

Government of India
Ministry of Communications & IT
Department of Telecommunications
(Budget Section)

No 16-16/ 2014-B /234

Dated 9-09-2015.

To

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

Sub: RTI application dated 29.08.2015 & 31.08.2015 of Shri Amit Kumar Gupta seeking information under RTI Act, 2005.

Sir,

With reference to your RTI application dt 29.08.2015 & 31.08.2015, the required information is as under:

Para 1. Supplied.

Para 2. Supplied.

Para 3. Supplied.

Para 4. Supplied.

Para 5 Supplied.

Para 6 Supplied

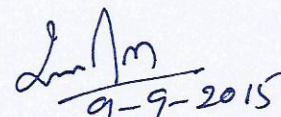
Para 7&8 Supplied

Para 1 to 3 Supplied

The appeal if any, against the information furnished herein may be preferred before the Appellate Authority, DoT noted below within 30 days from the receipt of this letter as per RTI Act.

DDG (B&PF) & Appellate Authority
Room No: 704, Sanchar Bhawan
New Delhi-110001

Encl: As above


9-9-2015
(S.L.Meena)

Director(B&P) & CPIO

Tel. 23036016

Copy to:

Dy Secretary (Coord.) & Nodal Officer (RTI) for information and enclosed herewith IPOs of Rs.220, for N.A.(Rs.50x4 & Rs.10/-x2)

DRAFT CABINET MEMO

24-10-2004

Copy No. 59

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 29th October, 2004

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.

Background.

2. 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. 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.

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) 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 payment of pension liability towards the employees for the period for which they have 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.
 - 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 is 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 having been able to arrive at a mutually agreeable position, the matter is being placed before the Cabinet for a decision.

7. The Ministry of Finance is of the view that the entire pension liability including that of the existing pensioners as well as that of the future pensioners must be borne by BSNL in full. They are of the view that while Government would pay the pension, the entire amount must be remitted by BSNL to Government every year. Their contention is that before corporatisation, revenues earned from commercial activities were accruing to DoT and did not form part of the general revenues of Government of India. Pension liability of the DoT employees were met out of such revenues and were not charged to the Consolidated Fund of India. The underlying principle, they feel, is that since the DoT was functioning as a commercial entity, expenditure on salaries, allowances, pension and other entitlements of the employees of the department were treated as a part of its working expenses. Consequent upon creation of BSNL, the commercial receipts of the erstwhile DoT are accruing to the company. Moreover, the entire assets of DTS/DTO having been transferred to BSNL, the Ministry of Finance feels that it is logical that BSNL should bear the full pensionary liability for all the pensioners, both pre and post 1.10.2000.

8. The Ministry of Finance have further indicated as in the case of other PSUs, all liabilities including pension liability of all employees, are to be borne by BSNL and like other PSUs, BSNL would pay dividend to the Government only when it earns a profit after meeting all its liabilities.

9. This Department is however unable to agree with the stand taken by the Ministry of Finance. Firstly, the receipts of the DOT/DTS/DTO prior to 1.10.2000 and BSNL (after 1.10.2000) cannot be taken to be similar. While it is true that the commercial receipts, in terms of collection from customers, would accrue to BSNL as much as it accrued to DoT/DTS/DTO, there are several receipts that do not accrue to the BSNL, such as the dividend from MTNL and Licence fee from MTNL and VSNL. These receipts, which now go to the Consolidated Fund of India, are of the order of about Rs. 1100 crore annually as can be seen from the following statement.

(Rupees in crores)

	2000-01	2001-02	2002-03	2003-04
Dividend from MTNL	106.31	159.47	159.47	159.47
Licence fee from MTNL	361.53	789.17	483.36	655.00
Licence fee from VSNL	510.15	638.85	331.35	313.00
Total	977.99	1587.49	974.18	1127.47

In addition, unlike the earlier DTS/DTO, BSNL being a corporate entity, pays taxes and levies which accrue to the General Revenue, as can be seen from the following statement.

(Rupees in crores)

Item	2000-01	2001-02	2002-03	2003-04
Corporate Tax	283.00	540.00	204.32	691.58
Excise duty	18.00	35.00	31.00	35.00
Dividend	0	0	250.00	281.25
Total	301.00	575.00	485.32	1007.83

Thus, BSNL, being a corporate entity, suffers an annual loss of revenue (as compared to DTO/DTS) of about Rs. 1100 crore and an annual additional liability (again compared to DTO/DTS) of over Rs. 1000 crore. These amounts now constitute additional receipts to the Consolidated Fund of India.

10. The Ministry of Finance contends that BSNL is simultaneously being granted several concessions. It is true that Government have granted certain concessions to BSNL, but these cater to specific items and do not cover the expenses related to pension. The concessions are intended to cover BSNL's rural and social obligations. It is to be pointed out that even here, the amounts as given to BSNL do not match the cost of obligations imposed on BSNL. While this Department is addressing this issue separately, the point at issue is that BSNL cannot bear the additional burden of pensionary liability for the employees of erstwhile DoT/DTS/DTO, as well as for current employees for the service rendered in the erstwhile DoT/DTS/DTO.

11. The annual expenses on account of pension to DoT are of the order of over Rs. 1000 crore. BSNL have repeatedly requested that the obligation of entire pension liability may not be imposed on them as, apart from being not fair, this would further reduce BSNL's ability to invest in and operate the telecom network in the country. It is noteworthy that a large number of the pensioners are those that retired before 1.10.2000, the date of formation of BSNL. The management of BSNL feels that if the entire pension liability of past and future pensioners is to be borne by them it would adversely affect the survival of BSNL as a corporate entity, given the fact that it operates in a highly competitive environment and is already not adequately compensated for uneconomic, though socially desirable, activities. The employees of BSNL, who also share this concern, have recently launched an indefinite strike involving issues relating to, inter alia, the pension liability. The strike was averted on the assurance that the matter would be placed before the superior authorities for a decision, within a period of six weeks (from 23rd August 2004). There is therefore need for urgency in arriving at a decision on this issue.

12. Keeping the above in view, this Department recommends that the liability for pension payment be organized as follows:

- A) 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.

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- B) 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 (Annexure-IV) for the period they so work /worked.
- C) 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.
- D) 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.
- E) Pension payment will be effected by the Government.

13. Since a new Pension scheme has been introduced for Government servants w.e.f. 1.1.2004, the proposal in para 12 above would apply to Government servants appointed only on or before 31st December 2003 vide Notification No. SO' 1483(E) dated 30.12.2003.

14. This Cabinet Note has been circulated to the Department of Expenditure, (Ministry of Finance), the Department of Pension and Pensioners' welfare (Ministry of Personnel, Public Grievances & Pensions), and the Department of Public Enterprises. The Department of Pension and Pensioners' Welfare have agreed to the proposals given in this Cabinet Note, however they have made certain observations which have been responded to. Department of Expenditure have not agreed with the proposal repeating the reasons given in para 7 of this Cabinet Note and also mentioning that an unambiguous agreement existed between Department of Telecommunications and Ministry of Finance that pensionary liabilities would have to be met out of the revenue streams of BSNL. This Department respectfully differs on the observation made by Department of Expenditure regarding unambiguous agreement. This Department does not agree with the views of Ministry of Finance and that is why this Cabinet Note is being submitted. Department of Public Enterprises has stated that the pension liability should be borne by the

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Government if this was not taken into account while calculating the net worth of BSNL of Rs. 63,000 crore at the time of corporatisation. In this regard it is submitted that the pension liability was not taken into account at the time of calculation of net worth of Rs. 63,000 crore and if taken into account it would have reduced the net worth of BSNL by Rs. 15,000 crore. Therefore as per the reasoning of given by Department of Public Enterprises pension liability should be borne by the Government. Detailed views of these Ministries/ Departments alongwith this Department's comments thereon are given at ANNEXURE-V.

15. Approval of the Cabinet is sought for the proposals contained in para 12 and 13 above.
16. The Implementation Schedule is enclosed at APPENDIX.
17. This Note has the approval of Hon'ble Minister of Communications & IT.



(Dr. J.S.Sarma)

Additional Secretary to Government of India
Tel: 23717300 / 23036785

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Department of Telecommunications

APPENDIX

Ministry of Communications and Information Technology
Department of Telecommunications

Statement of Implementation of schedule

Subject: Pension Liability of the Department of Telecommunications

Gist of decision required	Time-frame and manner of Implementation/Reporting to Cabinet Secretariat
(i) The Government will bear the expenditure on pension payment (including family pension) of all the employees who retired from the Department of Telecommunications before the formation of BSNL, i.e. 01.10.2000.	The Department will take appropriate follow-up action immediately after the proposal is approved by Cabinet. The Revised Estimates for the year 2004-05 would accordingly be drawn up to implement the decision.
(ii) The employees of Bharat Sanchar Nigam Ltd. (both on deemed deputation as well as those absorbed) will be paid pensionary benefits, i.e. pension, family pension, Commutation and Gratuity from the Consolidated fund of India.	
(iii) BSNL will pay pension contribution to the Government in respect of working employees at the rates prescribed under the Fundamental Rules.	
(iv) The pensionary benefits paid through the Grants of the Department of Telecommunications will be netted to the extent contribution is due from BSNL under the Fundamental Rules in respect of working employees.	
(v) Pension payment will be effected by the Government.	