC recommendations can be applied to BSNL IDA pensioners, how the factor "IDA" coming in the way only for pension revision as per CPC recommendations is not understood. Kindly see the attached note and table which describes the status at a glance.
We therefore request you to issue the order of Pension Revision immediately as per the pension revision memo of DOP&PW dated 04-08-2016 as per the commitment made at the time of absorption.

With Regards

Kishan Singh
General Secretary
Mob. 9968270611

Copy to : Member(Finance) / Member (Services) DOT for kind necessary action

Enclosure: As above

ANNEXURE 4

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No.180/00346/2018

Wednesday, 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, 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-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)

Versus

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,

Scanned by TapScanner

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

Central Administrative Tribunal

Scanned by TapScanner

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

Central Administrative Tribunal

Scanned by TapScanner

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

Central Administrative Tribunal

Scanned by TapScanner

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 *interalia* 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

Central Administrative Tribunal

Scanned by TapScanner

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

Scanned by TapScanner

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

Central Admini...

Scanned by TapScanner

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

Scanned by TapScanner

~~231~~

754.

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"

Scanned by TapScanner

755

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.

Scanned by TapScanner

456

ANNEXURE 5

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD

Original Application No.21/813/2017 & MA 355 of 2018

Reserved on: 05.12.2018
Order pronounced on: 10.12.2018

Between:

M.S.S. Ramchandra Murthy
S/o. late Suryanarayana Murthy,
Aged about 66 years, Hindu,
Retired Personnel Assistant to DGM (Marketing),
HMR Pride, 2nd Floor, F. No. 202, Manjeera Pipeline Road,
Madinaguda, Hyderabad – 500 049.

...Applicant

And

1. Union of India, Rep. by its Secretary,
Department of Telecom,
20 Ashoka Road, Sanchar Bhavan,
Govt. of India, New Delhi – 110 001.

2. The Chairman and Managing Director,
Bharat Sanchar Nigam Limited,
Corporate Office, Personnel Branch – II,
4th Floor, Janapath, New Delhi – 110 001.

3. The Chief General Manager Telecom,
Bharat Sanchar Nigam Limited, Abids,
Hyderabad – 500 001.

...Respondents

Counsel for the Applicant ... Mr. M.S.S. Ramachandra Murthy (PIP)
Counsel for the Respondents ... Mrs.K. Rajitha, Sr. CGSC
Mr. M.C. Jacob for RR 2 & 3

CORAM:
Hon'ble Mr. B.V. Sudhakar ... *Member (Admn.)*

ORDER
(As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.))

The OA is filed for non revision of IDA (Industrial Dearness Allowance) based pension of the applicant as per 7th CPC.

Scanned by TapScanner

2. Brief facts of the case are that the applicant after serving the Dept. Of Telecom for 28 years and BSNL for more than 10 years had retired on 31.12.2011 with a pension of Rs 15.500 w.e.f 1.1.2012 from the respondents Organisation. The applicant represented on 10.9.2016 for implementation of 7th CPC recommendation as they are applicable to those who are governed by the CCS (Pension) Rules 1972 as per Ministry of Personnel, Public Grievances & Pension OM dt 4.8.2016. As there was no response from the respondents, the applicant approached this Tribunal in OA 12/ 2017 and when the respondents were directed to dispose of the representation, they did by rejecting the same. Hence the O.A.

3. The contentions of the applicant are that he was not given any pro-rata retiral benefits for the service rendered in Dept. of Telecom after being absorbed in BSNL on 1.10.2000. The pension contribution for the entire service is paid to Government under FR 116 by BSNL for making pension payment treating the combined service in Govt. and BSNL as Govt. service is the version of the applicant. Pension is a property and as per Article 300-A of the Constitution no person can be deprived of the property without the authority of law. Some pensioners of the Dept. of Telecom were paid pension as per 7th CPC and hence not paying him is discriminatory. As per CCS (Pension) Rules 1972 the applicant claims that he is eligible. Pension payment order does indicate that the pensioner is eligible for additional quantum of pension from time to time. BSNL employees are Govt. servants for the purpose of pension under Rule 37 –A of CCS (Pension) Rules, is the assertion of the applicant.

Central Administrative Tribunal

Scanned by TapScanner

4. Respondents contend that B.S.N.L. was constituted as a Public sector undertaking on 1.10.2000 and options were called from the employees to continue with the Govt. or join B.S.N.L. Accordingly, the applicant on having opted for BSNL, his pay was fixed with IDA (Industrial Dearness Allowance) pay scale of Rs.7,100-10,100 applicable to B.S.N.L. employees from 1.10.2000 with a pay of Rs.8100 . Thereafter on being finally promoted as Personnel Assistant, the applicant was placed in the pay scale of Rs.9850-14,600 w.e.f 1.1.2004. The applicant was also given the first financial upgradation under Assured Career Progression scheme in the next higher IDA pay scale and as per Department of Public Enterprises, O.M dt 26.11.2008 the pay scale of the applicant was revised to Rs.20,600-46,500 and a pay of Rs.26,720 was granted w.e.f 1.1.2007. Further, when the applicant retired on 31.12.2011, Pension was worked out based on the emoluments he received in BSNL following rule 37-A of Central Civil Services (CCS) Pension Rules, 1972. The pension was revised to those pensioners who retired prior to 10.6.2013 w.e.f. 1.1.2007 and accordingly that of the applicant was revised and revised pension payment order was issued on 17.10.2017 with financial benefits w.e.f. 10.6.2013. The respondents affirm that the 7th CPC recommendations are applicable to Govt. Servants. Applicant ceases to be a Govt. Servant on being absorbed as BSNL employee as per Rule 37-A referred to. The rules and regulations of BSNL apply to the applicant. None of the BSNL employees were given any revision of pay as per the recommendations of the 7th CPC. Therefore the prayer of the applicant has no merit to consider.

5. Heard the party in person and the counsel for the respondents. Their averments were in line with the written submissions made.

Scanned by TapScanner

6. Facts on record do make it lucid that the applicant has been absorbed as a BSNL employee from 1.10.2000. On being absorbed in BSNL, based on IDA, applicant has been granted pay scales and pay was regulated from time to time, as per rules and regulations of BSNL. As per Rule 37-A of CCS (Pension) Rules, an employee on permanent absorption into a public sector undertaking ceases to be a Government servant from the date of absorption. Rules of the PSU will thereafter apply. As per sub rule 8 of Rule 35-A, such absorbed employees and family are eligible for pensionary benefits including commutation, gratuity, family pension on the basis of combined service in accordance with the formula 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. Further sub rule 10 of Rule 35-A specifies that an absorbed employee who has opted for pension on the basis of combined service is eligible for dearness relief as per the Industrial Dearness Allowance pattern. The applicant having become a BSNL employee his pension was naturally drawn based on his last pay drawn in BSNL. The applicant is under the impression that Rule 37-A continues to treat him as a Government Servant, which is not the case as per the reading of the said rule. The rule clearly distinguishes two aspects viz service benefits as per the orders pertaining to Public Sector undertakings and pension benefits as per CCS (Pension) Rules. Had the applicant opted for retirement benefits from DOT the scenario would have been different! However, since the applicant has opted for combined service the rules of the game are different. Moreover, the respondents categorically state that after 1.10.2000, BSNL employees are not provided with pension excepting to those who have been absorbed from

Scanned by TapScanner

760

DOT. The applicant contended that DOT employees are getting the benefit of 7th CPC. They do because they are Govt. employees. Besides, as claimed by the applicant Pension is a property but it was not denied to him. It was and is being paid as per rules adopted by BSNL. The applicant cannot seek application of rules selectively, of both Government and BSNL, in order to take advantage of the best among the better of the rules in the two institutions. 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. Applicant also represented for gratuity under Gratuity Act which was allowed by this tribunal. On challenging the same by the respondents by way of a writ petition in the Honourable High Court and it was allowed. The applicant filed a writ appeal but it was dismissed on the ground that the applicant is covered under Rule 37-A of CCS (Pension) Rules. The pay and allowances of BSNL employees are revised as per the recommendations of Pay Revision Committee (PRC) of Public Sector Undertakings. Accordingly the applicant has been granted pensionary benefits as per 2nd PRC recommendations. PRC has no relation to the 7th CPC. Thus there is a separate system altogether to deal with the pay & allowance and pension of public sector employees like BSNL. The OMs and judgments cited by the applicant have been gone through and found them to be irrelevant to the issue in question. Hence they are not broached upon. The OMs of the Central Government when they are adopted by BSNL such benefits get extended to the BSNL employees. Otherwise not, as we have seen in the present case. To sum up, the applicant is not a Government employee and hence he does not come under the ambit of 7th CPC. The norms for revision of pension are decided by

Scanned by TapScanner

the pay revision committee of public undertakings and not by pay commissions. Therefore there is no reason for this Tribunal to intervene on behalf of the applicant, as his prayer cannot be acceded to as per rules on the subject.

7. Therefore the OA is dismissed. MA stands disposed. No order to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 10th day of December, 2018

evr

Scanned by TapScanner

~~169~~ 169

ANNEXURE 6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD

Review Application No. 021/02/2019
in
Original Application No.813 of 2017

Order of Order: 11.01.2019

Between

M.S.S. Ramachandra Murthy
S/o Late Suryanarayana Murthy,
Aged about 67 years, Hindu, Ex. E.,
Retired Personnel Assistant to DGM (Marketing),
HMR Pride, 2nd Floor, F. No. 202, Manjeera Pipeline Road,
Madhapuda, Hyderabad – 500 049.

...Applicant

And

1. Union of India, Rep. by its Secretary (DOT),
Govt. of India, New Delhi – 110 001

2. The Chairman and Managing Director,
Bharat Sanchar Nigam Limited,
Corporate Office, Personnel Branch – II,
4th Floor, Janapath, New Delhi – 110 001.

3. The Chief General Manager Telecom,
Bharat Sanchar Nigam Limited, Hyderabad – 500 001

...Respondents

Counsel for the Applicant ... Mr. M.S.S. Ramachandra Murthy (PIP)
Counsel for the Respondents ... Mrs.K. Rajitha, Sr. CGSC
Mr. M.C. Jacob for RR 2 & 3

CORAM:
Hon'ble Mr. B.V. Sudhakar ... Member (Admn.)

ORDER (In circulation)
[As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)]

2. This Review Application has been filed in regard to the decision of this Tribunal dated 10.12.2018 in OA No. 813 of 2017. The operative portion of the said order, reads as under:-

> "6. Facts on record do make it lucid that the applicant has been absorbed as a BSNL employee from 1.10.2000. On being absorbed in

Scanned by TapScanner

BSNL, based on IDA, applicant has been granted pay scales and pay was regulated from time to time, as per rules and regulations of BSNL. As per Rule 37-A of CCS (Pension) Rules, an employee on permanent absorption into a public sector undertaking ceases to be a Government servant from the date of absorption. Rules of the PSU will thereafter apply. As per sub rule 8 of Rule 35-A, such absorbed employees and family are eligible for pensionary benefits including commutation, gratuity, family pension on the basis of combined service in accordance with the formula 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. Further sub rule 10 of Rule 35-A specifies that an absorbed employee who has opted for pension on the basis of combined service is eligible for dearness relief as per the Industrial Dearness Allowance pattern. The applicant having become a BSNL employee his pension was naturally drawn based on his last pay drawn in BSNL. The applicant is under the impression that Rule 37-A continues to treat him as a Government Servant, which is not the case as per the reading of the said rule. The rule clearly distinguishes two aspects viz service benefits as per the orders pertaining to Public Sector undertakings and pension benefits as per CCS (Pension) Rules. Had the applicant opted for retirement benefits from DOT the scenario would have been different! However, since the applicant has opted for combined service the rules of the game are different. Moreover, the respondents categorically state that after 1.10.2000, BSNL employees are not provided with pension excepting to those who have been absorbed from D.O.T. The applicant contended that D.O.T employees are getting the benefit of 7th CPC. They do because they are Govt. employees. Besides, as claimed by the applicant Pension is a property but it was not denied to him. It was and is being paid as per rules adopted by BSNL. The applicant cannot seek application of rules selectively, of both Government and BSNL, in order to take advantage of the best among the better of the rules in the two institutions. 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. Applicant also represented for gratuity under Gratuity Act which was allowed by this tribunal. On challenging the same by the respondents by way of a writ petition in the Honourable High Court and it was allowed. The applicant filed a writ appeal but it was dismissed on the ground that the applicant is covered under Rule 37-A of CCS (Pension) Rules. The pay and allowances of BSNL employees are revised as per the recommendations of Pay Revision Committee (PRC) of Public Sector Undertakings. Accordingly the applicant has been granted pensionary benefits as per 2nd PRC recommendations. PRC has no relation to the 7th CPC. Thus there is a separate system altogether to deal with the pay & allowance and pension of public sector employees like BSNL. The OMs and judgments cited by the applicant have been gone through and found them to be irrelevant to the issue in question. Hence they are not broached upon. The OMs of the Central Government when they are adopted by BSNL such benefits get extended to the BSNL employees. Otherwise not, as we have seen in the present case. To sum up, the applicant is not a Government employee and hence he does not come under the ambit of 7th CPC. The norms for revision of pension are decided by the pay revision committee of

Scanned by TapScanner

public undertakings and not by pay commissions. Therefore there is no reason for this Tribunal to intervene on behalf of the applicant, as his prayer cannot be acceded to as per rules on the subject.

7. -Therefore the OA is dismissed. MA stands disposed. No order to costs."

3 As no hearing is considered necessary, the Review Application is being disposed under circulation as per Rule 17(3) of the C.A.T. (Procedure) Rules, 1987.

4. As can be seen from the record, the relevant facts of the case have been taken into consideration and judgement delivered.

5. Besides, a plea for review, unless the first judicial view is manifestly distorted, is like asking for the moon. A forensic defeat cannot be avenged by an invitation to have a second look, hopeful of discovery of flaws and reversal of result. [Northern India Caterers (India) Ltd. v. Lt. Governor of Delhi, (1980) 2 SCC 167]. The review also does not fall under any of the categories prescribed by the Apex Court in the case of State of W.B. vs Kamal Sengupta (2008) 8 SCC 612 which are as under:-

> 35. The principles which can be culled out from the above noted judgments are:
>
> (*i*) The power of the Tribunal to review its order/decision under Section 22(3)(*f*) of the Act is akin/analogous to the power of a civil court under Section 114 read with Order 47 Rule 1 CPC.
>
> (*ii*) The Tribunal can review its decision on either of the grounds enumerated in Order 47 Rule 1 and not otherwise.
>
> (*iii*) The expression "any other sufficient reason" appearing in Order 47 Rule 1 has to be interpreted in the light of other specified grounds.
>
> (*iv*) An error which is not self-evident and which can be discovered by a long process of reasoning, cannot be treated as an error apparent on the face of record justifying exercise of power under Section 22(3)(*f*).

Central Administrative Tribunal

Scanned by TapScanner

(v) An erroneous order/decision cannot be corrected in the guise of exercise of power of review.

(vi) A decision order cannot be reviewed under Section 22(3)(f) on the basis of subsequent decision/judgment of a coordinate or larger Bench of the tribunal or of a superior court.

(vii) While considering an application for review, the tribunal must confine its adjudication with reference to material which was available at the time of initial decision. The happening of some subsequent event or development cannot be taken note of for declaring the initial order decision as vitiated by an error apparent.

(viii) Mere discovery of new or important matter or evidence is not sufficient ground for review. The party seeking review has also to show that such matter or evidence was not within its knowledge and even after the exercise of due diligence, the same could not be produced before the court/tribunal earlier.

6. Based on the above observations of the Hon'ble Supreme Court, there are no grounds which have been brought in the review application to review the case. The details presented in the review application have already been comprehensively gone into while delivering the judgment in the OA. Facts of the case in all respects and the rules prevailing have been reckoned and on merits the OA was dismissed.

7. Hence, there is no merit in the review application and is dismissed in circulation. No order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 11th day of January, 2018

cvr

Scanned by TapScanner

ANNEXURE 7366

ANNEXURE A

Committee of BSNL/MTNL Pensioners' Associations
H. No 6, G No 12th Street, Jogupalya, Halasuru, Bangalore 560008

Convenor – P.Gangadhara Rao
Mobile – 09448088404

No. CBMPA / Pen. Revision / 2018-19 Dated : 12/02/2019

To .
Shri Sanjeev Narain Mathur
Jt.Secretary (Pension)
DoP & PW, Govt. India
Lok Nayak Bhawan, Khan Market
New Delhi -110003

Respected Sir,

Subject : Revision of Pension of the absorbed combined service pensioners of BSNL/MTNL from 1.1.2017 with a fitment factor of 32% as recommended by 7th.CPC by delinking pension revision from pay revision - request for.

Kindly refer to our letter dated 14/12/2018 on the above subject to Secretary, DoP&PW, the copy of which was endorsed to you as well. The copy of the said letter is enclosed herewith once again for your ready reference. Later we had an opportunity to meet and discuss with you, sir. We got the information that the file was already sent back to DoT seeking certain information. We gained the following impression from that meeting:

- DoP&PW is open to examine if DoT sends a single concrete proposal with due justification for pension revision in the requisite form and format; if found justified then DoE also would be consulted.

2. With that impression we reverted back to DoT and discussed the issue with the concerned officer in Sanchar Bhawan. We were informed that DoP&PW has virtually rejected the proposal of delinking pension revision from pay revision. We were astonished to hear such an information which is contrary to the stand of DoP&PW. We understood that DoT is not inclined to comply with the requirement sought by DoP&PW and going back to square one i.e. no pension revision without pay revision. Hence we request you, sir, to once again take-up this issue at appropriate level.

3. BSNL/MTNL are facing a severe financial crunch and it is not able to pay even the existing salary to the serving employees on due date; BSNL is not able to even pay the electricity bill on due date and hence it may be highly impossible for the companies to revise the pay and DoT is not extending any financial help.

4. In 2007, BSNL was in a position to implement the 2nd PRC report to revise the pay but the pension for pre-2007 pensioners were not revised immediately. Due to our consistent

-2-

efforts, after two years, pension was revised on the same fitment factor as that of serving employees vide DoT OM dated 15/3/2011 on the basis of Cabinet approval.

5. As per the Cabinet decision in 2004, the liability of paying pension/FP to absorbed employees was restricted to 60% of the revenue remitted to Govt. by these companies. The Cabinet in 2016 annulled that condition and now 100% liability of paying pension/FP lies with the Govt. as per DoT, OM dated 20/7/2016. So, Our pension has nothing to do with the financial position of the companies.

Central Administrative Tribunal

767

6. In the past three decades pension revision is granted to past C.G. pensioners once in 10 years on the basis of CPC recommendations. We request that the same yardstick should be applied to absorbed employees also. The absorbees who retired prior to 1/1/2017 have worked in Govt. for more than 20 years; some of them more than 30, 35 years.

7. Our demand is basic pension as on 1/1/2017 + DR of 119.5% ason 1/1/2017 + 32% of basic pension which works out to 14.58% of total pension.

8. The outline of the justifications have also been clearly spelt out in Para 5,6,7,8,9,10,11,12,13,14,and 15 of our letter dated 14/12/2018 addressed to Secretary, Department of Pension (copy enclosed).

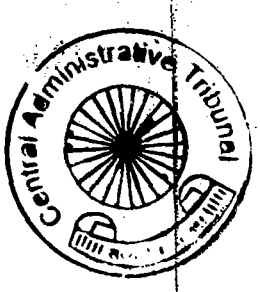
9. If pension revision is given to pre-2017 retirees and if no pay revision takes place to post-2017 retirees then it may create a pension anomaly. To solve this anomaly, at the time of retirement, for post-2017 retirees, 32% of basic pay can be added notionally and pension can be worked out on that basis. There are precedences to fix the pension on notional pay.

10. We once again request you, sir, to take necessary initiative to clinch the issue of pension revision in the interest of 2 lakh DoT absorbed pensioners.

Thanking you

Yours faithfully,

(P.Gangadhara Rao)
Convenor



ANNEXURE-A-34 708 05

No. 4/02/2019-P&PW(D)/40504
Govt. of India
Ministry of Personnel, P.G & Pensions
Department of Pension & Pensioners Welfare

ANNEXURE

3rd Floor, Lok Nayak Bhavan,
Khan Market, New Delhi-110003
Date:- 08th March,2019

OFFICE MEMORANDUM

Sub:- Revision of pension of the absorbed combined service pensioners of BSNL/MTNL from 01.01.2017- reg.

The undersigned is directed to forward herewith a copy of representation dated 12.2.2019 from Committee of BSNL/MTNL Pensioners' Association on the above subject and to invite the attention of the DoT to this Department's ID Note of even no. dated 14.01.2019.

2. This Department has made the following observations on the proposal of DoT for revision of pension of the combined service absorbee pensioners of BSNL/MTNL :-

(i) DoT has not clearly brought out as to what would be the formula for revision of pension on pre-2017 absorbee pensioners and what would be financial implications on revision of pension as per that formula.

(ii) It has been stated by DoT that pay of the serving employees has not been revised in implementation of recommendations of 3rd PRC, since these entities had not fulfilled the pre-conditions for grant of the facility to these serving employees. This means that serving employees of BSNL/MTNL continue to be on the same pay which they were getting 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 will create an anomalous situation in BSNL/MTNL as the past pensioners would be getting more pension than the freshly retired pensioners. DoT, therefore, needs to bring about as to how they propose to resolve this anomaly.

3. DoT was requested to reconsider the matter and provide information/comments on the above observations. However, the requisite clarifications/proposal has not been received from DoT so far.

4. It is requested that the issues raised in the representation dated 12.02.2019 from Committee of BSNL/MTNL Pensioners' Association may be examined by DoT, and the comments of DoT thereon, may be sent to this Department alongwith the clarifications sought in this Department's ID Note dated 14.01.2019.

Encl: as above

(Charanjit Taneja)
Under Secretary to the Govt. of India

DDG(Estt)
Department of Telecom,
Sanchar Bhawan, New Delhi

Copy to:-

Shri P Gangadhara Rao, Convener, Committee of BSNL/MTNL Pensioners' Association, H NOs.6, G No. 12th Street, Jogupaiya, Halasuru, Bangalore-560008

Central Administrative Tribunal

ANNEXURE

ANNEXURE-A-35

789

ALL UNIONS AND ASSOCIATIONS OF BSNL (AUAB)

No: UA/2019/ 31.01.2019

To

The Secretary (Telecom),
Department of Telecommunications,
Ministry of Communications,
Sanchar Bhavan, 20, Ashoka Road,
New Delhi-110 001.

Sub: Delinking of Pension Revision for the Pre-2017 BSNL retirees from the Pay Revision of BSNL employees reg:

Ref: Assurance given by the Hon Minister and Secretary, DoT in the meetings held on 02.12.2018 and 03.12.2018 that Govt decided to delink the pension revision of BSNL pensioners from the pay revision.

Respected Madam / Sir,

On the formation of BSNL, the employees working in DoT were absorbed in BSNL w.e.f 01.10.2000 with the assurance of better career prospects and payment of pension by the Government of India. Accordingly Rule-37A was incorporated in CCS Pension Rules, 1972 to ensure payment of pension on the combined service rendered in DoT and BSNL, on IDA scales. On absorption, the employees were granted IDA pay scales w.e.f 01.10.2000.

Sub-rule 10 of Rule 37A of CCS (Pension) Rules, 1972, provides that "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". Again as per Sub-rule 22 of Rule 37A of CCS (Pension) Rules, 1972, the pensionary benefits, including family pension shall be paid by the Government.

In accordance with the above provisions, DoT revised the pension of pre-2007 pensioners/family pensioners of BSNL on 15.03.2011, who retired during 01.10.2000 to 31.12.2006. The pension revision followed the pay revision in BSNL as pay revision implemented immediately after the DPE guidelines issued on 26.11.2008. Pension revision implemented through Cabinet decision with 30% fitment, which took time with the fitment allowed by the DPE for CPSUs.

The pension/family pension of the pre-2007 BSNL pensioners were revised w.e.f. 01.01.2007 as follows by adding together:

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

ii) IDA 78.2% as on 31.12.2006.

iii) Fitment of 30%, as per DPE guidelines.

On 03.08.2017, DPE issued guidelines for 3rd Pay revision with 15% fitment. Para 3 of the OM under the heading Affordability provides that the revised pay scales would be implemented by the CPSEs subject to the affordability of CPSE. BSNL and MTNL are unique CPSUs where the retirees are paid pension by the Govt of India as per Rule 37A of CCS (Pension) Rules, 1972. In BSNL, the pay revision is not implemented due to the affordability clause.

The pension Revision of Govt pensioners retired from BSNL cannot be linked with the pay revision of the serving employees due to the following reasons:

1. All the BSNL retirees were Govt servants, recruited by DoT and absorbed in BSNL. Their pension is covered by CCS Pension Rules, 1972 as in the case of Central Govt employees.

2. Pension revision for Central Govt pensioners already implemented.

Chitra Administrative Tribunal

3. As per the terms and condition for absorption, BSNL absorbed employees would continue to get pension from DoT irrespective of the status of BSNL. As per para 2(b) of DoT order No: 40-13/2013-Pen(T) dated 20.07.2016, it has been clarified that *"The liability towards pensionary benefits including family pension to the BSNL employees (except those recruited after 01.10.2000), as per sub rule 22 of Rule 37A of CCS (pension) Rules, 1972, lies with the Government of India".*

4. The Affordability clause mentioned in DPE guidelines is applicable only for the pay revision of the serving employees, not for the Pension Revision.

5. Pension revision has to happen even in the cases of:

i) If BSNL is not there?

ii) If BSNL is not profitable and No Pay Revision is implemented in BSNL?

iv) 3rd PRC given different fitment for the serving employees depends on its affordability. This fitment will be reviewed after every 3 years. If the fitment varies, it will create anomaly among pensioners.

v) Non-Executives are not covered by the fitment and the pay scales notified by DPE vide OM dated 03.08.2017. Non-Executives wage revision is as per the negotiated settlement. In Coal India, Non-Executives signed wage revision agreement with 20% fitment for 5 years period where as DPE guidelines stipulates that if 5 year wage settlement is made, the fitment has to be proportionately reduced. However for the purpose of uniformity, Non Executives as well as Executives in BSNL are extended the same fitment from 2nd PRC period onwards. BSNL is a unique CPSU in that respect also.

6. BSNL retirees are no way connected with the affordability or paying capacity of BSNL. Their pension is to be paid by the Govt of India, not by BSNL.

7. BSNL has already paid the pension contribution in full to the Govt of India, for their entire service period in BSNL.

Since the matter of pay revision of BSNL employees pursuant to 3rd PRC recommendation is yet to be settled, the issue of revision of pension for the pre-2017 BSNL pensioners is required to be delinked from the pay revision of BSNL serving employees. It is already assured and announced by Hon MoSC and Secretary, DoT in the meetings held on 02.12.2018 and 03.12.2018 that Govt decided to delink the pension revision of BSNL pensioners from the pay revision.

However DoT letter to DoP&PW does not reflect this decision and lack recommendation or proposal of DoT for delinking pension revision from pay revision. Without a proposal from DoT, DoP&PW is unlikely to give any opinion in this regard. As per DoP&PW, the methodology is to be worked out and suggested by DoT.

The methodology may be recommended to DoP&PW for giving its approval on the subject. To avoid an anomaly between serving and the retired employees prior to 01.01.2017, the following method suggested.

a) The pension/family pension of the pre-2017 BSNL pensioners will be revised w.e.f 01.01.2017 as follows by adding together:

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

ii) IDA as on 31.12.2016.

iii) Fitment of 15%.

b) For the serving employees, fitment will be calculated as 15% w.e.f. 01.01.2017 itself and pension contribution will be paid accordingly by BSNL. However, payment of pay, allowances and perks will be made by BSNL depending upon its affordability. In the

771

month of retirement, the payment will be made based on full 15% fitment (Atleast in the last month, payment will be made based on full 15% fitment).

Anomaly which may arise if pension revision is done with 15% fixation and pay revision is done with lesser fitment.

A pensioner retired on Oct 2016 with Rs 50,000 last basic pay is getting Rs 25,000 as basic pension as on 1-1-2017. Now if his basic pension is revised as per PRC with 15% the revised basic pension will be Rs 63,100 [i.e. Basic Pension+119.5% DA as on 1-1-07 + 15% fitment]

His batch mate retired on March 2017 His basic pay was also Rs 50,000 on 1-1-17 and last basic pay on March was also Rs 50,000. Now his pay on 1-1-17 is revised as per PRC with 10% (say) fitment. So his revised pay on 1-1-17 will be Rs 1,20,700. Accordingly his last basic pay on March would also be Rs 1,20,700 and pension will be 50% of Rs 1,20,700 i.e. Rs 60,350. Thus he will be getting Rs 63,100 - Rs 60,350 = Rs 2750/- less pension compared to his batch mate retired before 1-1-17 whose pension is revised to Rs 63,100 as per 15% fixation.

How to solve this anomaly:

Method 1

Fix the pay of 2nd person notionally with 15% fitment but actually with fitment of 10% (say) till last month of his retirement. The Basic Pay of the last month of his retirement may be restored as per 15% fixation and pension will be paid on last pay drawn actually. Hence for January and February his basic pay will be Rs1,20,700 and for March it will be Rs 1,26,200 and accordingly pension fixed at Rs 63,100 which is equal to his batch mate retired before 1-1-2017.

Method 2:

Fix the pay of 2nd person notionally with 15% fitment but actually with fitment 10%(say). Hence at the time of retirement his actual Basic Pay will be Rs 1,20,700 and notional Basic Pay will be 1,26,200. Now calculate his Pension as per his last drawn notional pay and his pension will be 50% of 1,26,200 i.e Rs 63,100/- which is equal to his batch mate retired before 1-1-2017.

NOTE: This system of fixing pension on notional last pay drawn is already in vogue for BSNL pensioners retired between 1-1-2007 and 9-06-2013 while extending the benefit of 78.2 IDA Merger. Their Pay has been notionally revised by merging 78.2% IDA from 1-1-2007 and Revised pension is being paid on revised notional last pay drawn from 10-06-2013.

Yours Sincerely,

(P. AMBIMANYI)
G.S. BSNLEU

(C. SINGH)
G.S. NFTE

Copy to: (1) The PS to Hon Minister of State for Communications, New Delhi – 01.
(2) Member (Fin), Telecom Commission, DoT, New Delhi – 110001.
(3) Additional secretary, DoT, New Delhi – 110001.
(4) The Chairman & Managing Director, BSNL, New Delhi – 110001.
(5) The Director (HR), BSNL Board, New Delhi – 110001.
(6) The GM (SR), BSNL Corporate Office, New Delhi – 110001.

Central Administrative Tribunal

ANNEXURE 4

ANNEXURE A 492

ALL INDIA BSNL PENSIONERS' WELFARE ASSOCIATION

Central Head Quarters [Regd. No. T 1833/09]
H. No 6, G No 12th Street, Jogupalya, Halasuru, Bangalore 560008

email: bsnlpensioner@gmail.com *Website: ww.bsnlpensioner.in*

President: P S Ramankutty
Phone: 9447551555

General Secretary: P Gangadhara Rac
Phone: 9448088404

Date: 05/07/2019

To
Shri S.K.Jain,
DDG (Estt.), DoT,
Sanchar Bhawan,
20, Asoka Road,
New Delhi-110001

Sir,

Sub:- Minimum pension to BSNL IDA pensioners
as per Rule 49(2) of CCS (Pension) Rules, 1972 – regarding

Ref:- **Our earlier letter dated 17/8/2017**

In connection with the above subject, we had a discussion on **3/7/2019** with you, sir, during our Delhi visit. We were informed that a committee was appointed to consider the above demand based on our letter and the committee decided that it cannot be extended to BSNL IDA pensioners.

We presume that the committee would have come to such a conclusion because the CDA pensioners were getting 0% DR on 1/1/2016 (after merger of pension + DR) whereas BSNL IDA pensioners were getting a DR of 112.4% as on 1/1/2016 and if the minimum pension is raised to Rs.9000/- then the total pension with DR on IDA would come to Rs.19,116/- whereas total pension of CDA pensioners would only be Rs.9000/- as on 1/1/2016.

We understand this issue and to overcome this, we suggest the following two alternatives for your kind consideration because thousands of family pensioners and few pensioners who retired from the lower-level categories are getting a total pension less than Rs.9000/-.

1) ***The pensioners who were getting a basic pension of Rs.3500/- were receiving a total pension of Rs.7,434/- (3500 + 3934 DR with 112.4%) only whereas CDA pensioners were getting a total pension of Rs.9,000/- which means BSNL IDA pensioners were getting Rs.1566/- less compared to their counter-part in CDA pattern. To overcome this problem the total minimum pension of BSNL IDA***

pensioners can be limited to Rs.9000/- as on 1/1/2016 and they can be brought at par with total minimum pension of CDA pensioners every six months. By this method, amended rule 49(2) can be applied to BSNL IDA pensioners also from 1/1/2016. If this method is not feasible then the following alternative may be considered.

2) ***From 1/1/2017, i.e. ten years after the last pension revision, the minimum pension of Rs.3500 can be merged with DR of Rs.4183 (119.5%) which works out to a total of Rs.7,683/-. It means they were still getting Rs.1,317/- less compared to their CDA***

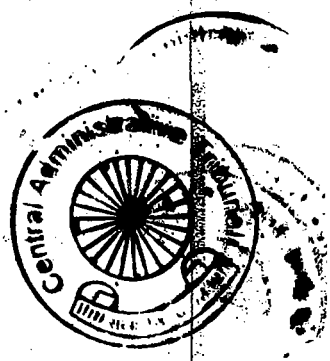
counter-part. Hence their minimum pension can be raised to Rs.9000/- from 1/1/2017 with 0% DR as on that date and the DR may be granted every 3 months from 1/4/2017 onwards asper DPE orders.

We earnestly request you, sir, to have a re-look on this subject-matter and issue necessary orders, if required in consultation with DoP&PW, at the earliest.

Thanking you

Yours faithfully,

(P.Gangadhara Rao)
General Secretary.



ANNEXURE 4

ANNEXURE A-274

Committee of BSNL/MTNL Pensioners' Associations

H. No 6, G No 12th Street, Jogupalya, Halasuru, Bangalore 560008

Convenor - P.Gangadhara Rao

Mobile - 09448088404

Date:- 16/07/2019

To

Shri K.V. Eapen, Secretary,
Department of Pension,
Lok Nayak Bhawan,
Khan Market,
New Delhi-110003

Respected sir,

Sub:- **Pension revision from 1/1/2017 to BSNL/MTNL IDA pensioners (combined service optees) who retired prior to 1/1/2017 - reg**

May we seek your kind intervention on the above subject sir?

Introduction

Committee of BSNL/MTNL Pensioners' Associations (CBMPA) is an umbrella organization consisting of eight organizations of pensioners which represent a very large majority of BSNL/MTNL pensioners.

Background

All India BSNL Pensioners' Welfare Association (AIBSNLPWA) which is a major constituent of CBMPA, of which presently I am the General Secretary, submitted a memorandum to 7th CPC, in which the main demand was for granting the fitment factor recommended by it may please be made applicable to BSNL IDA pensioners also. On behalf of that association, the undersigned had the opportunity to tender oral evidence before the 7th CPC in Bengaluru. The chairman of the 7th CPC, Justice A.K. Mathur, after hearing the arguments, commented that there seems to be a prima-facie and justification in the demand. He also told that they would seek the opinion of the Govt. on this issue. Accordingly 7th CPC forwarded that demand to DoT asking for their comments on this demand vide their letter dated **31/12/2014**. But **DoT delayed the reply for nearly 8 months.** When we met the then telecom **secretary Shri Rakesh Garg** on **4/8/2015**, he assured that even if there is no recommendation from 7th CPC, DoT would take up this issue with nodal department i.e. DoP&PW for taking a policy decision. DoT sent its comments to 7th CPC vide their letter dated **17/8/2015**. The last sentence of that letter stated **"however, this point can further be examined and deliberated by the nodal**

department i.e. DoP&PW". By that time, 7th CPC was busy with finalizing the recommendations. Hence it did not find a place in 7th CPC recommendations.

At par with C.G. pensioners

The employees of BSNL/MTNL who opted for government pension on combined service are covered under CCS (Pension) Rules 1972, at par with C.G. pensioners. 100% liability of paying pension/family pension lies with GoI and they are also paid from civil estimate. The C.G. pensioners got pension revision from 1/1/2016 (10 years after the last revision) on the basis of 7th CPC recommendations.

BSNL/MTNL is unique

Most of the 6th CPC recommendations, like pension formula, commutation table, enhanced family pension, age-related additional pension, gratuity etc. were made applicable to these IDA pensioners also from 1/1/2006 because these two CPSEs are only covered under CCS (Pension) Rules 1972 which is unique. But we got pension revision from 1/1/2007 on the same formula applied to BSNL/MTNL employees.

BSNL/MTNL financial position has no bearing on pension revision

Now BSNL/MTNL is in deep financial crisis and these two CPSEs are not in a position to fulfill the conditionalities stipulated by 3rd PRC for pay revision. But after retirement, pension is paid by GoI and pension revision has nothing to do with the financial position of BSNL/MTNL. Further, Pay Revision Committees (PRCs) have no terms of reference for pension revision and their terms of reference is only limited to pay/perks revision to the executives of CPSEs. The pay revision of non-executives is decided on the basis of bi-lateral negotiation with recognized union/unions.

Present position

Now, our demand is pension revision from 1/1/2017, i.e. 10 years after the last revision, on the basis of 7th CPC fitment factor, **i.e. 32% of basic pension.** DoT sent a ID note to DoP&PW in November 2018 seeking permission to delink pension revision from pay revision. We wrote a detailed letter to Secretary (Pension) in this regard on **14/12/2018** itself. DoP&PW sought certain clarifications from DoT vide their letter dated **14/1/2019.** We again wrote a letter to Joint Secretary (Pension) on **12/2/2019.** Since no reply was received from DoT for their communication dated 14/1/2019, DoP&PW sent another letter dated **8/3/2019** seeking specific details like - DoT's formula for pension revision, its financial implications & the proposal to overcome the likelyhood of pension anomaly that may arise for those who retired after 1/1/2017 since their pay was not revised from 1/1/2017. DoP&PW also attached our letter dated **12/2/2019** asking for

DoT's comments on that. We understood from DoT that they have sent the reply to DoP&PW in the last week of June 2019.

De-linking requested

We also understood that DoT requires a policy decision from DoP&PW for de-linking pension revision from pay revision. If that decision is conveyed, then the DoT would send the pension revision formula with financial implications.

Permanent solution

Application of same fitment factor recommended by CPC to the IDA pensioners, covered under CCS (Pension) Rules 1972, would be a permanent solution. Whenever C.G. pensioners get pension revision, BSNL/MTNL IDA pensioners also would get the same fitment factor in IDA. <u>To concede this justified demand, a policy decision is to be taken by DoP&PW for de-linking pension revision from pay revision.</u> Since this issue remains unsettled for more than two years, the file is shuttled between two departments, we are constrained to approach you, sir, for taking a positive policy decision in this regard at an early date.

Central Administrative Tribunal

Thanking you

Yours faithfully,
(P.Gangadhara Rao)
Convenor

ANNEXURE A-4

CR

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

&

THE HONOURABLE MR.JUSTICE V.G.ARUN

WEDNESDAY, THE 13TH DAY OF NOVEMBER 2019 / 22ND KARTHIKA, 1941

OP (CAT).No.63 OF 2017(Z)

AGAINST THE ORDER/JUDGMENT IN OA 504/2013 OF CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH

PETITIONERS:

1 ABDUL RASHEED.A.A.
S/O LATE SADAK ABDULLA, AGED 34 YEARS,WORKING AS JUNIOR ENGINEER O/O SDE OFC,OCB EXCHANAGE, TIRIR, RESIDING AT ACHIPRA HOUSE,VALLIKARRIRAM, NIRAMARUTHUR PO, TIRUR.676109.

2 ANWAR ALI P
S/O LATE KHALID P, AGED 37 YEARS,WORKING AS SR. TOA, O/O GMT, BSNL, MARKETING (DVSN)UP HILL MALAPPURAM, RESIDING AT PUTHIYAKATH HOUSE,CHAKKALAKUTH, GANDHI NAGAR (84), NILAMBUR-679329,MALAPPURAM DISTRICT.

3 PRASOBH J NAIR
S/O LATE E. JANARDHANAN NAIR, WORKING AS SR.TOA, O/O TELECOM CIVIL DIVISION,BSNL, CO-AXIAL STAFF QUARTERS, EAST HILL,BSNL, CALICUT-673005, RESIDING AT PRABHATHAM,PATTELTHAZHAM, P.O POKKUNNU,MAVKAVE, CALICUT.673007.

4 SUDHEER T
S/O LATE BALAN T, AGED 42 YEARS,WORKING AS SR.TOA (G), O/O GMT,BSNL, MALAPPURAM, RESIDING AT SREERAGAM,PIDAKKOLIPARAMBU, EDAKKAD PO,KOZHIKODE-673005.

5 VIJAYAMMA K.J.
D/O LATE NARAYANA KURUP, AGED 55 YEARS,WORKING AS SER. TOA(G), CSC, CTO BUILDING,ALAPPUZHA-688001, RESIDING AT KURIKKAVEEDU,MARARIKKULAM NORTH PO, ALAPPUZHA.

6 VALSAMMA MATHEW
D/O VARGHESE PV, AGED 50YEARS,WORKING AS SR.TOA(G), CSC, THYCATTUSSERY,POOCHAKKAL PO, CHERTHALA, ALAPPUZHA.688528,RESIDING AT SIHYALAYAM (PALLIPARAMBIL)PALLIPPURAM PO, CHERTHALA, ALAPPUZHA.688541.

7 SIVAPRASAD S
S/O LATE P. SREEKUMARAN NAIR,AGED 33 YEARS, WORKING AS SR.TOA, O/O GMTD,BSNL BHAVAN, VELLAYITTAMBALAM, KOLLAM,RESIDING AT SREESHYLAM, KANJIRAMALA, PPM PO,PIN CODE.691332.

8 SASIKALA P
W/O LATE SARATHCHANDRA BABU, AGED 47 YEARS,WORKING AS SR. TOA, O/O GMT, BSNL BHAVAN,VELLAYITTAMBALAM, KOLLAM, RESIDING AT SREESHYLAM,THEKUMBHAGAM, CHAVARA SOUTH PO.

9 RAJNEESH S
S/O LATE N. SIVARAJAN, AGED 31 YEARS,WORKING AS JAO, O/O GMT, BSNL BHAVAN,THIRUVALLA, RESIDING AT CHARUVILA PUTHEN VEEDU,PALACHEY PO, PUNALUR, KOLLAM-691331.

BY ADVS.
SRI.M.R.HARIRAJ
SMT.G.BINDU
SRI.P.A.KUMARAN
SMT.PRIYADA R MENON
SRI.K.RAJAGOPAL

RESPONDENTS:

1 UNION OF INDIA
REPRESENTED BY THE SECRETARY TO GOVT.OF INDIA,MINISTRY OF COMMUNICATIONS, NEW DELHI.PIN.110001.

2 BHARATH SANCHAR NIGAM LTD
REPRESENTED BY CHAIRMAN & MANAGING DIRECTOR, SANCHAR BHAVAN, NEW DELHI.110001.

3 THE CHIEF GENERAL MANAGER
BHARATH SANCHAR NIGAM LTD,KERALA CIRLCE,
THIRUVANANTHAPURAM.695033.

4 THE PRINCIPAL GENERAL MANAGER
BHARATH SANCHAR NIGAM LTD,KOZHIKODE SSA,
KOZHIKODE.673001.

5 THE GENERAL MANAGER
BHARATH SANCHAR NIGAM LTD,ALAPPUZHA SSA,
ALAPPUZHA-688001.

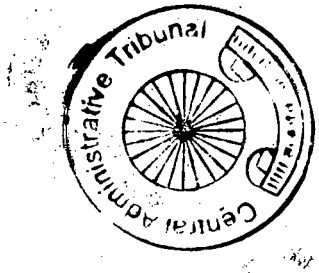
6 THE GENERAL MANAGER
BHARATH SANCHAR NIGAM LTD,KOLLAM SSA, KOLLAM.
691001.

7 THE GENERAL MANAGER
BHARATH SANCHAR NIGAM LTD,MALAPPURAM SSA,
MALAPPURAM.676505.

8 THE GENERAL MANAGER
BHARATH SANCHAR NIGAM LTD,THIRUVALLA SSA,
THIRUVALLA.

R1 BY ASSISTANT SOLICITOR GENERAL
R1-2 BY SRI.JOHNSON GOMEZ, SC, BHARAT SANCHAR NIGAM LTD.
R1 BY SRI.T.V.VINU, CGC

THIS OP (CAT) HAVING BEEN FINALLY HEARD ON 13-11-2019, THE COURT ON 13-11-2019 DELIVERED THE FOLLOWING:



CR

JUDGMENT

Dated, this the 13th day of November, 2019

Vinod Chandran, J.

Conversion of a Government Department into a public sector undertaking, whether would disable the persons recruited prior to the actual date of conversion from being considered as Government employees for reason of their appointment being after the new undertaking came into existence; is the question arising in the above case.

2. The Tribunal before whom the petitioners had first agitated the cause found against them. It was held that the Bharath Sanchar Nigam Limited (hereinafter for brevity 'BSNL') and Department of Telecom (hereinafter for brevity 'DoT') having interpreted the terms and conditions of creation of BSNL, absorption of staff etc there can be no reliance placed on the Presidential

orders which conferred such status to Government employees, on the petitioners. The Tribunal found that though they were recruited during the threshold of the conversion, they cannot be treated as DoT employees. Their appointment on completion of formalities and training was made after BSNL had come into existence. The applicants were found to be liable to concede to the position taken by the BSNL, in the matter of their status as government employees; which stood dis-allowed.

3. The learned Counsel for the petitioner Sri.M.R. Hariraj took us through the various documents which indicate that all of the applicants/petitioners were appointed under the compassionate scheme of appointment. They were issued with temporary appointment orders by DoT, subject only to their completion of training, for which they were deputed, also by DoT. While they

were undergoing training, the conversion is said to have materialised on 01.10.2000. They completed the training and reported for duty with the new entity; the DoT having already been converted as BSNL. They were appointed under the BSNL just a few days after the crucial date of 01.10.2000. Only two of the petitioners were appointed after two months since their training commenced a little later. While they were so continuing, they were asked to exercise an option which is applicable to all the employees who were deputed from the DoT to the BSNL, as to whether they wish to continue in BSNl or seek repatriation back to DoT. All the petitioners exercised their option to continue in the BSNL based on which Presidential orders were issued allowing them to be continued in the BSNL. However, later these Presidential orders were interfered with by the Assistant General Manager of the BSNL which are produced as Annexure A9 and

782

impugned in the original petition.

4. It is submitted that the applicants though only deputed for training were regularly recruited under the scheme and but for the unfortunate circumstance of the conversion to BSNL having intervened on 01.10.2000 they would have been treated as Central Government Employees. Other employees of the DoT, prior to the formation of BSNL, who were deputed and exercised options to be continued in the BSNL, when absorbed, their right to pension and their membership in the General Provident Fund were protected. The petitioners are also entitled to such protection but however, the same has been declined by cancellation of the Presidential orders which is challenged as without jurisdiction and issued in violation of the principles of natural justice.

5. The learned Standing Counsel appearing for the BSNL Sri Johnson Gomez would at the outset

783

take us through Ext.R2(c) series of documents produced in the Original Petition which according to him is issued in cancellation of the Presidential orders by the Government of India itself. Rule 37-A of the Central Civil Services (Pension) Rules, 1972 (for brevity "CCS Pension Rules") relied on by the petitioner is specifically read out to point out that in the case of petitioners there was no transfer as contemplated in sub-rule(1) nor do the petitioners enjoy the status of a Government Servant as on the previous day of 01.10.2009. The recruitment rules produced as Annexure R2(c) along with reply statement before the Tribunal is specifically referred, to contend that the training is before appointment and the rules specifically speak of an appointment after the training is successfully completed. The appointment of the petitioners having occurred only after conclusion of the

training, which is after 01.10.2000, they can only be deemed to be appointed to the BSNL. No status accrues to them of government servants transferred from the DoT To BSNL. Reference is also made to Ext.P2, Offer of Temporary Appointment, issued by DoT to further canvass the position that the petitioners were never appointed under the DoT. An Office Memorandum referred to by the Jaipur Bench of the Central Administrative Tribunal, in the order produced as Annexure A17, is pointed out to contend that in a similar situation,the Government had come out with a specific scheme by which the persons who were send for training were deemed to be appointed to the Government prior to 01.01.2004. A similar decision having not been taken in the case of the petitioners, they cannot claim the status of a government servant, asserts the learned Standing Counsel.

6. The learned Counsel for the petitioners

in reply pointed out that the order of the Jaipur Bench of the Tribunal produced as Annexure A17 relied on the Memorandum pointed out by the learned Standing Counsel to allow a similar claim. The said judgment was unsuccessfully challenged before the High Court of Rajasthan. The learned Standing Counsel for BSNL and the learned Central Government Standing Counsel informs us that the same has been stayed by the Hon'ble Supreme Court. Hence we will not look into the judgment of the Rajasthan High Court which in any event has only a persuasive effect on us. The OM protected persons who were recruited and send for induction training to the benefits due under the old pension rules which stood altered from 01.01.2004; after which date they were actually appointed. We cannot but observe that identical was their position with the petitioners here, with only the intervening circumstance being different. We'll not rely on

that O.M alone because as pointed out, there is no identical protection specifically ordered in this case.

7. The admitted facts are that the petitioners were recruited under a compassionate scheme of appointment, for reason of they being dependents of employees of DoT who died in harness. The date of commencement of training with respect to petitioners 1 to 3, 5, 6 and 8 to 10 are similar, ie: 10.07.2000 and they joined BSNL on 10.10.2000. The petitioners 4 and 7 were deputed for training on 18.09.2000 and they joined in the BSNL on 18.12.2000. The training was for a period of three months. Annexure A1 series of documents are the communications issued to the petitioners offering them employment in relaxation of normal recruitment rules, on compassionate grounds. These also speak of verification of certificates of qualifications and request the

petitioners to wait for further communication. After verification of such documents and certificates and also finding them to be eligible for appointment Annexure A2 series of communications were issued offering them temporary appointment and directing them to report for training. The regular appointment could only be after successful completion of training. All the petitioners completed the training successfully. However, by the time they completed the training and reverted to the employer, the BSNL came into existence and all of them joined as per Annexure A6 series of orders. Pertinent is the fact that only some of the activities of the DoT got converted and vested with the BSNL and the DoT remained as a department of the Union of India.

8. The petitioners continued on the basis of their appointment in BSNL and later were issued with option forms for absorption in BSNL or

retention of Government Status, by repartriation. Annexure A7 series of documents are the options exercised, by which all the petitioners opted to remain in the BSNL. In accordance with that, Government of India (DoT) issued Annexure A8 orders which was under the order of President of India conveying the factum of acceptance of option and permanent absorption of the petitioners in BSNL; who were styled alternatively as permanent and temporary employees of the DoT. It is based on these orders they were continuing and it was while they were so continuing that out of the blue the petitioners were issued with Annexure A1 orders by various officers of the BSNL canceling the Presidential order. We have to immediately notice that no such cancellation could have been effected by the BSNL and the said ground has been accepted by the Official respondents insofar as the DoT, far later in the year 2017, issued Ext.R2 orders

produced in the Original Petition again canceling the Presidential Orders accepting the fact that the earlier orders were incompetent. This was also much after the order of the Tribunal was passed, the sustainability of which we will look at a little later; on all aspects and not confined to this one ground.

9. The claim as to retention of government employee status is based on the benefit available to the DoT employees who were later absorbed in the BSNL, for pension from Government of India itself. Rule 37-A of the CCS Pension Rules as pointed out by the learned Counsel for the petitioners is very relevant. Sub-rule (1)speaks of *enmasse* transfer of government servants in a Department to a Public Sector Undertaking [PSU] or autonomous body on terms of foreign service without any deputation allowance, till they get absorbed to the said undertaking, on conversion of

a Department into a PSU or an autonomous body. Sub-rule (2) and (3) speaks of an option available to a transferred government servant to revert back to the Government or seek permanent absorption in the new undertaking. As per sub-rule (4) the permanent absorption of the government servants as employees of the PSU takes effect only from the date on which their options are accepted by the Government. They cease to be government servants from the date of such acceptance and continue as employees of the PSU, but their right to pension as a government employee and the membership in the GPF remains protected.

10. Sub-rule (4) is very relevant insofar as the status of the government servant prior to the acceptance of an option exercised by such servant. As we noticed earlier, all the petitioners were deputed for training by the DoT and later when they joined for duty after

successful completion of training the BSNL had been formed. The obligation to grant them appointment under the compassionate appointment scheme was of the Government under which the DoT was a department. They were also recruited by the DoT and the training too was conducted by the DoT. The BSNL was created, by virtue of the conversion of DoT, a Department of the Government, or certain activities being vested on the PSU. BSNL discharged the obligation of the Government of India in making appointments of these petitioners, recruited earlier by DoT. The BSNL could not have taken an independent decision regarding their appointment nor was there any question of verification of their eligibility qualifications; it was automatic,being an imperative obligation and an imprimatur of the terms of conversion. It cannot hence be said that as on the date of formation of BSNL they were not

government servants by reason of their appointments having not been made regularly.

11. We come back to the rule, to pertinently observe that sub-clause (4) of Rule 37-A makes it clear that till the option of the petitioners were accepted by the Government of India they continued as government servants. Hence on their appointment after successful training and continuance in the BSNL they retained their status of government servants. Fully recognising their status, the DoT issued them with the formats of application forms, for exercising option, either to be retained in the BSNL or to be reverted back to DoT. It is very clear that if they had exercised an option to be reverted back, they would have been taken back and accommodated in the DoT under the GoI itself; which then would have been irreversible at this distance of time. The vexing question is, if the

exercise of one option was irreversible, would the exercise of the other, be open to reversal on administrative vagaries? This impossibility of reversal of acceptance of exercise of option, further validates their claim of having government servant status even when they joined the BSNL and continued there in the very same status; prior to acceptance of the option exercised by them for retention in the BSNL.

12. We also have to take note of the arguments of the learned Standing Counsel appearing for the BSNL, with reference to the recruitment rules. The rules produced as Ext.P5 speak specifically of the training and the bond to be executed, as per Rule 7. It is the mandate of Rule 7 that direct recruits and promotees, before appointment shall undergo training for a period of three months. These recruits shall also before proceeding for training execute a bond in the form

specified in the appendix to the rules. During the period of training they are entitled to a training allowance as seen from Annexure A2 and not regular scales of pay. Annexure A2 also requires furnishing of a security of Rs.10,300/- for disbursement of training allowance. All these indicate that the DoT sent the selected candidates for training with the rigour of joining back for appointment, which appointment is only subject to the successful completion of training. The terms of appointment after completion of training are explicit in paragraph 3 of Annexure A2. Ann:A2, while making it clear that appointment is temporary and does not confer any title to permanent appointment, speaks in the same breath as to the permanent appointment being subject to availability of vacancies; which is the only impediment, if and when the recruit successfully completes the training. Paragraph 7 only speaks of

the candidates name being removed from the list of approved candidates, if the acceptance of temporary appointment is not specifically communicated. This does not reduce the status of the candidate who reports for training, to merely an approved one. On successful completion of training subject to availability of vacancies there is a mandate on the DoT to give appointment and the BSNL which took over the DoT also appointed the petitioners on completion of training; discharging their obligation as per the terms of conversion thus fulfilling the promise of appointment held out by the DoT.

13. In this context, we also refer to the Fundamental Rules (FR) as pointed out by the learned Counsel appearing for the petitioners. 'Duty' as per the definition in sub-rule 6(a)(i) of FR9 includes service as a probationer or apprentice provided such service is followed by

confirmation. Sub-rule 6(b) also enables a course of instruction or training in India to be treated as duty of a government servant. It is also pertinent that FR26 enables such period to be counted for other purposes; sub-clause (a) of which says *"All duty in a post on a time-scale counts for increments in that time-scale"(sic).* There can hence be no dispute that the service of the petitioners is deemed to have commenced from the date of joining for training for the purpose of pension and grant of increments.

14. The BSNL places heavy reliance on Annexure R2(a) series of documents, produced in the original petition, to assert that the Presidential orders have been canceled. It is reiterated that the purported cancellation is in the year 2017 when the OP was pending before this Court. The order is passed by the DoT, Government of India. It is specifically stated therein that

the impugned orders in the OA, passed by the Officers under the BSNL cannot be sustained since they are not vested with the power to cancel a Presidential order. The first reference in Ext.R2(a) is the Presidential order issued to the petitioners accepting their exercise of option which is produced as Annexure A8, in the OA. The operative portion of Annexure R2(a) speaks of the cancellation having been issued by the Director, Establishment of Kerala, of the DoT by the power vested with him vide order under reference (2). That is also an order of the DoT dated 29.06.2017 which has not been produced before us, nor the Presidential sanction to cancel; in which event we are entitled to draw an adverse inference.

15. Be that as it may; even if we accept it, then the question is what is the effect of the cancellation; leaving aside, for the moment, our finding on the irreversibility of the acceptance

of an option. In this context we note Annexure A8, the first order issued by the DoT, on sanction from the President, which is termed as the Presidential order. We extract the said order from one of those produced in Annexure A8 series.

No.27-1KRL/Chief Engineer (Civil)/247/2002 Dated 13.3.2002

ORDER

Sub: Permanent absorption of Shri Prasobh J Nair, TOA(G)I, staff No.4040
in Bharat Sanchar Nigam Limited

1. Pursuant to letter No.BSNL/4/SR/2000 dated 2.1.2001 on the above subject, and in accordance with the provisions of Rule 37-A of CCS (Pension) Rules, as amended from time to time, sanction of the President is hereby conveyed to the permanent absorption of Sri. Prasobh J Nair, a permanent employee of the Department of Telecommunications, in BSNL, with effect from the date and under the terms and conditions as indicated below.

2. Date of effect:-The permanent absorption shall take effect from 01.10.2000, forenoon.

3. Pension/Gratuity:- Shri Prasobh J Nair shall be eligible for pensionary benefits including gratuity as per the provisions of Rule 37-A of the CCS(Pension) Rules, 1972, as amended from time to time.

4. Family Pension:- The family of Shri Prasobh J Nair shall be eligible for family pension as provisions of Rule 37-A read with Rule 54(13-B) of CCS(Pension) Rules, 1972, as amended from time to time.

5. Regulation of pay on absorption:- To be regulated in terms of para 4 of DOP & PW O.M. No4/18/87-P&PW(D) dated 5.7.1989

6. Leave:- The Earned Leave and Half Pay Leave at the credit of Shri Prasobh J Nair stands transferred to BSNL on the date of absorption as provided for under Sub-rule 24(b) of Rule 37-A of the CCS (Pension) Rules.

7. Provident Fund:- The amount of subscription together with interest there on standing to the credit of Shri Prasobh J Nair in the

General Provident Fund account will be transferred to his new Provident Fund Account under the BSNL as provided for under Sub-rule 24(a) of Rule 37-A of the CCS (Pension) Rules, as amended from time to time.

(A.SUKUMARAN)
DIRECTOR (Estt-Kerala)
DEPARTMENT OF TELECOM

16. The order is only insofar as the permanent absorption of the petitioners permanently in BSNL. They were alternatively described as permanent or temporary employees of the DoT in the order. They were also granted protection under Rule 37-A of the CCS (Pension) Rules. The cancellation of such an order would only result in their being reverted to Government service under the DoT. The question would be as to whether after long years of such service in BSNL they can be reverted back to the DoT. As noticed earlier, the option exercised by the employees whether it to be reversion back to DoT or for permanent absorption in BSNL, when accepted

by the Government of India is irreversible and there could be no cancellation effected thereat especially after long years. We also notice that cancellation has been effected subsequent to the acceptance of option, without notice to the parties and in contravention of the specific rules referred to by us herein above.

17. We do not hence find any reason for Union of India to take a view, in the case of the petitioners who were recruited and dispatched for induction training, from being considered differently from those positioned identically when there was a change effected in the pension rules with effect from 01.01.2004; as revealed from the O.M relied on by the Jaipur Bench of the Administrative Tribunal.

18. On the factual background and the legal reasoning as above we find it difficult to sustain the order of the Tribunal and set it aside

declaring the petitioners to be Government Servants as employed under the DoT, who were transferred and later absorbed in the BSNL. The petitioners have lost their status of government servants only when their options for retention in BSNL were accepted by the Government by an order with sanction from the President of India, as is seen from Annexure A8 series. This cannot be easily meddled with, especially since the consequence will be a reversion to government service and is hence irreversible. What has been canceled even if we assume it to be with Presidential-sanction is the absorption in the BSNL, not the status accrued to the petitioners of government servants.

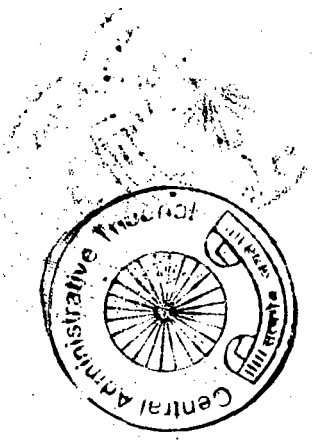
The Original Petition (CAT) is allowed and so is the OA, declaring the petitioners, servants of Union Of India under the DoT, who on creation of BSNL, were transferred and permanently absorbed

there under Rule 37-A, with all the protections available there under. We leave the parties to suffer their respective costs.

Sd/-
K. Vinod Chandran,
Judge

Sd/-
V.G. Arun,
Judge

jma



APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	A TRUE COPY OF THE FINAL ORDER DATED 21.7.2016 IN OA NO.504/2013 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM.
EXHIBIT P2	A TRUE COPY OF THE ORIGINAL APPLICATION IN O.A NO.504/20132 WITH ANNEXURES.
ANNEXURE A9(A)	TRUE COPY OF THE CANCELLATION OF PRESIDENTIAL ORDER NO.ST-1/PRE-ORD/2006/PT DATED 14/02/2008 ISSUED BY 3RD RESPONDENT.
ANNEXURE A9(B)	TRUE COPY OF THE CANCELLATION OF PRESIDENTIAL ORDER NOSTA-11/19/05-06/81 DATED 07/09/2010 ISSUED BY THE 7TH RESPONDENT.
ANNEXURE A9(C)	TRUE COPY OF CANCELLATION OF PRESIDENTIAL ORDER NO.F.NO.ST-160/HRD/120 DATED 21/07/2011 ISSUED BY THE 5TH RESPONDENT.
ANNEXURE A9(D)	TRUE COPY OF CANCELLATION OF PRESIDENTIAL ORDER NO.ST-F/BSNL OPTION/III/57 DATED 10/04/2012 ISSUED BY 6TH RESPONDENT.
ANNEXURE A9(E)	TRUE COPY OF ORDER NO.Q-2632/TLA/2012-13/68 DATED 04/01/2013 ISSUED TO THE 10TH APPLICANT.
ANNEXURE A1 COLLECTIVELY	TRUE COPIES OF THE OFFER OF APPOINTMENTS ISSUED TO THE APPLICANTS BY THE 3RD RESPONDENT BEARING NO.RECTT/9-1157/2000 DATED 30/05/2000, LETTER NO.RECTT/9-1158/2000 DATED 30/05/2000, LETTER NO. RECTT/9-1046/99 DATED 17/05/2000, LETTER NO. RECTT/9-

Central Administrative Tribunal

	10241/98 DATED 11/08/2000, LETTER NO. RECTT/9-1167/2000 DATED 19/05/2000, LETTER NO. RECTT/9-15/2000 DATED 11/08/2000, LETTER NO. RECTT/9-1163/2000 DATED 20/06/2000, LETTER NO. RECTT/9-1165/2000 DATED 20/06/2000 AND LETTER NO. RECTT/9-1162/2000 DATED 01/06/2000.
ANNEXURE A2COLLECTIVELY	TRUE COPIES OF THE OFFER OF TEMPORARY APPOINTMENT NO.SRT 7495/14 DATED 14/06/2000, NO.SRT 7500/16 DATED 13/06/2000 AND NO. SRT 7487/29 DATED 04/09/2000 ISSUED BY THE ASSISTANT GENERAL MANAGER (ADMN) OFFICE OF THE 4TH RESPONDENT.
ANNEXURE A3	A TRUE COPY OF LETTER NO.SAT 2001/56 DATED 05/07/2000.
ANNEXURE A4	TRUE COPY OF THE ORDER N. SAT-2001/66 DATED 27/07/2000 ISSUED BY THE 4TH RESPONDENT.
ANNEXURE A4(A)	TRUE COPY OF NO.HRD NO.1-6/99-2000 DATED 19/07/2000 ISSUED BY THE 3RD RESPONDENT.
ANNEXURE A5(A)	TRUE COPY OF LETTER NO.SAT 2001/91 DATED 11/09/2000 ISSUED BY THE 4TH RESPONDENT.
ANNEXURE A5(B)	TRUE COPY OF LETTER NO.STB/OA TRG/1/99 DATED 05/09/2000 ISSUED BY THE 6TH RESPONDENT.
ANNEXURE A6 COLLECTIVELY	TRUE COPY OF THE ORDERS NO.SGN-9022/98-2000/35 DATED 09/10/2000, NO.STB/43-5/2000 DATED 10/10/2000, NO.E.13/RECTT/II/89 DATED 09/10/2000 AND MEMO NO. ST-B/OA TRG/100 DATED 08/10/2000 ISSUED BY 4TH, 5TH, 3RD AD 6TH RESPONDENTS.
ANNEXURE A6(A)	A TRUE COPY OF ORDER NO.SAT-2001/117

	DATED 15/12/2000 ISSUED BY THE 4TH RESPONDENT.
ANNEXURE A7 COLLECTIVELY	TRUE COPIES OF OPTION FORM SUBMITTED BY THE 1ST, 2ND, 4TH AND 7TH APPLICANTS.
ANNEXURE A8 COLLECTIVELY	TRUE COPIES OF THE ORDERS CONVEYING THE SANCTION OF THE PRESIDENT FOR PERMANENT ABSORPTION IS ISSUED BY THE DEPARTMENT OF TELECOM.
ANNEXURE A10	A TRUE COPY OF THE RELEVANT PORTION OF THE MINUTES OF THE 25TH MEETING OF THE NATIONAL COUNCIL OF THE BSNL.
ANNEXURE A11	A TRUE COPY OF LETTER NO.BSNLEU/204(NC0 DATED 23/01/2012.
ANNEXURE A12	TRUE COPIES OF THE REPRESENTATIONS SUBMITTED BY THE APPLICANTS TO THE RESPONDENTS.
ANNEXURE A13	TRUE COPY OF LETTER NO.ST.F/BSNL-OPTION/III/61 DATED 16/04/2012, LETTER NO.ST-F/BSNL-OPTION/III/60 DATED 16/04/2012 ISSUED TO THE 7TH AND 9TH APPLICATION.
ANNEXURE A14	A TRUE COPY OF THE PAY FIXATION MEMO DATED 30/09/2004 ISSUED TO THE 3RD APPLICANT BY THE ACCOUNTS OFFICER, TELECOM ELECTRICAL DIVISION, CALICUT.
ANNEXURE A15	A TRUE COPY OF THE FINAL ORDER DATED 11/12/2012 IN OA 289/2012 ON THE FILES OF THIS HONOURABLE TRIBUNAL.
ANNEXURE A16	A TRUE COPY OF THE OFFICE MEMORANDUM NO.38/58/06-PENSION AND PENSIONER'S WELFARE (A) DATED 05/03/2008 ISSUED BY THE DIRECTOR, PENSION AND PENSIONER'S WELFARE.
EXHIBIT P3	A TRUE COPY OF THE MISCELLANEOUS APPLICATION NO.616/2013.

EXHIBIT P4	A TRUE COPY OF THE REPLY STATEMENT IN MA DATED 25.11.2013 ALONG WITH THE ANNEXURES.
ANNEXURE R1	A COPY OF THE LETTER NO.BSNL/4/SR/2002 VOL.III DATED 04/05/2007 OF BSNL CORPORATE OFFICE.
ANNEXURE R2	A TRUE COPY OF THE BSNL CORPORATE OFFICE, NEW DELHI LETTER 500-85/CA II/BSNL EPF/VOL.III DATED 21/06/2007.
ANNEXURE R3	A TRUE COPY OF THE DOT 27/01/2001 SNG (VOL-II)/ KERALA DATED 29/04/2013.
EXHIBIT P5	A TRUE COPY OF THE REPLY STATEMENT DATED 14.3.2014 ALONG WITH THE ANNEXURES.
ANNEXURE R2(A)	A TRUE COPY OF THE LETTER NO.BSNL/4/SR/2002 VOL.III DATED 04/05/2007 ISSUED BY THE BSNL CORPORATE OFFICE.
ANNEXURE R2(B)	A TRUE COPY OF THE LETTER NO.500-85/CA II/BSNL/EPF/VOL. III DATED 21/06/2007 ISSUED BY THE BSNL CORPORATE OFFICE.
ANNEXURE R2(C)	A TRUE COPY OF THE RECRUITMENT RULES 1988 OF TOA.
ANNEXURE R2(D)	A TRUE COPY OF THE LETTER NO.HR-I/PRE-ORDER/06/DT/51 DATED 21/10/2011 ISSUED TO THE THIRD RESPONDENT.
ANNEXURE R2(E)	A TRUE COPY OF THE GRIEVANCE ACTION STATUS AS ON 04/09/2013 SUBMITTED BY THESE RESPONDENTS TO THE DOT.
ANNEXURE R2(F)	A TRUE COPY OF THE NO.27/01/2001-SNG (VOL.II)/KERALA DATED 29/04/2013 ISSUED BY THE DOT.
EXHIBIT P6	A TRUE COPY OF THE REJOINDER DATED 17.11.2014.

Central Administrative Tribunal

EXHIBIT P7	A TRUE COPY OF THE MA NO. 104/2014 WITH ANNEXURES.
ANNEXURE A17	A TRUE COPY OF THE ORDER IN OA 361/2013 DATED 15/10/2014.

RESPONDENT'S/S EXHIBITS:

ANNEXURE P2A	THE TRUE COPY OF THE ORDER NO. 27/01/DIR(ESTT) /DOT/KRL/2009/124 DATED 07.11.2017 CANCELLING THE PRESIDENTIAL ORDER ISSUED TO THE 1ST PETITIONER
ANNEXURE P2B	THE TRUE COPY OF THE ORDER NO. 27/01/DIR(ESTT)/DOT/KRL/2009/125 DATED 07.11.2017 CANCELLING THE PRESIDENTIAL ORDER ISSUED TO THE 2ND PETITIONER
ANNEXURE P2C	THE TRUE COPY OF THE ORDER RNO. 27/DIR(ESTT)/DOT/KRL/2009/120 DATED 07.11.2017 CANCELLING THE PRESIDENTIAL ORDER ISSUED TO THE 3RD PETITIONER
ANNEXURE P2D	THE TRUE COPY OF THE ORDER NO. 27/1/DIR(ESTT)/DOT/KRL /2009/122 DATED 07.11.2017 CANCELLING THE PRESIDENTIAL ORDER ISSUED TO THE 4TH PETITIONER.
ANNEXURE P2E	THE TRUE COPY OF THE ORDER NO. 27/1/DIR(ESTT)/DOT/KRL /2009/111 DATED 07.11.2017 CANCELLING THE PRESIDENTIAL ORDER ISSUED TO THE 5TH PETITIONER
ANNEXURE P2F	THE TRUE COPY OF THE ORDER NO. 27/1-DIR(ESTT) DOT/KRL/2009/112 DATED 07.11 .2017 CANCELLING THE PRESIDENTIAL ORDER ISSUED TO THE 6TH PETITIONER
ANNEXURE P2G	THE TRUE COPY OF THE ORDER NO. 27/1/DIR(ESTT)/DOT/KRL/2009/117 DATED 07.11.2017 CANCELLING THE PRESIDENTIAL

	ORDER ISSUED TO THE 8TH PETITIONER.
ANNEXURE P2H	THE TRUE COPY OF THE ORDER NO. 27/1DIR(ESTT)/DOT/KRL /2009/119 DATED 07/11/2017 CANCELLING THE PRESIDENTIAL ORDER ISSUED TO THE 9TH PETITIONER.
ANNEXURE P2I	THE TRUE COPY OF THE ORDER NO.27/1/DIR(ESTT)/DOT/KRL/2009/137 DATED 07/11/2017 CANCELLING THE PRESIDENTIAL ORDER ISSUED TO THE 9TH PETITIONER.



ANNEXURE 4

ANNEXURE-A-37

909

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

President
Kishan Singh
M.9968270611

General Secretary
Prahlad Rai
M.9868270222

Financial Secretary
A.K. Jain
M. 9868364466

Email Id : aibsnlewa.gs@gmail.com www.aibsnlewa.org

OTHER OFFICE BEARERS

1 Chief Advisor
M.K. Bagchi (MTNL Delhi)
M.9555920225

2 Legal Consultant
A.S. Kaushik (MTNL Delhi)
M.9851136353

3 Vice Presidents
Manas Roy (WB)
M.9547405002

4 Vice Presidents
T Ravindran (Kerala)
M.9447815403

5 Deputy General Secretary
Amit Kumar Gupta (WB)
M.9433220033

6 Asstt. General Secretary
K. Sairam (TS)
M.9490000212

7 Asstt. General Secretary
Pallab Bose UP (East)
M.9415213341

8 Asstt. General Secretary (HQ)
M.L. Saare (Nasik)
M.9422290555

9 Asstt. General Secretary
B.M. Mondal (WB)
M.9851783620

10 Organising Secretary (South)
Prasun Mukhopadhyay (WB)
M.9432500104

11 Organising Secretary (West)
M.M. Kevard (Gujarat)
M.9427217002

12 Organising Secretary (North)
S.S. Rawat (Rajasthan)
M.9414001595

13 Organising Secretary (South)
Dakshina Murthy (TS)
M.9440161527

14 Advisors
Venkat Rao (TS)
M.9440300317

15 Advisors
Prasun Ghosh (WB)
M.9433936369

16 Advisors
V. Keshava Rao (AP)
M.9490758175

17 Auditor
M. Narahmha Rao (TS)
M.9440745644

No. AIRBSNLEWA/Secy(T)/2019-20/ Dated:18th Nov.2019

To

Shri Anshu Prakash Ji
Chairman TC & Secretary (Telecom)
Govt. of India, New Delhi-110001

Sub: Denial of due Pension Revision to BSNL Pensioners drawing pension under CCS Pension Rules 1972 like other CG Pensioners –reg.

Respected Sir,

At the outset we extend our sincere gratitude and good wishes for your assumption of the highly prestigious post of the Secretary, Department of Telecom and expect that the deprived pensioners retired from BSNL will now get their long denied pension revision from 1-1-2017 through your prudential decision.

Sir, we are continuously meeting with various DOT officers since last two years on this vital issue of BSNL pensioners and requesting them to revise our pension as per the recommendations of 7th CPC but getting common reply as follows

- recommendations on pension revision is not for BSNL IDA pensioners, it is only for CDA pensioners
- Pension Revision of BSNL Pensioners will be done only after pay revision of BSNL employees as par 3rd PRC

As per the above stand of DOT, there is no scope for any pension revision for BSNL pensioners as in BSNL, VRS is implemented without 3rd PRC and there is no scope of any pay revision in BSNL in near future. Further after this VRS only few thousand absorbee employees will be remaining in BSNL and they also will retire within coming 4-5 years. Then there will be no employees of our fraternity left to whose pay revision our pension revision can follow. As at present 100% of the pension of BSNL Pensioners are being paid by Government from its fund and this payment has got no relation with the profit or loss of BSNL. Hence there is no point of linking the pension revision of BSNL pensioners with pay revision of BSNL employees.

All Communications to: Shri Prahlad Rai,General Secretary, 122/85, Vijay Path, Agarwal Farm, Mansarovar, Jaipur-302020

Central Administrative Tribunal

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

Kishan Singh
M.9968270611

Prahlad Rai
M.9868276222

A.K. Jain
M. 9868338484

Email to : allbsnlowa.ga@gmail.com www.allbsnlold.org

OTHER OFFICE BEARERS

1 Chief Patron
N.K. Bagchi (MTNL Delhi)
M.9818330225

2 Legal Consultant
A.K. Kaushik (MTNL Delhi)
M.9555136383

3 Vice President
Manas Roy (WB)
M.09434035002

4 Vice President
T.Ravindran. (Kerala)
M.09447015450

5 Deputy General Secretary
Amit Kumar Gupta (WB)
M.9433000083

6 Asstt. General Secretary
K. Jairam (TS)
M.9490002312

7 Asstt. General Secretary
Palak Bose UP (East)
M.09415233244

8 Asstt. General Secretary
M.L. Dogra (Kashi)
M.09622250555

9 Asstt. General Secretary
B.N. Mondal (WB)
M.09051781190

10 Organising Secretary (East)
Prasun Mukhopadhyay (WB)
M.09433290104

11 Organising Secretary (West)
M.M. Kaswal (Gujarat)
M.09427217002

12 Organising Secretary (North)
S.S. Rawat (Rajasthan)
M.09414051598

13 Organising Secretary (South)
Rakshita Murthy (TS)
M.09440505627

14 Advisor-I
Venkat Rao (TS)
M.09440099817

15 Advisor-II
Prasun Ghosh (WB)
M.09433015300

16 Advisor-III
V. Keshava Rao (AP)
M.9550753175

17 Auditor
M. Narasimha Rao (TS)
M.09491455[illegible]

On this delinking point, the DOT officers are of the opinion that in such event pension anomaly between pensioners retired before and after 2017 will occur. It is true sir but such anomaly can easily be solved by suitable notional protection to post 2017 pensioners in term of their pension fixation. We would like to point out here that after every CPC there is always an anomaly committee to settle the anomalies, but Govt has never stopped appointing CPCs just because there could be anomalies.

We would also like to point out that considering future pension revisions, full pension contribution at the highest of the pay scales in place of actual pay has been paid to DOT by BSNL for all the absorbee pensioners.

We are also aware that there is a demand by some other pensioner association that pension revision should be delinked from pay revision and revised as per 15% fixation formula of 3rd PRC. In this respect we beg to submit that 3rd PRC has no recommendation on pension or pension revision and in that event after delinking PRC formula may not be applied for pension revision in isolation. In 2007, same 2nd PRC formula could be applied for pension revision as it was applied to employees also. But sir, if you kindly go through the concerned cabinet memo for pension revision in 2007 you will find that there is no mention of 2nd PRC there. In reality the memo was prepared as a proposal of DOT where some recommendations like pension revision was from 2nd PRC and some recommendations like minimum pension and increase of pension with age were from 6th CPC. The pensioners retired prior to 2007 accepted the pension revision as per 2nd PRC formula as it was slightly better than 6th CPC. But the fact remains that PRCs have never recommended anything about pensioners in any of their reports.

Sir, under the above developments we would like to bring to your kind notice that at the time of formation of BSNL in the year 2000, Department of Telecommunication (DOT) has promised vide 36-15/2000-Pen(T) dated 09-11-2000 the following to its employees. (copy enclosed)

"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 *Govt scheme of pension/family pension* even after their absorption in BSNL."

The words ***"Govt scheme of pension"*** obviously means the complete pension and Pensionary benefits including periodical pension revision as are available to other Government pensioners. In reality also all the elements of pension and Pensionary benefits of other Govt. pensioner as has been recommended by Central Pay Commissions from time to time, are made

All Communications to: Shri Prahlad Rai, General Secretary, 122/95, Vijay Path, Agarwal Farm, Mansarovar, Jaipur-302020

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

President
Kishan Singh
M.9968270611

General Secretary
Prahlad Rai
M.9868276222

Financial Secretary
A.K. Jain
M. 9868538468

Email to : airbsnlewa.gs@gmail.com www.aibsnlraid.org

811

OTHER OFFICE BEARERS
1 Chief Advisor
M.K. Bagchi (MTNL Delhi)
M.9818930225
2 Legal Consultant
A.K. Kaushik (MTNL Delhi)
M.9868135161
3 Vice President-II
Manas Roy (WB)
M.09434035602
4 Vice President-III
T Ravindran (Kerala)
M.09447615400
5 Deputy General Secretary
Amit Kumar Gupta (WB)
M.9433000035
6 Asstt. General Secretary-I
K. Jairam (TS)
M.9440802212
Asstt. General Secretary-II
Pallab Bose UP (East)
M.09415533241
8 Asstt. General Secretary-III
V.L. Dogra (Nasik)
M.09422250555
9 Asstt. General Secretary-IV
D.M. Mondal (WB)
M.9051753499
10 Organising Secretary (East)
Pravat Mukhopadhyay (WB)
M.09433003184
11 Organising Secretary (West)
M.M. Kharat (Gujarat)
M.09427217002
12 Organising Secretary (North)
S.S. Rawat (Rajasthan)
M.09414081992
13 Organising Secretary (South)
Dakshina Murthy (TS)
M.09440505627
14 Advisor-I
Venkat Rao (TS)
M.09440503617
15 Advisor-II
Pravin Ghosh (WB)
M.09433136300
15 Advisor-III
V. Keshava Rao (AP)
M.9440759175
17 Auditor
M. Narahari Rao (TS)
M.09440745544

applicable for BSNL pensioners also. The only exception is the pension revision and minimum pension which are being denied to them because they are in IDA scale. If all the benefits of other Govt pensioners as per the CPC recommendations can be applied to BSNL IDA pensioners on their last IDA pay drawn, how the factor "IDA" coming in the way only for pension revision and for fixing minimum pension is not understood. Kindly see the attached table at Annexure-I which describes the status at a glance.

5. Sir, due to non-revision of pension and non-application of minimum pension amount which has been published in newspapers (copy enclosed), many lowest paid pensioners mainly the family pensioners of Group D employees are still drawing much lesser basic pension than declared minimum amount of Rs 9000/- They are the poorest group among the deprived pensioners who are suffering the most

DOP&PW has also written to DOT vid no 4/02/2019-P&PW (D)/40504 (copy enclosed) on this subject and asking opinion of the letter submitted by CBMPA an umbrella organisation of pensioners associations. The action of DOT on this letter is also not known.

Sir, DOT should immediately implement the pension revision recommendation of 7th CPC and circulated by DOP&PW on 04-08-2016 which is full DA neutralization with 32% increase of Basic Pension benefit as per the commitment given to us at the time of absorption. The multiplication factors for BSNL IDA Pensioners will be 2.515 as against 2.57 applied for CDA pensioners. The pension Revision including the minimum pension of Rs 9000/- as on 1-1-2017 along with other provisions of said memo should also be implemented for BSNL IDA pensioners also for the sake of justice immediately.

Sir, we eagerly expect a favourable reply from you after prudential examination of the points mentioned above.

With kind regards,

Yours Sincerely,

(Prahlad Rai)
General Secretary
AIRBSNLEWA, CHQ New.Delhi

Copy to:
1. P.K. Sinha Ji, Member (Finance), DoT, Govt. of India, New Delhi-110001.
2. Shri D. Manna, Member (Services), DoT, Govt. of India, New Delhi-110001.

All Communications to: Shri Prahlad Rai,General Secretary, 122/65, Vijay Path, Agarwal Farm, Mansarovar, Jaipur-302020

Central Administrative Tribunal

ANNEXURE 44

289

K.D.Sebstian	G.L.Jogi	S.S. Rajput
President	General Secretary	Treasurer
+91 9447144100	+91 9868217799	+91 9413394204

ANNEXURE-A-38

SNPWACHQ/Pension revision/1/2020 dated 27th Jan,2020

To

Respected Sh. Ravi Shanker Prasad,

MOC&IT, New Delhi.

Sub: Request for a very serious, unprejudiced, and immediate decision on the legitimate revision of pension of retired BSNL personnel which, hitherto, continues to be denied on completely frivolous, untenable, flimsy, non- existent and extraneous considerations. Stubborn and whimsical view of the concerned officers of DOT on the issue is completely baffling, devoid of rationality and incomprehensible.

Respected Sir,

Hon'ble PM, Respected Sh. Narendra Modi ji, has, more often than not, openly, vocally and vehemently expressed his complete annoyance and displeasure over the way bureaucrats generally function, creating unwanted hurdles with their negative stand on resolution of even the most genuine issues. Consistently, the Hon'ble PM, has been, day in and day out, insisting on the bureaucracy to take proactive and positive steps so that even the most complex and seemingly insurmountable issues can be resolved expeditiously. Even very recently, the Hon'ble PM has sternly warned bureaucrats in general to give up their age old sluggish, negative, and counterproductive way of functioning and, instead, create an environment by which the most complex of issues are settled to the benefit of the concerned with the least delay.

But it appears that this advice of the Hon'ble PM has fallen on deaf ears with the bureaucracy in DOT remaining stubborn and unmoved. The classic case of continuing indifference, negligence and negative way of working is completely unjustified, and irrational while addressing and resolving the most legitimate and just issue of pension revision of retired employees of BSNL which is being denied for the last more than two years on completely flimsy, non- existent and frivolous grounds. When we say frivolous and non- existent grounds, we have very solid and sound reasons to support and reinforce our statement. The most genuine and justified and irrefutable ground to say that our pension revision is being denied on extraneous considerations is the glaring violation of the concrete commitment of the Govt. in the year 2000 at the time of absorption of DOT employees in BSNL that pension revision of absorbed employees in BSNL would be done in a manner exactly similar to Central Govt. employees. In fact, it was only on such solid commitment from the Govt., through the decision of the Union Cabinet, which prompted and motivated the DOT employees to take absorption in BSNL. But for such explicit assurance by the Govt. at the time of corporatization of DOT in 2000, none of the employees would

have acted for absorption in BSNL. Now it is quite unjust and unfortunate that DOT is ignoring this critical and underlying assurance of the Govt. by illegitimately denying pension revision.

It is being apparently argued by the concerned officers in DOT that as per rules pension revision of retired employees cannot take place unless wage revision of working employees in BSNL takes place. Sir, assuming this is true, is it not the fundamental and bounden responsibility of the concerned officers in DOT to find out a viable way to break this artificial impasse of linking pension revision with wage revision? Is DOT not bound by the decision unequivocally taken by the Union Govt. in 2000, which envisages that pension revision of employees of DOT taking absorption in BSNL would be done in a manner that is identical to that of Central Govt. Employees?

Sir, instead of working out a comprehensive resolution of issue of pension revision, concerned officers of DOT have been for the last three years singing the same song i.e pension revision cannot be done unless wage revision of the present employees of BSNL takes place, which is totally absurd and incongruent to the Govt. decision on the subject. The pension of the retired employees cannot and should not have any bearing on the wage revision of the working employees, as has been envisaged by the Govt. decision in 2000 on the subject.

The underlying fact remains that the bureaucracy in DOT is planning, designing and working in contravention of the repeated directions of the Hon'ble PM, urging upon and pleading with the bureaucracy. However, the DOT bureaucracy continues to blatantly ignore and defy the substance of the Hon'ble PM's instructions to be innovative, undergo drastic perspective reform in decision making, without being bogged down by bureaucratic red tape but instead find out ways to resolve issues expeditiously by changing their age old negative perspective of looking at issues. What is astonishing and painful is that the bureaucracy in DOT continues to stick its neck in the mud unable to look at the truth, shockingly betraying the clear contents of the Hon'ble PM's directions to the bureaucracy to transform and undergo radical changes in their way of seeing, addressing and deciding issues.

Sir, what is extremely pertinent and significant is that while Department of Pension and Pension Welfare (DOP&PW), the Ministry not directly involved in our pension revision, has advised DOT several times to work and come out with a mechanism to delink pension revision from wage revision to facilitate pension revision regardless of wage revision, the DOT continues in its deaf and dumb attitude of negativity and cynicism. They have also failed miserably to respond to the very positive queries from DOP&PW regarding pension revision, clearly demonstrating a complete lack of interest and concern.

Sir, your Hon'ble self will fully appreciate and acknowledge that it is inevitable and mandatory upon the Govt. to fully honour the commitment made to DOT employees at the time of absorption in BSNL that they would be eligible for pension revision, gratuity and other benefits that would be given to Central Govt. employees from time to time and these concrete commitments cannot be denied on frivolous and untenable technical grounds like pension revision will take place only after wage revision that are being cited time and again by DOT for the last more than two years. We seek the earnest intervention of your honourable self to advise the DOT to ensure that the pension revision of absorbed DOT retired employees in BSNL takes place exactly in the same manner in which pension revision of Central Govt.



employees has taken place after 7th CPC, as has been committed to them. Only this would be fully in keeping with the decision and the commitment of the Union Government taken in year 2000 at the time of corporatization of DOT, which alone prompted DOT employees to take absorption in BSNL, but for which, no one would have even thought of taking absorption in BSNL. Your honorable intervention alone can solve the critical issue of thousands and thousands of retired employees of BSNL, who presently feel let down, demoralised and betrayed. This alone would be in keeping with the repeated assertions of the Hon'ble PM to the bureaucracy not to get bogged down in technicalities to deny resolution of issues but instead get down to the task of addressing and resolving the issues through innovative means. We are also confident, Sir, that you will appreciate the sufferings and distress caused to thousands and thousands of senior citizens by denying them their legitimate and fully justified right of pension revision which is being unduly and unjustifiably denied to them for the last more than two years.

With kind regards and respects

Truly Sincerely,

G.L.Jogi

General Secretary

Copy To:

1. Sh.Ansha Prakash, Secy/T, DOT. He is requested to sternly warn the concerned officers in DOT dealing with the issue and responsible for dilly dallying its resolution on frivolous grounds to act immediately to find out an appropriate mechanism to resolve the issue as expeditiously as possible without any further torture of the retired employees by inordinately delaying resolution of issue. Enough is enough now and we are not going to take any more of it.

2. Sh. P.K.Sinha, M (F), DCC, for immediate appropriate action. The resolution of this highly legitimate issue is now delayed inordinately for no justifiable reasons.

3. Sh.R.P.Parwar, CMD/BSNL, for information and n/a.

4. Sh. Arvind Vadnerkar, Dir (HR), for information and n/a please.

5. Sh. S.K. Jain, DDG (E)/DOT. He is requested to apply seriously and genuinely to the resolution of the issue instead of advocating for last more than two years that pension issue cannot be resolved without wage revision. It is not an issue that cannot be resolved as is being propagated for last more than two years.

Central Administrative Tribunal

ANNEXURE 45

ANNEXURE-A-39

GOVERNMENT OF INDIA
MINISTRY OF COMMUNICATIONS
DEPARTMENT OF TELECOMMUNICATIONS

LOK SABHA
UNSTARRED QUESTION NO. 2950
TO BE ANSWERED ON 11TH MARCH, 2020

PENSION REVISION OF BSNL EMPLOYEES

2950. SHRI P.C. MOHAN:

Will the Minister of COMMUNICATIONS be pleased to state:

(a) whether the Pension revision of those employees who were absorbed by the Bharat Sanchar Nigam Limited (BSNL) is pending since the past three years:

(b) if so, the details thereof and the reasons therefor:

(c) whether the Government is considering revision of Pension for the absorbed retirees of BSNL: and

(d) if so, the details thereof and if not, the reasons therefor?

ANSWER

MINISTER OF STATE FOR COMMUNICATIONS,
HUMAN RESOURCE DEVELOPMENT AND
ELECTRONICS & INFORMATION TECHNOLOGY
(SHRI SANJAY DHOTRE)

(a) to (d) No, Sir. Pension revision of absorbed employees of Bharat Sanchar Nigam Limited (BSNL) is linked to the pay revision of the serving employees inasmuch as pension is calculated on the basic pay which the retired employee was earning at the time of retirement. Pension may be revised if the said basic pay is revised on account of pay revision of serving employees.

****

Central Administrative Tribunal

816

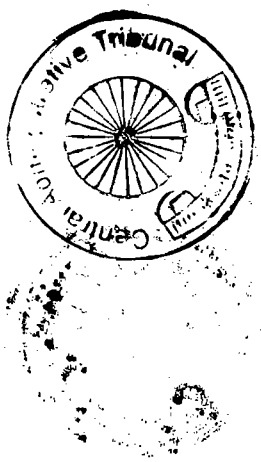
High Court of Kerala

ANNEXURE A-46

Daily Status
High Court of Kerala
In The Court Of :Justice
Case Number :OP (CAT)/0000060/2020
ALL INDIA BSNL PENSIONERS WELFARE ASSOCIATION **Versus** UNION OF INDIA
Date : 13-07-2020

Business	: ADMIT. R1 TAKES NOTICE. NOTICE BY SPEED POST TO OTHER RESPONDENTS,
Next Purpose	: ADMISSION

Justice



Gmail

O.A. No. 1271, 1272 & 1329 of 2020: Convenience Compilation

Gauri Puri <gauri@gpuri.in> 3 February 2023 at 14:58
To: Ravinder Kumar Sharma <raviadvocate.ravinder@gmail.com>, manjeetsinghreen@gmail.com, "nd.kaushik1@gmail.com" <nd.kaushik1@gmail.com>

Dear All,

Please find attached herewith the Convenience Compilation in the captioned matters that are listed for hearing before the Hon'ble Central Administrative Tribunal on 06.02.2023.

Should you have any queries, please do not hesitate to contact me.

Warm Regards,

O.A. 1271, 1272 & 1329_Compilation .pdf

Gauri

Gauri Puri
Advocate

136, Basement,
Sukhdev Vihar,
New Delhi- 110025
Mobile: +91 9899339554
Landline: 011-45094930

Disclaimer: This email is intended for the recipient(s) only and may contain confidential or privileged information. Please be aware that any disclosure, copying and distribution of this email is prohibited and enforceable by law. If you have received this message in error, please inform the sender as soon as possible and delete this copy from your inbox.

Central Administrative Tribunal

818

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

APPLICATION ON BEHALF OF THE PETITIONERS UNDER SECTION 151 CPC FOR AD-INTERM EX-PARTE DIRECTIONS

MOST RESPECTFULLY SHOWETH:-

1. That the petitioner has filed the accompanying Writ petition praying against the 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".*
2. That The learned Tribunal vide order/judgment dated 20.09.2023 allowed the Original Applications and directed the petitioner herein 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 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" within ten week from the date of receipt of certified copy of the order. Thus, the time of compliance is expired on_____

3. That the impugned order is untenable and liable to be set aside in view of facts and law mentioned in the accompanying writ petition.
4. That the petitioners would suffer irreparable loss and injury in case the impugned judgment /order is not stayed by this Hon'ble Court during the pendency of the present petition.
5. That the petitioners has a very good prima facie case and is likely to succeed in Writ petition and the balance of convenience is also in favour of the petitioner.
6. That the present application is made bona fide and in the interest of justice.

PRAYER

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

a) Stay the operation of the 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"*.during the pendency of the present petition.

b) Pass any other appropriate order/direction which this Hon'ble Court deem fit and proper.

Petitioners

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

New Delhi
Date: 21/03/24

Through

(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 petitionerno. 1 to 4.
2. That I have read over and understand the contents of the accompanying application for stay, 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 this affidavit, to avoid repetition. The legal submissions made therein are as per advice received and believed to be correct.
3. That the factual averment made qua the petitioners from para 1 to 6 of application for stay are true and correct to

my knowledge and the legal averment made in para 1 to 6 and Prayer is based on the legal advice which I believe to correct.

822

Ravi

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

DEPONENT

VERIFICATION : 20 MAR 2024

Verified at New Delhi, on this _____ that the contents of paras 1 and 3 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 लेखा/O/o. PR. CCA
प्रसाद नगर, नई दिल्ली–110005
Prasad Nagar, New Delhi-110005

DEPONENT

Seal of Oath Commissioner New Delhi
Sl. No. 73/05
NEELAM SHARMA
Addl. Distt. & Sessions Judge
Patiala House Courts
New Delhi

I identified the deponent who has signed in my presence

CERTIFIED that the DEPONENT Ravi Kumar Chaudhary has solemnly affirmed before me on 20 MAR 2024 that the contents of this affidavit are true & correct to his knowledge & belief.

Oath Commissioner, New Delhi

20 MAR 2024

823

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

APPLICATION BY THE PETITIONERS UNDER SECTION 151 CPC FOR EXEMPTION FROM FILING TRUE TYPED COPIES OF THE DIM ANNEXURES AND ENGLISH TRANSLATION OF THE RECORD OF HON'BLE TRIBUNAL

MOST RESPECTFULLY SHOWETH:-

1. That the petitioner has filed the accompanying Writ petition praying for quashing the 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".*
2. That the petitioners crave liberty of this Hon'ble Court to rely on the contents of the same which are not being repeated herein for the sake of brevity.
3. That the petitioners have the certified copy of the entire record of the said claim application decided by Tribunal. However, there are some annexures which are dim and

margin not proper and due to paucity of time the true typed copies of the same are not being filed at this stage.

4. That the petitioners undertake to file the true typed copies of the dim annexures as and when directed by this Hon'ble Court.

PRAYER

It is therefore most respectfully prayed that this Hon'ble Court may be pleased to:

I. Allow the present application and exempt the petitioners from filing the true typed copies of the dim annexures and margin copies thereof at this stage; and

II. Pass any other appropriate order/direction which this Hon'ble Court deem fit and proper.

Ravi

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

Petitioners

New Delhi
Date: 21/03/24

Through

Himanshu Pathak

(HIMANSHU PATHAK)
Advocate
Counsel for the Petitioners

3. That the factual averment made qua the petitioner from para 1 to 4 of application for exemption are true and correct to my knowledge and the legal averment made in para 1 to 4 and Prayer is based on the legal advice which I believe to correct.

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

VERIFICATION :

Verified at New Delhi, on this 20 MAR 2024 that the contents of paras 1 and 3 of the above affidavit are true and correct to my knowledge. Nothing is false and nothing material has been concealed therefrom.

I identified the deponent who has signed in my presence

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

The Seal of Oath Commissioner

CERTIFIED that the deponent has affirmed before me and has been identified by

20 MAR 2024

Oath Commissioner, New Delhi

20 MAR 2024

826

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 petitioner no.1 to 4.
2. That I have read over and understand the contents of the accompanying application for exemption, 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 this affidavit, to avoid repetition. The legal submissions made therein are as per advice received and believed to be correct.

The Seal of Oath Commissioner Sl. No. 73605 NEELAM SHARMA Regd. Govt. of NCT Delhi New Delhi

828

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

IN THE MATTER OF:

Union of India & Ors. .....Petitioners

Versus

All India Retired Bharat Sanchar Nigam
Executive Welfare Association & Ors. ....Respondents

APPLICATION BY THE PETITIONERS UNDER SECTION 151 CPC FOR EXEMPTION FROM FILING CERTIFIED COPY OF THE IMPUGNED ORDER DATED 20.09.2023

MOST RESPECTFULLY SHOWETH:-

1. That the petitioner has filed the accompanying Writ petition praying for quashing the order/judgment dated 20.09.2024 passed by the Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred as tribunal) in three connected matter Original Application No. 1272/2020, 1271/2020 and 1329/2020 *titled "All India Retired Bharat Sanchar Nigam Limited Executive Welfare Association & Ors Versus Union Of India & Ors".*
2. That the petitioners crave liberty of this Hon'ble Court to rely on the contents of the same which are not being repeated herein for the sake of brevity.
3. That the petitioners have the certified copy of the impugned order which is common for all the three matter. The said certified copy of the impugned order is being filed in the other connected writ petition.

4. That the petitioners undertake to file subsequent certified copy and when directed by this Hon'ble Court.

PRAYER

It is therefore most respectfully prayed that this Hon'ble Court may be pleased to:

a. Allow the present application and exempt the petitioners from filing the certified copy of the impugned order dated 20.09.2023 at this stage; and
b. Pass any other appropriate order/direction which this Hon'ble Court deem fit and proper.

Ravi
Petitioners

New Delhi
Date: 21/03/24

Through

(HIMANSHU PATHAK)
Advocate
Counsel for the Petitioners

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

IN THE MATTER OF:

Union of India & Ors. .....Petitioners

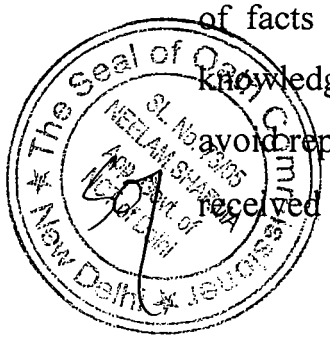
Versus

All India BSNL Pensioners Welfare Association & Ors. ....Respondents

AFFIDAVIT

I, Ravi Kumar Chaudhary, s/o Shri Raj Kumar Chaudhary age about 31 years, working as Assistant Controller of Communication Account, O/o Principal Controller of Communication Account, DOT, Sanchar Lekha Bhawan, New Delhi-11005, 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 petitioner no. 1 to 4.
2. That I have read over and understand the contents of the accompanying application for exemption of impugned order, 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 this affidavit, to avoid repetition. The legal submissions made therein are as per advice received and believed to be correct.



830

3. That the factual averment made qua the petitioners from para 1 to 4 of application for stay are true and correct to my knowledge and the legal averment made in para 1 to 4 and Prayer is based on the legal advice which I believe to correct.

I identified the deponent who has signed in my presence

DEPONENT

VERIFICATION : 20 MAR 2024

Verified at New Delhi, on this ____that the contents of paras 1 and 3 of the above affidavit are true and correct to my knowledge. Nothing is false and nothing material has been concealed therefrom.

DEPONENT

The Seal of Oath Commissioner ★ New Delhi ★ SL No. 7805 NEELAM SHARMA Advocate Govt. of NCT Delhi

CERTIFIED THAT THE DEPONENT
Identified by Sh./Smt./Mr./Ms.
has solemnly affirmed before me
on 20 MAR 2024 at
that the contents of the affidavit which have been read & explained to him/her are true & correct to his/her knowledge.

Oath Commissioner New Delhi

20 MAR 2024

831

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

CERTIFICATE

This is to certify that complete record along with annexures, as filed before the Central Administrative Tribunal, Principal Bench, Delhi in Original Application No. 1272 of 2020 titled "*All India Retired Bharat Sanchar Nigam Limited Executive Welfare Association & Ors. Versus Union of India &Ors.*is being filed with the accompanying writ petition and no other additional documents are being filed with the present petition.

Ravi

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

New Delhi
Date: 21/03/24

834

₹5
NCT OF DELHI COURT FEE
DLCT2012328C2418O
28-MAR-2024

C.C. No. .....
FIR No. .....
U/S .....
P.S. .....

IN THE COURT OF High Court of Delhi at New Delhi
Suit / Appeal No. Writ Petition (Civil) of 2024 **JURISDICTION OF 202**

In re :-
Union of India & Ors. **Plaintiff(s) / Appellant(s) Or Petitioner(s) / Complainant(s)**

VERSUS

All India Bharat Sanchar Nigam Executive Welfare Association & Ors **Defendant(s) /Respondent(s) / Accused**

KNOW ALL to whom these present shall come that I/ We Shri Raj Kumar Chaudhary
Assistant Controller of Communication account

The above named Petitioner **do hereby appoint**

Mr. Himanshu Pathak (Advocate)
D/4179A/2010
Chamber No 29, Patiala House Court
New Delhi 110001, hPathak1951@gmail.com 9643121390

Mr Samman Kumar (Adv)
D/7491/2022
8396478446

(herein after called the advocate/s to be my/our Advocate in the above-noted case authorize him:-

To act, appear and plead in the above-noted case in this court or in any other court in which the same may be tried or heard and also in the appellate court including High court subject to payment of fees separately for each court by me/us.

To sign file, verify and present pleadings, appeals cross-objections or petitions for executions review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in stages subject to payment of fees for each stage.

To file and take back documents, to admit and/or deny the documents or opposite

To withdraw or compromise the said case or submit to arbitration any differenc disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings on paying separate fee.

To deposit, draw and receive money, cheques, case and grant receipts hereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution on the said case.

₹25 ADVOCATES' WELFARE FUND STAMP BAR COUNCIL OF DELHI DELHI 1084419 पच्चीस रुपये TWENTYFIVE RUPEES

To appoint and instruct any other Legal Practitioner authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever he may think fit to do so and to sign the power of attorney on our behalf.

And I/ We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own facts, as if done by me/us to all intents and purpose.

And I/We undertake that I/ We or my/our duly authorised agent would appear in court and all hearings and will inform the Advocate for appearance when the case is called.

And I/We undersigned do hereby agree not to hold the advocate of his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the court shall be of the Advocate which he shall receive and retain for himself.

And I/We undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the advocate remaining unpaid he shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settle is only for the above case and above Court. I/We hereby agree that once the fee is paid, I/We will not be entitled for the refund of the same in any case whatsoever and if the case prolongs for more than 3 years the original fee shall be paid again by me/us

IN WITHNESS WHERE OF I/We do hereunto set my/our hand to these presents the contents of which have been undertstood by me/us on this 21st day of March 2024

Accepted subject to the terms of the fees

Himanshu Pathak
Advocate

Ammanker

Raj
Client

Client

I Identify the Signature/Thumb Impression of the Below Mentioned Person, Who Has been Signed in my presence. The Client.

Ammanker