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**No. AIBSNLEA/CHQ/SECY (T)/2015**

**DATED: 20.04.2015**

To,

**Shri Rakesh Garg,**  
Chairman, Telecom Commission & Secretary,  
Department of Telecommunications,  
20, Ashoka Road, Sanchar Bhavan,  
New Delhi-110001

Subject:

Deliberate attempt by DOT to limit and dilute the Government's liability for payment of Pension / Family Pension to 5.2 Lacs DOT Retirees as on 1/10/2000 (i.e. 1.7 Lacs DOT Pensioners as on 1/10/2000 drawing Pension from consolidated fund of India and 3.5 Lacs DOT employees, absorbed in BSNL and deemed DOT Retirees as on 1/10/2000 F/N), contrary to Rule 37-A of CCS Pension Rules and clear policy pronouncements by two former Secretaries(T), DOT i.e. Shri Nripendra Misra and Shri Siddhartha Behura vide D.O. dated 15/3/2005 and OM dated 05/01/2009.

- Reference: (1) OM No.7-1/2000/TA-I/17 dated 31/7/2002 issued by DOT Cell A/Cs  
(2) DO No.1-45/2003-B dated 15/03/2005 addressed by Secy(T) to CMD, BSNL  
(3) DOT OM No.1-45/2003-B dated 15/6/2006 issued by DDG(FEB)  
(4) DOT OM NO.40-12/2007-PEN(T) dated 05/01/2009 issued by Secretary(T)  
(5) Cabinet Note vide F.No.40-17/2008-PEN(T) dated 29-12-2010  
(6) Our earlier letter no AIBSNLEA/CHQ/Secy(T) dated 1-4-2015

**Respected Sir,**

In continuation to our earlier letter mentioned in reference above, it is brought to your kind notice that after six and a half years of corporatization of DOT and formation of BSNL, DOT Finance issued OM No.1-45/2003-B dated 15/6/2006 to limit and dilute the Government's liability for payment of Pension / Family Pension to 5.2 Lacs DOT Retirees as on 1/10/2000 (i.e. 1.7 Lacs DOT Pensioners as on 1/10/2000 drawing Pension from consolidated fund of India and 3.5 Lacs DOT employees, absorbed in BSNL and deemed DOT Retirees as on 1/10/2000 F/N), contrary to clear policy pronouncements by two former Secretaries(T), DOT i.e. Shri Nripendra Misra vide , No.1-45/2003-B dated 15/03/2005 and Shri Siddhartha Behura vide DOT OM NO.40-12/2007-PEN(T) dated 05/01/2009. The DOT deliberately obtained a covering approval for DOT Finance OM dated 15<sup>th</sup> June 2006 through a misleading Cabinet Note dated 29/12/2010 without any reference to the two important policy pronouncements made by two former Secretaries(T) as mentioned herein. The full facts and details of the case are elaborated below:-

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1. **Status as on 01/10/2000:**

DOT/ DTS had 1.7 Lacs DOT Pensioners/ family Pensioners who had retired from Deptt. of Telecom. prior to 01/10/2000 and who were drawing Pension from consolidated fund of India. DOT had around 3.5 Lacs deemed DOT Retirees w.e.f. 1/10/2000 i.e. Govt. employees on DOT's pay-roll, who were deemed to have retired from DOT w.e.f. 01/10/2000 F/N and who were en-mass deemed deputed to BSNL w.e.f. 01/10/2000, on as is where is basis, after formation of BSNL on that date.

2. **Rule 37A of CCS pension rules:**

Rule 37A of CCS pension rule was notified by Govt. of India under Art 309 of the Constitution of India, which specifically dealt with liability for payment of Pension/ Family Pension to 5.2 Lac DOT Retirees as on 01/10/2000 i.e. 3.5 Lacs deemed DOT Retirees (i.e. DOT Employees, transferred/ absorbed in BSNL w.e.f. 01/10/2000 F/N) and 1.7 Lacs DOT Pensioners/ family Pensioners who had retired from Deptt. of Telecom prior to 01/10/2000 and were drawing Pension from consolidated fund of India. Pension liability of 5.2 lacs DOT Retirees / deemed DOT Retirees was transferred to new dispensation specified by Govt. of India under sub rule (22) to (24) of Rule 37-A of CCS Pension Rules as quoted below:-

*"(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."*

3. **Terms of settlement between DOT and BSNL specified vide OM dated 31/7/2002:**

The Govt. of India DOT, vide OM No.-7-1/2000/TA-1/17 dated 31-07-2002, defined the terms of settlement between BSNL and DOT wherein BSNL was asked to pay Pension Contribution for deemed deputationists and absorbed employees of BSNL as per FR 116 And FR 117 of CCS Pension Rules. **Pension Contribution was to be calculated on the on the Maximum of the Scale of the post held by the employee and it was paid accordingly.**

4. **Full Pension liability For 5.2 lac DOT employees with Govt. of India from 1/10/2000 :-**

Pension liability of 5.2 LACs DOT Retirees(i.e.DOT 1.7 Lacs DOT retirees and 3.5 Lacs deemed DOT Retirees) during the period from 1/10/2000 to 14<sup>th</sup> June 2006 was met by Government of India vide Rule 37-A of CCS Pension Rules. Government decision and policy was communicated by Shri Nripendra Misra, then Secretary DOT vide letter No.1-45/2003-B dated 15/03/2005 addressed to CMD, BSNL, which categorically defines the Pension liability of BSNL and the Government of India as quoted below:-

- i) Pension in respect of DOT retirees will be paid by Govt. of India.
- ii) In respect of employees who were on deemed deputation to BSNL, BSNL will be liable to pay Pension Contribution as per FR 116 for the period they have worked in BSNL and the pension liability will be met by Govt. of India.



- iii) In respect of officials/ officers absorbed in BSNL, BSNL will be liable to pay Pension Contribution as per FR 116. The liability on account of pension payable will be that of Govt. of India.
- iv) BSNL on their part will pay the pension contributions in respect of absorbed employees till the date of their retirement and also in respect of employees who were on deemed deputation till the retirement or till the date they are reverted back to Government of India.

**5. DOT Finance issues OM No.1-45/2003-B dated 15/6/2006 to limit/ dilute the Pension Liability of Govt. of India:-**

In June 2006, DOT Finance appeared to have a malicious afterthought for the reasons best known to them and it decided to over-rule / modify the policy pronouncement made by Secretary (T) vide letter dated 15/03/2005. Consequently DOT OM No.1-45/2003-B dated 15/6/2006 was issued by DDG(FEB) which transferred liability for payment of Pension to 1.7 lac DOT Retirees from Govt. of India towards license fee and TAX Revenue Receipts from BSNL and MTNL. The pension liability of 3.5 lacs deemed DOT retirees absorbed in BSNL was also linked to license fee and TAX Revenue Receipts from BSNL and MTNL. A further condition was imposed that the liability of Govt. of India was limited to 60% of license fee and TAX Revenue Receipts from BSNL and MTNL. Any additional expenses incurred for Pension were to be met by BSNL. No consent for such a proposal/ dispensation was obtained from either BSNL or MTNL before imposing such an arrangement upon them. **This change of policy was never sent for Cabinet Approval prior to issue of DOT Finance OM dated 15/6/2006. (But after a lapse of four and half years a covering Cabinet approval for the same was discreetly obtained through Cabinet Note dated 29/12/2010 moved for IDA Pension Revision.)**

**6. Secretary (T) issues clarification to aforesaid OM dated 15/6/2006 vide DOT OM NO.40-12/2007-PEN(T) dated 05/01/2009:-**

View taken by DOT finance vide OM dated 15/6/2006 was revised/ clarified by then Secretary(T), Shri Siddhartha Behura vide OM NO.40-12/2007-PEN(T) dated 05/01/2009 wherein full Government liability for payment of pension to BSNL Employees is confirmed. It is categorically stated under para 2 of the aforesaid OM that:

- "2. In this context, it is hereby clarified that the above said limit of 60% is for normal funding. This does not in any way distract from the fact that the ultimate liability towards pensionary benefits including family pension to the BSNL Employees (excepting those recruited after 1/10/2000), as per sub-rule 21 of Rule 37-A of CCS (Pension) Rules 1972, lies with the Government of India. If BSNL, for any reason, is not able to contribute to the extent prescribed in para 1 above, the Government of India will still pay the admissible pensionary benefits including Family Pension to BSNL Employees (excepting those recruited after 1/10/2000)."

**7. DOT obtains covering Cabinet Approval to limit the Pension Liability of Govt. of India after a lapse of four years for DOT OM No.1-45/2003-B dated 15/6/2006:-**

Cabinet Note for IDA Pension Revision was moved on 29/12/2010 by DOT vide F.No.40-17/2008-PEN(T) dated 29-12-2010. Contents of DOT OM dated 15/6/2006 were incorporated verbatim under Paras 2.6 (Justification) and Para 3.5 (Proposal) of the Cabinet Note dated 29-12-2010.



It was mandatory on part of DOT to mention in above Cabinet Note dated 29/12-2010 the two important Policy pronouncements on Pension liability of DOT made by two former Secretaries(T), DOT i.e. Shri Nripendra Misra vide DO No.1-45/2003-B dated 15/03/2005 addressed by Secy(T) to CMD, BSNL and again by Shri Siddhartha Behura then Secretary(T) vide DOT OM dated 05/01/2009. **But no mention of these two important DOT orders was made in the Cabinet Note moved vide F.No.40-17/2008-PEN(T) dated 29-12-2010, intended to obtain Cabinet's nod for DOT OM No.1-45/2003-B dated 15/6/2006 issued by DDG(FEB).** It appears that such a step has been taken by DOT deliberately to dilute / limit the Government's commitment and its liability towards payment of Pension / Family Pension to 5.2 Lacs DOT Retirees as on 1/10/2000 i.e. 1.7 Lacs DOT Pensioners as on 1/10/2000 drawing Pension from consolidated fund of India and 3.5 Lacs DOT employees, absorbed in BSNL and deemed DOT Retirees as on 1/10/2000 F/N, contrary to clear policy pronouncements by two former Secretaries(T) as stated in paras above.

8. **Inquiry into issue of DOT Finance OM Dated 15/6/2006 without a Cabinet Approval and subsequent covering approval for its contents vide Cabinet Note dated 29/12/2010:**

You are requested to look into the matter as to how the policy to limit the DOT 's liability for payment of Pension to 5.2 Lacs DOT Retirees/ deemed DOT Retirees as on 1/10/2000 could be issued vide DOT Finance OM dated 15/6/2006 without obtaining a Cabinet Approval for the same, even though contrary Policy Pronouncements was made by former Secretary (Telecom.) were already on record vide aforesaid OM s dated 15/3/2005..

Further inquiry needs to be made as to how Covering Cabinet Approval for DOT Finance OM dated 15/6/2006 was obtained vide Cabinet Note dated 29/12/2010 for IDA Pension Revision without making any mention of contrary Policy Pronouncements on the same issue made by two former Secretaries (Telecom.) vide OM s dated 15/3/2005 and 05/01/2009.

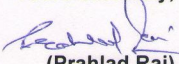
9. **Safeguarding Pension/ Family Pension of 5.2 Lacs DOT Retirees as on 1/10/2000 in terms of Rule 37-A of CCS Pension Rules and Policy Pronouncements made by two former Secretaries(Telecom.) vide OM s dated 15/3/2005 and 05/01/2009:-**

It is once again highlighted that Pension/ Family Pension of 1.7 Lacs DOT Retirees as on 1/10/2000 and 3.5 lacs deemed DOT Retirees, who had served for more than 25 to 30 years in DOT, and were absorbed in BSNL w.e.f. 1/10/2000, needs to be fully protected in terms of Rule 37-A of CCS Pension Rules and Policy Pronouncements made by two former Secretaries (Telecom.) vide OM s dated 15/3/2005 and 05/01/2009.

We would therefore request you to kindly look into the matter and ensure that Pension/ family Pension of DOT Retirees and deemed DOT Retirees is adequately protected in terms of Rule 37-A of CCS Pension Rules and Policy Pronouncements made by two former Secretaries (Telecom.) vide OMs dated 15/3/2005 and 05/01/2009. **Suitable administrative action negating the paras 3.5 and 6.2 of the cabinet note dated 29-12-2010 may be taken immediately and communicated to all concerned, so that the 5.2 lacks pensioners leave their remaining life peacefully without any tension.**

With kind regards,

Yours sincerely,

  
(Prahlad Rai)  
General Secretary

Copy to:

1. Member (Services), Telecom Commission, DoT, Govt. of India, New Delhi
2. Member (Finance), Telecom Commission, DoT, Govt. of India, New Delhi
3. CMD, BSNL, New Delhi