



Regn. No. S/00108/NE-/2010

ALL INDIA
RETIRED BHARAT SANCHAR NIGAM LIMITED EXECUTIVE'S WELFARE ASSOCIATION
CENTRAL HEAD QUARTERS, NEW DELHI

CHQ ADDRESS: C-8/230, YAMUNA VIHAR, DELHI-110053, www.aibsnlretd.org

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15. **Auditor**
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M.: 09431706606

No.AIRBSNLEWA/2015-16/

dated at New Delhi 16/04/2015

To,

Sri Rakesh Garg,
Chairman Telecom Commission & Secretary,
Department of Telecommunication,
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.

Ref:- (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 from 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

Respected Sir,

It is brought to your kind notice that on 30/9/2000, DOT/ DTS had around 3.5 Lacs employees on their pay roll. DOT also had 1.7 Lacs Pensioners/ family Pensioners who had retired from DOT/ Govt. service prior to 01/10/2000 and who were drawing Pension from consolidated fund of India. Rule 37-A of CCS (Pension) Rules, 1972 was notified on 30-9-2000 and corporatization of DOT / DTS and formation of BSNL was carried out with effect from 1-10-2000 on as is where is basis. On 1/10/2000 F/N all the 3.5 lacs DOT Employees, transferred to BSNL, became deemed DOT Retirees. Thus total number of DOT Retirees on 1/10/2000 rose to 5.2 Lacs i.e. 1.7 lacs DOT Retirees and 3.5 Lacs deemed DOT Retirees. Rule 37-A of CCS (Pension) Rules was notified to make provision for payment of all pensionary benefits to these 5.2 Lac DOT Retirees by the Government of India.

Options for absorption in BSNL were called for and finalized subsequently but there was no mention of any dilution/limitation of liability on part of Govt. of India regarding payment of pension/family pension in any of the documents i.e. either in the Rule 37-A of CCS (Pension) Rules or in the DOT OMs calling for absorption in BSNL.

Suddenly, after a period of 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, contrary to clear policy pronouncement by former Secretary(T), DOT i.e. Shri Nripendra Misra vide No.1-45/2003-B dated 15/03/2005. The DOT subsequently obtained a covering approval for DOT Finance



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OM dated 15th June 2006 through a misleading Cabinet Note dated 29/12/2010 omitting any reference to the two important policy pronouncements made by two former Secretaries(T) vide OMs dated 15/3/2005 and 05/01/2009 as mentioned herein below. The full facts and details of the case are elaborated below:-

1. **Rule 37A of CCS pension rules** 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 these 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."

2. 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, and continues to be paid by BSNL accordingly.**

3. Full Pension liability for 5.2 Lac DOT Retirees rests with Govt. of India w.e.f. 1/10/2000 onwards as per Rule 37-A of CCS Pension Rules and terms of settlement between DOT and BSNL :-

Pension liability of 5.2 LACs DOT Retirees (i.e. 1.7 Lacs DOT retirees and 3.5 Lacs deemed DOT Retirees as on 1/10/2000) during the period from 1/10/2000 to 14th 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



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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.*

4. 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.**

5. 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)



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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)."

6. DOT obtains covering Cabinet Approval to limit the Pension Liability of Govt. of India after a lapse of four and a half years after issue of DOT Finance 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 Finance 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 / commitments 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, without placing all the facts of the case before the Cabinet, 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, who became deemed DOT Retirees as on 1/10/2000 F/N), contrary to Rule 37-A of CCS Pension Rules, OMs calling for absorption in BSNL and clear policy pronouncements by two former Secretaries(T) as stated in paras above.

7. 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 made by two former Secretaries (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 to Policy Pronouncements on the same issue made by two former Secretaries (Telecom.) vide OM s dated 15/3/2005 and 05/01/2009.



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8. 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 commitments/ 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/ commitments made by two former Secretaries (Telecom.) vide OM s dated 15/3/2005 and 05/01/2009.

You are requested to look into the matter and ensure that Pension/ family Pension of DOT Retirees and deemed DOT Retirees is adequately protected and paid by the Government of India in terms of Rule 37-A of CCS Pension Rules, 1972 and Policy Pronouncements/ commitments made by two former Secretaries (Telecom.) vide OMs dated 15/3/2005 and 05/01/2009 without any dilution/ limitation on this account.

You are also requested to take necessary corrective actions immediately to negate the impact of statements made in paras 2.6 and 3.5 of the cabinet memo dated 29th December 2010. A fresh administrative order, reassuring the 5.72 lacs DOT Retirees/ deemed DOT Retirees, similar to that of former Secretary(T), Shri Siddhartha Behura's order issued vide OM NO.40-12/2007-PEN(T) dated 05/01/2009, may kindly be issued at the earliest

Thanking you.

Yours faithfully,

(Kishan Singh)
General Secretary

Copy for kind information and necessary action to:-

(1) Ms. Annie Moraes, Member(F), Dept. of Telecom., Sanchar Bhavan, New Delhi

(2) Sri N.K.Yadav, Member(S), Dept. of Telecom., Sanchar Bhavan New Delhi





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No.AIRBSNLEWA/2015-16/

dated at New Delhi 18/04/2015

To

Shri Ravi Shankar Prasad,
Hon'ble Minister of Communications & IT,
Sanchar Bhavan,
20, Ashoka Road, New Delhi – 110001

Sub:- Request for meeting with your good self for redressal of Gross injustice and discrimination with BSNL Pensioners/ family pensioners over denial of 50% IDA Merger w.e.f. 1/1/2007, effectively amounting to 78.2% dearness relief, originally granted by Govt. of India for all CPSE Employees vide DPE O.M. no.2(7)/2005 DPE- (WC) GL-III dated 26th February 2008 and further reaffirmed after Cabinet review of 2nd Wage Committee report vide DPE O.M. No.2(70)/08-DPE(WC)-GL-VII/09 dated 2.4.2009.

Ref:- (1) DPE OM no.2(7)/2005 DPE- (WC) GL-III dated 26/02/2008
(2) DPE OM no.2(70)/08-DPE (WC)-GL-XVI/08 dated 26/11/2008
(3) DPE O.M. No.2(70)/08-DPE(WC)-GL-VII/09 dated 2.4.2009
(4) DOT Memo no.61-01/2012-SU dated 10th June 2013
(5) Deptt. Of Expenditure O.M. No.582/EV/2014 dated 15/10/2014
(6) ATR Reports/ minutes of 22nd and 25th SCOVA Meetings

Respected Sir,

A letter dated 28th January 2015 has already been addressed to your Hon'ble self in this matter, followed by second representation dated 23rd February 2015 on this very issue. Response from DOT is still awaited. You are requested to kindly grant us a meeting to enable us to explain the issue to your Hon'ble Self and seek your personal intervention in this matter to resolve this issue.

Proposal moved by DOT for grant of 50% IDA Merger was concurred by DOP and by Finance Ministry vide Deptt. Of Expenditure O.M. No.582/EV/2014 dated 15/10/2014 with a caveat that DOT should seek Cabinet Approval as well for granting benefit of 50% IDA merger w.e.f. 1/1/2007 to all BSNL Pensioners retiring between 1/10/2000 and 09/06/2013. But Even after six months of approval granted by Deptt. Of Expenditure, Deptt. Of Telecom. is still unable to process and finalise the Cabinet Note.

Full history and background of the case regarding incorrect/ partial implementation of DPE orders for BSNL Employees / Pensioners regarding 50% IDA Merger w.e.f. 1/1/2007 and revision of IDA scales of Pay w.e.f. 1/1/2007 onwards, is detailed below:-



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1. Merger of 50% of IDA (industrial dearness allowance) with basic pay for all CPSE employees following 1997 Industrial dearness Allowance (IDA) pattern scales of pay, was approved by Government of India with effect from 01/01/2007 vide memo no.2(7)/2005 DPE- (WC) GL-III dated 26th February 2008. Accordingly, approval for merger of 50% IDA with basic pay for all BSNL employees was given by Deptt. Of Telecommunications vide letter no.79-38/2006-SU dated 01/05/2008. Thereafter merger of 50% IDA with basic pay for all the BSNL Executives and Non-Executive Employees was implemented by BSNL Corporate Office vide memo no.14-3/2008-PAT(BSNL) dated 29/5/2008.

2. Consequently all BSNL Pensioners retiring between 1/1/2007 and 04/03/2009 were granted benefit of 50% IDA Merger and all its consequential benefits by BSNL and Deptt. Of Telecom., But this benefit was not extended to BSNL Pensioners retiring between 01/10/2000 and 31/12/2006. (This benefit of 50% IDA Merger w..e.f. 1/1/2007 was later withdrawn/ neutralized for all the BSNL Executives in March 2009 while issuing orders for partial implementation of 2nd Wage Committee Report vide DPE orders dated 26/11/2008, due to non-compliance with the directives in associated DPE Circular dated 02/04/2009 as detailed in paras 3, 4 and 5 herein below.)

3. Revision of IDA scales of Pay for Board Level and below Board Level Executives in CPSEs with effect from 01/01/2007 was approved by Government of India, providing merger of 68.8% IDA with basic IDA Pay on 1/1/2007 vide memo no.2(70)/08-DPE (WC)-GL-XVII/08 dated 26th November 2008. Further approval for revision of IDA scales w.e.f. 01/01/2007 for all BSNL Executives has been accorded by Deptt. Of Telecommunications vide letter no.61-01/2009-SU dated 23/02/2009 in terms of DPE memo ibid and implemented by BSNL Corporate Office vide memo No. 1-50/2008-PAT(BSNL) dated 05/03/2009 under the terms and conditions laid down by DPE vide Memo no.2(70)/08-DPE (WC) -GL-XVI/08 dated 26th November 2008.

4. Further amendment to order dated 26/11/2008 were made by Govt. of India allowing Revision of IDA scales of Pay for Board Level and below Board Level Executives in CPSEs with effect from 01/01/2007 providing for merger of 78.2% IDA with basic IDA Pay on 1/1/2007, after allowing the benefit of merger of 50% IDA with Basic Pay as on 1/1/2007 for Fitment Purpose a vide DPE O.M. No.2(70)/08-DPE(WC)-GL-VII/09 dated 2.4.2009. It was categorically stated in DPE O.M. No.2(70)/08-DPE(WC)-GL-VII/09 dated 2.4.2009 under para 3 as below:-

"3. Government has also decided that benefits under this O.M. read with the earlier decision as conveyed vide O.M. dated 26.11.2008 and 09.02.2009 has to be viewed as a total package. It has also been decided that the pay revision package as communicated by earlier O.M.s along



Regn. No. S/00108/NE-/2010

ALL INDIA
RETIRED BHARAT SANCHAR NIGAM LIMITED EXECUTIVE'S WELFARE ASSOCIATION
CENTRAL HEAD QUARTERS, NEW DELHI

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with the above modifications would be applicable to all the CPSEs."

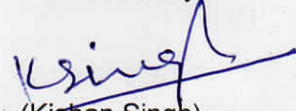
5. Belatedly Department of Telecommunications realized the injustice done to BSNL Employees/ Pensioners due to non-compliance with the directives in DPE Circular dated 02/04/2009 enumerated in Para 4 above. Hence all the BSNL Employees in service as on 10th June 2013 and those retiring after 10th June 2013 were granted benefit of 50% IDA merger amounting to 78.2% IDA (as on 1/1/2007) vide Presidential Order issued under DOT Memo No. 61-01/2012-SU dated 10th June 2013. But even after lapse of one year and eight months the same benefit of 50% IDA Merger has not been extended to BSNL Pensioners retiring between 1/10/2000 and 09/06/2013 inspite of repeated assurances given by DOT in various SCOVA meetings chaired by Hon'ble MOS, D.O.P. & Pensioners Welfare.

6. Subsequently, the proposal to extend the benefit of 50% IDA merger to BSNL Pensioners amounting to 78.2% IDA (as on 1/1/2007) was moved by DOT in January 2014 for approval from DOP/DPE/ Dept. of Expenditure. After several rounds of consultations / clarifications the proposal moved by DoT was approved vide DOE OM No. 582/EV/2014 dated 15/10/2014 with a caveat that DOT should seek Cabinet Approval as well for granting benefit of 50% IDA merger w.e.f. 1/1/2007 to all BSNL Pensioners retiring between 1/10/2000 and 09/06/2013 as granted to working Employees of BSNL vide DOT Memo no.61-01/2012-SU dated 10th June 2013.

You are requested to kindly look into the matter so that all the EX-DOT Employees who opted for BSNL and retired as BSNL Pensioners between 1/10/2000 and 9th JUNE 2013, do not suffer continued discrimination and injustice as enumerated above inspite of repeated DOT assurances in SCOVA Meetings chaired by Hon'ble MOS(PP) that if at any stage the benefit of merger of 78.2% IDA with pay of serving employees is given, this benefit would also be extended to absorbee pensioners of BSNL.

Thanking you.

Yours faithfully,


(Kishan Singh)
General Secretary

