

No.1-45/2003-B
Government of India
Ministry of Communications and Information Technology
DEPARTMENT OF TELECOMMUNICATIONS
Budget Section, Room No.723, Sanchar Bhawan, New Delhi - 110 001.

Dated 15th June 2006.

To

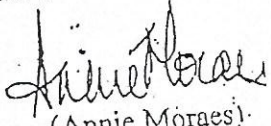
The Chairman and Managing Director,
Bharat Sanchar Nigam Limited,
New Delhi - 110 001.

Sir,

Kindly refer to this office Department's D.O. of even No. dated 15th March 2005 regarding the decision of the Government with reference to pension payment.

In this context, it is further stated that:

- (i) 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/are working in BSNL on deemed deputation and for those who are absorbed in BSNL shall not exceed 60% of the annual receipts to Government from the following items:-
- (a) Dividend income from MTNL/BSNL
 - (b) Licence Fee from MTNL/BSNL
 - (c) Corporate Tax/Excise Duty/Service Tax paid by BSNL
- (ii) Any amount exceeding (i) above shall be borne by BSNL.
- (iii) Pensionary contribution from BSNL would be made to Government as per FR-116.
- (iv) Employees recruited directly by BSNL on or after 01.10.2000 shall not be covered under this decision.


(Annie Moraes)

DDG (FEB)

Ph.No.2337 2085/2303 6176
Fax No.2335 6499

Copy to:

DDG (TPF), DoT, Sanchar Bhawan, New Delhi - along with copy of relevant note sheet wherein Chairman (FC) has approved that the task of monitoring annual statements of corporate tax, excise duty/service tax paid by BSNL as also the receipts by DoT viz LF and Dividend may be managed by TPF Wing. Necessary circular may, therefore, be issued in this regard.

Copy to: DDG(Estt.)/DDG(SU)/DDG(A/cs), DoT

ACG

**Department of Telecommunications
(Budget Branch)**

Letter No. 1-4/2001-B/BSNL dated 02-08-2006 from the CMD, BSNL

Letter No. SNEA (1)/Secy -DOT/7/8-06 dated 8-8-2006 from General Secretary, Sanchar Nigam Executives' Association.

Letter No.MTNKF/JGS/GENL/2006-07 dated 24-07-2006 from Jt. Seretary, Mahanagar Telephone Nigam Karmachari Front

Letter No. AIBSNLEA/CHQ/CORR/MISC/2006 dated 27-7-2006 from General Secretary, BSNL Executives' Association

The above PUCs are with reference to letter dated 15-06-2006 vide which the decision of the Government regarding pension payment has been communicated to BSNL.

In this context it is stated that at the time of corporatisation of the DTS/DTO, telecom employees demanded security of pension and its payment from the Consolidated Fund of India. Government of India notified Rule 37-A under CCS (Pension) Rules, 1972 on 30th Sep.2000. As stipulated therein (sub-rule 21, 22 & 23), in the case of BSNL, the pensionary benefits including family pension shall be paid by the Government. Government shall specify the arrangements and 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. The arrangement thus worked out shall be applicable to the existing pensioners and to the employees who are deemed to have retired from Government service for absorption in BSNL.

A detailed proposal regarding Liability of Bharat Sanchar Nigam Ltd (BSNL) towards payment of pension to retired employees, was submitted to the Cabinet for their considerations vide Cabinet Note dated 29-10-2004. The Cabinet decided that the matter may be examined by the Committee of Secretaries - (CoS) and put up to the Cabinet along with its recommendations. Accordingly a note for CoS was submitted on 25th November 2004 by the Department of Telecommunication wherein it was proposed that:

- (i) The pension liability in respect of employees of DoT/DTS/DTO who retired prior to 01-10-2000 may be solely borne by the Government. BSNL will have no liability in respect of these employees.
- (ii) In respect of employees who have worked/are working in BSNL on deemed deputation, BSNL will be required to discharge its pension liability by way of pension contribution in accordance with FR 116 for the period they so work/worked.
- (iii) For those employees who are absorbed in BSNL, BSNL will discharge its pension liability by paying the pension contribution again in accordance with FR 116.
- (iv) This arrangement will be effective from 01-10-2000. The amount so far paid by BSNL as pension contribution will be set off against the payment due and balance, if any, will be reimbursed to BSNL and recovered from BSNL in 2004-05 along with the payment due as per FR 116 suggested above, from BSNL for the current year.
- (v) Pension payment will be effected by the Government.

The committee of Secretaries (CoS), after detailed deliberations in the meeting held on 14th December 2004 under the Chairmanship of Cabinet Secretary decided to recommend that:

- (i) Annual Pension liability of the Government shall not exceed 60% of the annual receipts to Government from the following items.
 - (a) Dividend income from MTNL/BSNL
 - (b) Licence Fee from MTNL/BSNL
 - (c) Corporate Tax/Excise Duty (Service Tax) paid by BSNL
- (ii) Any amount exceeding (i) above shall be borne by BSNL
- (iii) Existing system of payment of pension would continue.
- (iv) Pensionary Contribution from BSNL would be made to Government as per

The matter was then placed before the Cabinet vide Note dated 14th January 2005. The Cabinet considered the Note in the meeting held on 27th January 2005 and approved the proposals contained in Para 11 thereof which reads as under:

Approval of the Cabinet is solicited on payment of pension by the Government in respect of employees of DoT/DTS/DJO who retired prior to 01-10-2000 and those who have worked/are working in BSNL on deemed deputation and for those who are absorbed in BSNL subject to the following conditions:

- (i) The Annual Pension liability of the Government shall not exceed 60% of the annual receipts to Government from the following items.
 - (a) Dividend income from MTNL/BSNL
 - (b) Licence Fee from MTNL/BSNL
 - (c) Corporate Tax/Excise Duty/Service Tax paid by BSNL
- (ii) Any amount exceeding (i) above shall be borne by BSNL
- (iii) Existing system of payment of pension would continue.
- (iv) Pensionary Contribution from BSNL would be made to Government as per FR.116.
- (v) Employees recruited directly by BSNL on or after 01-10-2000 shall not be covered under this decision.

The Chairman (TC) held a meeting with the representatives of BSNL and MTNL on 21st February 2005 to address the details of the Pension Scheme approved by the Cabinet for the purpose of implementation. The decision of the Cabinet was then communicated to CMD, BSNL by Chairman (TC) vide D.O. Letter No.1-45/2003-B dated 15th March 2005. However, the ceiling prescribed by the Cabinet was not indicated in the said D.O. letter. As a result BSNL was not aware about caveat of the Cabinet and the potential liability which has to be provided for. Hence, it was decided with the approval of Chairman (TC) to intimate the full text of the Cabinet's approval and the letter in this regard was issued on 15-06-2006.

BSNL as well as Staff Association of BSNL and MTNL have sharply reacted to the letter dated 15-06-2006. The views expressed by them are as under:

(i) BSNL: - BSNL has stated that the letter dated 15-06-2006 has raised new issues which tantamount to additional burden on BSNL that may hamper its viability. This may result in making BSNL sick as well as jeopardizing the pension payments of 3.5 lakh employees who have already rendered pensionable service in Government before joining and getting absorbed in BSNL. It seems that the order dated 15th March 2005 issued by the then Secretary (T) has been nullified and opens many issues including absorption issues of employees of BSNL.

(ii) BSNL Sanchar Nigam Executives' Association: It has been stated that orders of DOT dated 15th June 2006 are nothing but gross violation of the decisions of the Govt. and total breach of trust and commitment, not only on the part of the Govt., but D.O.T. equally. Nothing can be more illegitimate and arbitrary than the act of undermining statutory orders of the Govt., already notified in the gazette, through an administrative order of the Govt. It is not only incomprehensible and irrational but sheer highhandedness and complete arbitrariness of the Government to dilute the statutory provisions regarding pension contained in Rule 37 A and the safeguards specifically incorporated for BSNL in sub rule (21).

(iii) MTNL Karmachari Front: Though annual receipts to Govt., by way of Dividend and Licence Fee from MTNL have been taken into account, employees of DoT who retired prior to 01-11-1998 and those who have worked/are working in MTNL are not covered under the said decision. As per National JCM decision dated 5th July 1989, the Government Employees transferred to autonomous organization/PSU on conversion of Government Department/office into an autonomous body/PSU and 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 Govt. rules in force at that time. In view of the above DoT employees retired on or before 01-11-1998 and working in MTNL with effect from 01-11-1998, having given option for pension on combined service be included so that spirit of the JCM decision can be honored. MTNL Management may be directed to work out pensionary contributions to be paid to Govt. as per

(iv) BSNL Executives' Association: The orders dated 15-06-2006 is having overriding effect on Rule 37-A issued by Govt. of India. Moreover when even the private borrowers are required to pay only pension contribution for the duration they hire any government employee, demanding any amount in excess of pension contribution payable in accordance with the provisions of FR 116 is against all the ethics and thus unreasonable/illegal. This amounts to coercive action on the part of Govt. against the interest of the PSU and its employees. The orders dated 15-06-2006 creates apprehension about payment of pension to retired employees in case of BSNL suffering loss and thus enable to bear the additional amount as demanded by DoT. It is beyond imagination that even the payment of pension of DoT employees retired before formation of MTNL/BSNL has been linked with the viability of PSUs for no fault on their part. The orders may be withdrawn immediately to remove insecurity from the minds of BSNL employees.

Issues:-

1. The main issue raised by BSNL and Staff Associations is payment of pension to the employees who retired prior to the formation of BSNL i.e. 1-10-2000. Though Rule 37-A of CCS (Pension) Rules 1972 stipulates that it will be applicable to the existing pensioners, the Department was always of the view that the liability on this score should be borne by the Government. Accordingly the Cabinet Note dated 29-10-2004 was prepared. The Department of Pension & Pensioners' Welfare agreed to the proposals given in the note with certain observations. However, the proposal did not find favor from the Department of Expenditure in view of the fact that before corporatisation, the pensionary liability was met from the revenue streams of DTS/DTO which are now with the BSNL.(details at para 7 of the Cabinet Note). Department of Public Enterprises was of the view that pension liability should be borne by the Government if this was not taken into account while calculating net worth of BSNL of Rs.63, 000 crore at the time of corporatisation. The pension liability is stated to have not been taken into account while working out the net worth of BSNL.
2. The annual pension liability of the Government shall not exceed 60% of the annual receipts to Government from the following items :
 - (a) Dividend income from MTNL/BSNL
 - (b) Licence Fee from MTNL/BSNL
 - (c) Corporate Tax/Excise Duty/Service Tax paid by BSNL

The year-wise receipts and the pension outgo for the past 5 years are as follows:

	(Rs. in Crores)				
	2001-02	2002-03	2003-04	2004-05	2005-06
Dividend from BSNL	0.00	250.00	0.00	*481.25	*1350.00
Dividend from MTNL	159.47	159.47	159.47	**230.34	**194.90
Licence Fee from BSNL	2300.00	3244.86	3094.00	4111.41	3221.34
Licence Fee from MTNL	7789.17	483.36	655.00	535.13	452.22
Corporate Tax – BSNL	540.00	204.32	691.58	1339.44	1141.87
Excise duty paid – BSNL	35.00	31.00	35.00	77.07	85.00
Service Tax paid – BSNL				3078.73	3000.00
Total	3823.64	4373.01	4635.05	9853.37	9445.33
Pension Outgo	710.06	770.50	1026.50	1172.59	1299.75

* includes Interim Dividend of Rs.200 cr. In 2004-05 and Rs.375 crore in 2005-06

** includes Interim Dividend of Rs.70.87 cr. In 2004-05 & Rs.106.31 cr. In 2005-06

Note: In respect of Corporate Tax, Excise duty paid and Service Tax paid by BSNL,

From the above it is evident that the pension outgo when compared with the corresponding receipts for the past 5 years is less. However, the pension liability is bound to increase every year and there may be a likelihood of revision in the rates of the Licence Fee and Spectrum Charge

In view of the issues enumerated above following is proposed:

I. In the Note for CoS the department reiterated the same views i.e. the pension liability of the employees who retired prior to 01-10-2000 should be solely borne by the Government. However, this was not agreed to by the Committee of Secretaries. Now for any relaxation in existing orders, it will also require amendments of Rule 37-A with the Cabinet's Approval. If approved, we may revive the case in consultation with Establishment.

II. Regarding the funding of the pensionary liability it is proposed that we may moot a case for keeping 60% of the receipts in a rolling fund since the date of inception of BSNL. This fund which can be exclusively used for discharging the pension liability of BSNL

Submitted for consideration & approval please.

Kotwal
(Ms. Vinod Kotwal)
Director (B&P)
04.09.2006

2862-UM/06
6.9.06

1054-A/F-06
05/09/06

DDG (FEB)

Adv.(F)/Member(F)

Special Secretary (on leave)

Secretary (I)

Scha
06/09/06

1054-A/F-06
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DDG (FEB)
5-9-06

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6/9/06

Report of the Committee constituted by Secretary(T) to deliberate and expedite action on the issues raised by BSNL Employees Union.

A Committee was constituted by Secretary (T) vide O .M. No. 30-04/2007-SR dated 30-08-2007 to deliberate and expedite action on the issues raised by BSNL Employees Union in its representation dated 19-07-2007, comprising the following:

1. DDG (SR), DoT
2. DDG (SR), BSNL
3. DDG (SU), DoT
4. DDG (Estt.), DoT
5. DDG (TPF), DoT
6. General Secretary, BSNLEA or his representative.

The Committee met on 7-9-2007, 14-09-2007 and 21-09-2007 and the report of the Committee on each issue is as under:

Item No.1

Pension to BSNL Employees

Comments of BSNL

Prior to formation of BSNL, Pension Rules were amended and rule 37-A was inserted so as to make BSNL absorbed employees eligible for pension from the Government fund. Subsequently, the position was ratified by the Secretary, Telecom vide his do letter dated 15.3.2005 that in respect of employees who have taken absorption in BSNL, BSNL is liable to pay the pension contribution in accordance with FR 116 and the liability on account of pension payable will be that of the Government.

For the reasons unknown to BSNL, DoT issued another letter on 15th June 2006 reversing its earlier decision and linked the payment of pension with the receipts of revenues from BSNL/MTNL. To counter the move of DoT, BSNL has already taken up the issue with DoT and in a meeting held on 10th January 2007, Secretary (T) decided that the Department might examine the matter again placing before the Cabinet. Further, developments in this case are not known to BSNL.

Comments of DoT

The issue was discussed in a meeting held on 10.1.2007 and again on 2.8.2007. Finance Wing has intimated vide letter dated 7.6.2007, 13.6.2007 and 10.8.2007 that the case has been submitted to Secretary (T).

Status of the case.

DDG (TPF) informed the Committee that the case has been resubmitted for consideration on 14-09-2007.

Item No.2

G.A.M. Yambor

AKG
SS

Settlement of disciplinary cases

Comments of BSNL

CVO, BSNL has requested DDG (Estt), DoT vide letter dated 23.05.2007 for finalization of pending disciplinary cases

Status of the Case

DDG (Estt.) has informed the Committee that out of total 129 cases, 18 cases have since been settled and 63 cases are under process. There are 58 pending cases. Fresh cases are also being received. Since the disciplinary cases are quasi-judicial in nature, for each case, certain amount of time has to be allowed for serving of inquiry report etc before it is finally settled. He, however, assured that all the cases pending as on 21.9.2007 would be settled within a period of three months. It is also understood that a large number of cases are yet to be received from Circles and submission of these cases are to be expedited by BSNL.

Item No.3

Increase of minimum bonus to Rs.10,000/-

Comments of BSNL

The matter was referred to Director (SU-II), DoT vide letter No.1-9/06-PAT (BSNL) dated 3.4.2007. The decision is awaited.

Comments of DoT

DDG (SU) has intimated that no such proposal has been received from BSNL and BSNL has been asked on 20.8.07 to indicate the reference etc. of the proposal. A copy of reference made by BSNL was obtained and has been provided to DDG (SU) on 31-08-07.

Status of the Case

DDG (SU) informed the Committee that the issue relating to Productivity linked Incentive(PLI) is to be handled by respective PSUs by following the broad guidelines issued by the Department of Public Enterprises . This was communicated to BSNL vide letter No. 11-18/2003-SU.II (Pt.) dated 19-09-2006. DDG (SU) intimated that the same has been reiterated on 10-09-2007 and copy made available to DDG (SR), BSNL and General Secretary, BSNL Employees Union.

Item No.4

Grant of lineman pay scale to the officials qualified in 2nd screening test

Comments of BSNL

BSNL has intimated that DoT has clarified that the issue had already been considered and reiterated that lineman pay scale was never granted to the qualified and trained officials of second screening test, but they were placed in the pay scale of Rs.2750-4400/-. The

PLC

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has already been appraised of the same in the meeting of Standing Committee of
National Council held of 26-27th June, 2007

Comments of DoT

No action required.

Status of the Case

DDG (Estt.) informed the Committee that a reply to BSNL has already been given but the case is being re-examined.

Item No.5

Removal of 16-26 years restriction for OTBP/BCR to SC/ST officials

Comments of BSNL

The case has already been taken up with DoT vide letter No.250-57/2002-Pers.II dated 15.4.2005 followed by reminders dated 12.1.2006 and 15.6.2007.

Comments of DoT

DDG (Estt.) has intimated that no such proposal has been received from BSNL. BSNL was asked to clarify the position. A copy of the reference made by BSNL was obtained and the same has been provided to DDG (Estt.) on 31-08-07.

Status of the Case

DDG (Estt.) informed the Committee that the case the case was re-examined and it is observed that concession to SC/ST Officials was withdrawn on the advice of Department of Personnel and Training. Therefore, it is not possible to accede to the demand of the Union.

Item No.6

'Protsahan Bhatta' to employees working in naxalite areas

Comments of BSNL

The matter was referred to PAT branch of DoT vide letter No.15-16/03-PAT(BSNL) dated 29.5.2006. for taking up with DoPT. The decision is awaited.

Comments of DoT

The matter is under examination

AKG



B. An. Yambur

Status of the Case

DDG (Estt) informed the Committee that the demand of the Union is based on the policy of Maharashtra Government and there is no such policy or instruction from DoPT in this regard. However, BSNL may take a decision as it may deem fit. A reference to this effect has been sent to BSNL Vide IRNo. 654/PAT/2007 dated 3-9-2007 and copy made available to DDG (SR), BSNL and General Secretary, BSNL Employees Union.

Item No.7

Date of effect of upgraded pay scale on completion of 26 years

Comments of BSNL


BSNL has intimated that keeping in view the clarification given by DoT, the draft instructions for filed units are being framed which will again be sent to DoT, after vetting of the same by the Establishment Finance of BSNL for concurrence before issue as the implementation of DoT decision will call for revision of pension in certain cases and review of the cases which are settled during DoT period.

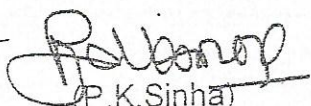
Status/Comments of DoT

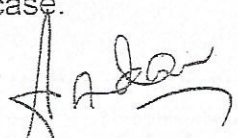
No action required by DoT

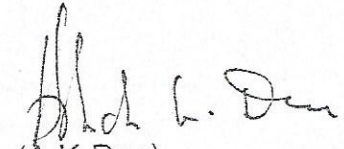
Status of the Case

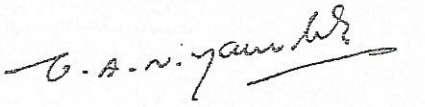
DDG (SR) BSNL intimated that the case is under process in BSNL and the same will be submitted to DoT after it has been cleared by BSNL Finance . Since financial implication is to be worked out for which details are to be collected from SSAs, it is a time consuming process and as such it was difficult to commit a definite target date. However, all possible efforts will be made by BSNL to expedite the case.

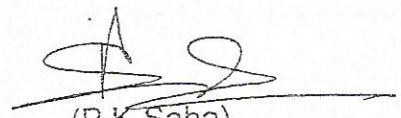

(Shakeel Ahmad)
DDG(SR),BSNL


(P.K.Sinha)
DDG(TPF)


(N.K.Yadav)
DDG(SU)


(A.K.Das)
DDG(Estt.)


(V.A.N.Namboodiri)
General Secretary, BSNLEU


(P.K.Saha)
DDG(SR)