

No.47-35/2014-Pen (T)  
Government of India  
Department of Telecommunications  
(Pension T Section)

.....  
New Delhi, dated the <sup>18 September</sup>~~June~~, 2015.

Shri Amit Kumar Gupta,  
1/4 Rajendra Banerjee Road,  
Behala,  
Kolkata-700 034.

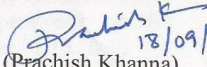
Subject: Information under RTI Act, 2005.

Kindly refer to your application dated 29.08.2015, received in this office on 01.09.2015, seeking information under RTI Act, 2005.

2. In this regard, as desired the copies of the requisite documents are supplied as enclosed herewith (Total=5 pages).

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.

  
(Prachish Khanna)  
Director (Estt) & CPIO  
Tel: 2303 6500

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No. 40-12/2007-Pen. (T)  
Ministry of Communications & IT  
Department of Telecommunications

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

Dated: January 5, 2009

**Subject : Pension liability of Bharat Sanchar Nigam Ltd. (BSNL) towards pensionary benefits including Family Pension to its employees – Regarding.**

Reference this Department's letter No. 1-45/2003-B dated 15<sup>th</sup> June, 2006 on the above noted subject conveying the following position:-

(i) Annual pension liability of the Government in respect of employees who retired prior to 01.10.2000 and those who have worked/ are working in BSNL on deemed deputation and those who are absorbed in BSNL shall not exceed 60% of the receipt to the Government on the following items:-

- (a) Dividend Income from MTNL/BSNL
- (b) Licene fee from MTNL/BSNL
- (c) Corporate Tax/Excise Duty/Service Tax paid by BSNL

- (ii) Any amount exceeding (i) 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 Section.

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 01.10.2000), 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 01.10.2000).

*Siddhartha Behura*  
(Siddhartha Behura)  
Secretary

To  
The Chairman & Managing Director, Bharat Sanchar Nigam Limited, New Delhi-110001

Copy to: DDG(TPF)/DDG (Establishment)/DDG (SU)/DDG (Accounts), DoT

*1/31/09*  
*D.V. (TPF)*

*47*  
*07.01.09*  
*US (STP)*  
*07/11/09*

*28-D(E)*  
*7/1*

*(2)*

Subject: **Pension liability of Bharat Sanchar Nigam Limited (BSNL) towards the payment of pensionary benefits including Family Pension to the retired employees.**

BSNL, a Central Public Sector Enterprise(CPSE), was created on 01.10.2000 by conversion of Department of Telecom Operations(DTO) and Department of Telecom Service (DTS). All the Government employees were transferred to BSNL on 'as is where is' basis on deemed deputation to BSNL. At that time, the employees so transferred were assured that the pension to them shall be paid by the Government.

2. To redeem the above promise, the Government incorporated Rule 37-A (on 30.09.2000) in the existing CCS(Pension) Rules, 1972. Sub-rules 21 to 23 of the Rule ibid lay down that the pensionary benefits including the Family Pension 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 by BSNL and the manner in which the financial liability shall be met. It was also provided that the arrangement thus worked out shall also be applicable to the existing pensioners and to the employees who were deemed to have retired from government service after absorption in BSNL.

3. To implement the provisions referred in para 2 above, the Department of Telecommunications worked out a detailed proposal and submitted vide Note dated 29.10.2004 to the Cabinet for its consideration. The Cabinet, as advised by the Committee of Secretaries, approved the following in its meeting dated 27.11.2005:-

(i) Annual pension liability of the Government in respect of employees who retired prior to 01.10.2000 and those who have worked/are working in BSNL on deemed deputation and those who are absorbed in BSNL shall not exceed 60% of the receipts to the Government on the following items:-

- (a) Dividend Income from MTNL/BSNL
- (b) License fee from MTNL/BSNL
- (c) Corporate Tax/Excise Duty/Service Tax paid by BSNL

(ii) Any amount exceeding (i) 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 Section

4. To discuss certain issues related to absorption of Group A officers in BSNL/MTNL, Smt. Sushama Nath, Secretary, Department

27.1.2005

MKS

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ALA [Signature] [Signature] [Signature] [Signature]

3/1/12

of Expenditure, assisted by Smt. Madhulika P. Sukul, Joint Secretary (Pers) and Shri Manoj Sahay, Director, at the instance of Department of Telecommunications, held a meeting in her chamber at 11.00 AM today. Smt. Razni Razdan, Secretary, Shri Geeta Ram, Joint Secretary from Department of Pension & Pensioners' Welfare and Shri S. Behura, Secretary, Shri R. Ashok, Member (Finance), Shri Subodh Kumar, Additional Secretary and the undersigned from Department of Telecommunications, participated. S/Shri S.S. Sirohi and Satish Sharma respectively the President and Secretary of Indian Telecom Service Association (ITSA) had also been invited to the meeting.

5. At the outset of the meeting, Shri S.S. Sirohi was given a patient hearing. According to him, one major reason for poor response of Group A officers to the absorption process in the past as well as to the one initiated now vide letter dated 26.08.2008 was that the Government's annual pension liability in respect of BSNL employees excepting those recruited by BSNL after 01.10.2000, is limited to the extent of 60% of the receipts to the Government on account of the dividend income & license fee from MTNL/BSNL together with corporate tax/excise duty/service tax paid by the BSNL. The potential absorbees have an apprehension in their minds that their pension may either be delayed or be endangered if the receipts from BSNL are not sufficient enough to meet the pension liability.

6. Apprehensions as expressed in the foregoing para were evaluated vis-à-vis the express provisions of sub-rule 21 of Rule 37-A of CCS(Pension) Rules, 1972. It was unanimously agreed that the rule ibid leaves no doubt whatsoever by clearly stipulating that the payment of pensionary benefits including Family Pension in case of BSNL employees (excepting those recruited by BSNL directly after 01.10.2000) was the liability of the Government of India. Provisions of sub-rules 22 and 23 of Rule 37-A of CCS(Pension) Rules, 1972 talk about specifying the arrangements and manner including the rate of pensionary contributions to be made by the BSNL to the Government but in no way lessens the liability of the Government of India towards payment of pensionary benefits. In this connection it was also noted that Rule 37-A of CCS(Pension) Rules, 1972, which was created through the process of subordinate legislation and being statutory in its nature and effect, overrides the decision taken by the Cabinet on the subject in its meeting dated 27.11.2005.

7. In view of the above, there was an unanimity that the Department of Telecommunications may issue a clarification to the effect that sub-rule 21 of Rule 37-A of CCS (Pension) Rules, 1972 will prevail even in the unforeseen event of reduced receipts on account of dividend income & license fee from MTNL/BSNL and Corporate Tax/Excise Duty/Service Tax paid by BSNL. Meaning thereby that payment of pensionary benefits including Family Pension to BSNL employees (excepting those recruited by BSNL directly after 01.10.2000), will be made by the Government. It was also felt rather strongly that there was hardly any need of any Cabinet decision before the clarification is issued and the Department of Telecommunications will be well

AKG

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advised to drop its ongoing proposal for changing the Cabinet decision dated 27.11.2005.

8. May kindly see and approve before action is taken as per para 7 above. In anticipation of the approval, a draft note giving the clarification is put up for consideration and approval before issue.

*Anchal*  
(L.N. Anchal)  
DS(PSA)  
16.12.2008

JS(T) On Tour

~~AS(T)~~

~~Member (Finance)~~

Secretary(T)

DFA for favour of approval & issue.

② On issue of this clarification, there is no

need to ~~pass~~ <sup>the proposed</sup> Cabinet note <sup>(b23/W to 31 (N))</sup> further.

*W. Subodh*

- The clarification is in line 16/12/08

with the discussion which took place with Secy | X & Secy | Pension and Section 21 of rule 37A, CCS (Rev) Rules.

- While issuing it, we need to simultaneously have a proposal to the cabinet for annulling its decision since that decision cannot be kept unattended.

*M*  
24/12/08

May kindly advise.

~~Secy~~

Pl. discuss alongwith comments of Deptt. of Legal Affairs as reflected at p-30/W.

*S. Bhatnagar*  
24/12

JS(T)

DS(PSA)

*M. Kumar*  
31/12/08

*Anchal*  
31/12

⑤

*1106/ABP/08 P*  
16/12

*2001-1(PD)08*  
16/12/08

*5136/35 G*  
31/12

*2757/17/08 P*  
24/12/08

*1001/LC/08*  
26.12.08

*685/LA/08*  
26.12.08  
R.K. Jaiswal

*ALA*  
21/12  
29.11.08

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Secretary (T) at pre-Note page has sought advise regarding issue of DFA concerning pension liability of BSNL towards pensionary benefits including Family Pension of BSNL employees.

2. Rule 37 A of the CCS (Pension) Rules, 1972 deals with condition for payment of pension on absorption consequent upon conversion of Government Department into a Central Autonomous Body or a PSU. So far BSNL is concerned, sub-rule (21) of Rule 37A of the Pension Rules prescribes that pensionary benefits including family pension shall be paid by the Government. Sub-rule(21) appears to create a statutory liability of the Government to pay pensionary benefits including family pension to the employees of the BSNL, who were also Government employees before their absorption in BSNL. In other words right to receive pension as well as family pension have accrued and vested in the employees under the said sub-rule i.e., sub-rule (21) of rule 37A.

3. Of course, sub-rule (22) of rule 37A the Government may specify the arrangements and the manner including the rate of pensionary contribution to be made by BSNL to the Government and the manner in which financial liabilities on this account shall be met. So far the manner for specified arrangements between the parties stated in this sub-rule is an issue between the Government and BSNL only. The said manner, whatever it may be, may not deprive or take away the vested or accrued rights in the employees of BSNL vis-à-vis Government.

4. AS(T) on pre-Note page has also observed that for issue of DFA there is no need to further pursue the proposed Cabinet Note. The DFA appears to be a proposal of DoT to communicate to BSNL regarding the manner and the rate of pensionary contributions to be made by BSNL under the provisions of sub-rule (22) and (23) of rule 37A of CCS (Pension) Rules, 1972. It may be assumed that rule 37A of Pension Rules has been brought ~~on~~ on statue book after obtaining approval of the Cabinet and the purpose of DFA appears to reiterate or remind BSNL regarding the pensionary contribution it is required to make available to the Government under the existing rules. Therefore, there may not be any need to seek approval of Cabinet in this regard.

Submitted please.

*(Signature)*  
(Santokh Singh)  
LA, DoT  
05.01.09

138/354  
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20/01/09  
21/1/09  
13/1/09  
21/1/09

Secretary (T)

AS(T)

JS(T)

DS(P&A)

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