

Cabinet Approval - 14-1-2005

SECRET

COPY NO. 6

No.4/CM/2005

CABINET SECRETARIAT

EXTRACTS FROM THE MINUTES OF THE MEETING
OF THE CABINET HELD AT 1300 HOURS, ON
THURSDAY, 27TH JANUARY, 2005, IN PANCHVATI, 7,
RACE COURSE ROAD, NEW DELHI.

Case No.35/4/2005

Item 14

Liability of Bharat Sanchar Nigam Limited
(BSNL) towards Payment of Pension to
retired employees.

The Cabinet considered the note dated 14.01.2005 from the Ministry of Communications and Information Technology (Sanchar aur Soochana Praudyogiki Mantralaya), Department of Telecommunications (Doorsanchar Vibhag) and approved the proposals contained in paragraph 11 thereof.

SECRET

RKS

6 Copies.

In accordance with the Rules of Procedure in Regard to Proceedings of the Cabinet (Rule 10), progress of action to implement the decision may be included in the Ministry's Monthly Summary for the information of the Members of the council of Ministers.

Action taken to implement the decision may be communicated to the Cabinet Secretariat with reference to the Implementation Schedule attached to the agenda note.

AKG

Secret

Copy No. 61

No: 16-4/2002-B
Government of India
Ministry of Communications and Information Technology
Department of Telecommunications
Sanchar Bhavan, 20, Ashoka Road, New Delhi-110001

Dated 14th January, 2005

NOTE FOR CABINET

Subject: Liability of Bharat Sanchar Nigam Limited (BSNL) towards Payment of Pension to retired employees.

1. The issue for consideration is the extent of Bharat Sanchar Nigam Limited's (BSNL) liability for payment of pension to retired employees of the Department of Telecommunications (DoT) / Department of Telecom Services (DTS)/ Department of Telecom Operations (DTO), as well as of the employees who retire after their absorption in BSNL. A detailed proposal was submitted to the Cabinet for its consideration vide Cabinet Note dated 29th October 2004 (enclosed as **Annexure-A**). The proposals were discussed by the Cabinet on 24th November 2004 and it was decided that the matter may be examined by the Committee of Secretaries (CoS) and put up to the Cabinet along with its recommendations. A copy of the minutes of the Cabinet meeting dated 24th November 2004 is enclosed as **Annexure-B**. A brief background of the case is given in para 2 to 6 below.

Secret

+

2

AKG

Secret

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

Background

BSNL was set up by corporatising the Department of Telecom Services [DTS] and the Department of Telecom Operations [DTO], and commenced its operations with effect from 1.10.2000. The various issues relevant for the formation of BSNL were the subject matter of two Cabinet Notes submitted in August and September 2000 respectively. While the legal status of the Corporate entity was dealt with in the Cabinet Note dated 17th August 2000, the issues relating to personnel and financial matters were dealt with in the Cabinet Note dated 25th September 2000. A copy of the latter Note is enclosed at *Annexure-I* of the Cabinet Note dated 29th October, 2004 (*Annexure -A*). The proposals relating to pension and retirement benefits figured in para 4.4 and *Annexure-I* of the said Cabinet Note. In its meeting held on 27th September 2000, the Cabinet approved the proposals contained in the Cabinet Note, as per the decision placed at *Annexure-II* of the Cabinet Note dated 29th October, 2004 (*Annexure -A*).

3. As a consequence of the decision of the Cabinet, Government notified Rule 37A to the Central Civil Services [Pension] Rules 1972 on 30th September 2000, *Annexure-III* of the Cabinet Note dated 29th October, 2004 (*Annexure -A*), dealing with the manner of pension payment for employees where a Government Department is converted into a PSU. As per this Rule, the Government is to set up a Pension Fund and make a one-time pension liability towards the employees for the period for which they have

Secret

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

worked in the Government. However, an exception has been made in respect of BSNL, provisions for which are indicated in Sub-Rules (21) to (23) of Rule 37-A.

4. Sub-rule (21) of Rule 37-A stipulates that "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 Ltd, in which case the pensionary benefits including family pension shall be paid by the Government." Sub-rule (22) of Rule 37-A states that "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 contribution to be made by BSNL to the Government and the manner in which financial liabilities on this account shall be met". Sub-Rule (23) of Rule 37 A states that "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".

5. The following emerge from a reading of Sub-Rules (21) to (23) of Rule 37-A:

- a) That the payment of pension is to be made by the Government to the existing pensioners i.e., those who have retired before 1.10.2000.

Secret

2010
511
File No. 16-4/2002-B
Department of Telecommunications

b) That likewise, Government will make the pension payment to the employees who were in Government service as on 1.10.2000 and who retire in BSNL's service after 1.10.2000.

c) That the arrangements and the manner of pensionary contribution to be made by the BSNL to the Government and the manner in which financial liabilities shall be met, will be specified by the Government.

6. In accordance with sub rule 22 of Rule 37-A, the arrangements regarding pension liability had been under discussion with the Ministry of Finance. There was however a basic divergence of opinion between the two Ministries. The matter having been considered repeatedly at the ministerial level, and the two Ministries not being able to arrive at a mutually agreeable position, a Cabinet Note on the subject dated 29th October 2004 was prepared. This Cabinet Note also contains observations of various ministries and response of this Department thereto.

7. Cabinet in its meeting held on 24th November, 2004 discussed the issue of "Liability of Bharat Sanchar Nigam Limited (BSNL) towards payment of pension of retired employees" and decided that the matter may be examined by the CoS and put up to the Cabinet along with its recommendations.

8. Accordingly a Note for CoS was submitted on 25th November, 2004, a copy of the

5

Secret

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

1 same is enclosed at **Annexure-C**. In the Note for CoS, following was proposed:-

- (i) The pension liability in respect of the employees of DoT/DTS/DTO who retired prior to 1.10.2000 may be solely borne by the Government. BSNL will have no liability in respect of these employees.
- (ii) In respect of the 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 the 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 1.10.2000. 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 or recovered from BSNL in the year 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.

9. The matter was discussed by CoS in its meeting held on 14th December, 2004. The Minutes of the Meeting are enclosed at **Annexure-D**. After deliberations, the CoS made following recommendations: -

Secret

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

(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.

10. As a detailed Cabinet Note on the subject has already been circulated earlier on 29th October 2004, wherein comments of all the concerned Ministries were obtained and responded to and are placed at Annexure-V of **Annexure-A** and as the matter in pursuance of the decision of Cabinet has now been considered by the CoS comprising of the Secretaries of the concerned Ministries, circulation of this Cabinet Note to various Ministries is not considered necessary.

11. Accordingly, approval of the Cabinet is solicited on payment of pension by 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 subject to following conditions:

7

Secret

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

51A

(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.

12. The implementation schedule is enclosed at Appendix.

13. This Note has the approval of Hon'ble Minister of Communications and IT.



(Y.S. Bhave)

Additional Secretary to Government of India
Tel: 23717300 / 23036785

AKG

8

No. 16-4/2002-B

Department of Telecommunications
SECRET

No. 16-4/2002-B

Department of Telecommunications
SECRET

8. After detailed deliberations, COS decided to recommend that:
- (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.

AICB