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

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No.AIRBSNLEWA/2015-16/

dated at New Delhi 08/10/2015

To:

(1) SRI. G. NATARAJAN,
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ALL INDIA BSNL-DOT PENSIONERS ASSOCIATION
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Sub:- Non-settlement of 50% IDA Merger for BSNL Pensioners amounting to 78.2% IDA as on 1/1/2007 for all the BSNL Pensioners , drawing pension under Rule 37-A of CCS Pension Rules 1972: Settlement delayed by DoT/ Nodal Ministries for more than two years due to non-Annulment of Cabinet Decision dated 27/01/2005 which limits liability of the Government on pension to 60% of the collections from BSNL.

Dear Comrades,

Payment of pension to BSNL Pensioners by Govt. of India is guaranteed under Rule 37-A of CCS Pension Rules 1972. But certain riders imposed by Govt. of India, in F.Y. 2004-2005 after a lapse of five years after formation of BSNL, have raised some doubts over the sanctity of Govt. assurance along with assured safety and security of Pension/ Family Pension to BSNL Pensioners, after corporatisation of DoT/ DTS/ DTO w.e.f. 1/10/2000, as can be seen from the facts narrated below:-

1. **Status as on 01/10/2000:-** DOT/ DTS . had around one Lac DOT Pensioners/ family Pensioners who had retired from Deptt. Of Telecom. prior to 01/10/2000 and who were drawing Pension from consolidated fund of India. DOT had around 3.5 Lacs deemed DOT Retirees w.e.f. 1/10/2000 i.e. Govt. employees on DOT's pay-roll, who were deemed to have retired from DOT w.e.f. 01/10/2000 F/N and who were en-mass deputed to BSNL on as is where is basis, after formation of BSNL on that date.

2. **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 4.5 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 one Lac 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 4.5 lacs DOT Retirees / deemed DOT Retirees was transferred to new dispensation specified by Govt. of India under sub rule (21) to (23) of Rule 37-A of CCS Pension Rules as quoted below:-**

"(21) 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 Limited, in which case the pensionary benefits including family pension shall be paid by the Government.

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(22) For the purposes of payment of pensionary benefits including family pension referred to in sub-rule (21), 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.

(23) 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."

3. 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 accordingly.

4. DoT moves a Cabinet Note on 27.10.2004, subsequently modified as per recommendations of COS and resubmitted on 14.01.2005 to determine Pension Liability of BSNL:-

DoT moves a Cabinet Note vide File No.16-4/2002-B dated 24.10.2004 to 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, as per para 22 of Rule 37-A of CCS Pension Rules 1972.

DoT proposed through cabinet Note dated 24/10/2004 that BSNL shall pay pension contribution for all the employees deputed to BSNL as specified in FR-116. Govt. of India should bear full liability for payment of Pension to one Lac DoT Pensioners, who had retired prior to 1/10/2000. Govt. of India should also bear full liability for payment of Pension to all BSNL Pensioners as specified in Rule 37-A of CCS Pension Rules 1972. Secretary(Expenditure) insisted that DoT should bear full liability for payment of pension to one LAC . DoT Pensioners, who had retired prior to 1/10/2000 in addition to taking full liability for payment of Pension to all BSNL Pensioners as specified in Rule 37-A of CCS Pension Rules 1972.

Owing to the different standpoints of Secretary(T) and Secretary(Expenditure), the case was referred to committee of Secretaries, comprising of Cabinet Secretary, Secretary(T) and Secretary(Expenditure). Meeting of C.O.S. took place on 14/12/2004 and a compromise decision was reached, which stated that "Liability of Govt. of India towards payment of Pension to one LAC DoT Pensioners and all the BSNL pensioners drawing pension under CCS Pension Rules 1972 shall be limited to 60% of TAX Receipts from BSNL/ MTNL through Corporate TAX/ Dividend/ Service TAX etc. Any amount in excess of 60% of TAX receipts shall have to be borne by BSNL."

DoT moved a revised Cabinet Note on 14th January 2005, modifying their previous cabinet note dated 24/10/2004 and revising/ determining the pension liability of BSNL as recommended by COS, which was duly approved by the Cabinet on 27/01/2005.

5. Full Pension liability For 4.5 lacs DOT / BSNL Pensioners rested with Govt. of India from 1/10/2000 to 14/06/2006:- :-

Pension liability of 4.5 LACs DOT Retirees(i.e.DOT had one Lac DOT retirees on 1/10/2000 and 3.5 Lacs deemed DOT Retirees) 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 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.*

6. DOT Finance communicates the Cabinet decision dated 27/1/2005 vide OM No.1-45/2003-B dated 15/6/2006 to limit/ dilute the Pension Liability of Govt. of India:-

IN compliance to Cabinet decision dated 27/1/2005, which was kept hidden/ secret, DOT OM No.1-45/2003-B dated 15/6/2006 was issued by DDG(FEB) which transferred liability for payment of Pension to one 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.

7. Meeting of nodal ministries called by Secretary(X) on 16/12/2008, to facilitate absorpotion of ITS Officers in BSNL in view of the Cabinet decision dated 27/1/2005 on modified pension liability of BSNL and safety and security of Pension in BSNL:-

In order to discuss the absorption related issues of ITS Officers, in view of the Cabinet decision dated 27/1/2005 regarding Pension Liability of BSNL, Secretary (T) proposed to hold a meeting with concerned nodal Departments i.e Departments of Expenditure, Dept. of Personnel, Dept. of Pension & PW etc. along with special invitation to office bearers of ITSA to the proposed meeting.

As per request of Secretary (Telecom), a meeting was called by Smt. Sushama Nath, then Secretary(Expenditure) on 16/12/2008 in her chamber in which Jt.Secy(Pers.), Director(Pers.), Secretary (DOP& PW), Joint Secy. (DOP& PW), Sri S.Behura, then Secretary(Telecom), Sri R.Ashok, Member(F) and Sri Subodh Kumar, Addl. Secretary(T) were also invited and present. Shri S.S.Sirohi and Sri Satish Sharma, President and Secretary of ITSA were also invited to the said meeting. ITSA Office bearers expressed their apprehensions in the said meeting that **"Potential absorbees had an apprehension that their pension may either be delayed or endangered if the receipts from BSNL were not sufficient nto meet their pension liability."**

All the Officers from Deptt. of Expenditure/ Personnel/ DOP & PW/ Telecom., unanimously agreed that liability for payment of Pension for BSNL Pensioners rested with Govt. of India under relevant paras of Rule 37-A of CCS Pension Rules 1972, which was created by a process of subordinate legislation and it being statutory in nature and effect, it over rides the decision taken by the Cabinet on 27/01/2005. The committee of the officers unanimously decided that there was no need seek annulment of Cabinet Decision dated 27/1/2005 regarding Pension Liability of BSNL, and ongoing proposal by DoT for review of Cabinet Decision dated 27/1/2005 be dropped. Necessary clarification in this matter could be issued by Secretary(T).

However then Member(F) issued a categorical advice on 24/12/2008 that proposed clarification may be issued by DoT in this matter, but case for annulment of Cabinet Decision dated 27/01/2005 should also be processed simultaneously because the said Cabinet Decision should not be left unattended.

But AS(T) and Legal Advisor, DoT did not see any need to seek the annulment of Cabinet Decision dated 27/01/2005 and hence OM no.40-12/2007-Pen(T) dated 5th January 2009 was issued by then Secretary(T), Sri Siddhartha Behura to facilitate absorption of ITS Officers in BSNL by allaying their apprehensions regarding the safety and security of Government Pension in BSNL. 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) 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)."

8. DoT makes a serious error of omission by not following the advice of Member(F) Full Pension liability For 4.5 lacs DOT employees with Govt. of India from 1/10/2000 to 14/06/2006:- :-

DoT has made an error of omission by not following then Member(F)'s advice vide N/35 of File no.40-12/2007-Pen(T) issued on 24/12/2008, that case for annulment of Cabinet Decision dated 27/01/2005 should also be processed simultaneously because the said Cabinet Decision should not be left unattended.

The misgivings of ITSA that "Potential absorbees had an apprehension that their pension may either be delayed or endangered if the receipts from BSNL were not sufficient to meet their pension liability.", have now come true. Our revision of Pension is delayed by more than two years vis-à-vis BSNL Employees who were granted benefit of 50% IDA Merger amounting to 78.2% IDA as on 1/1/2007 w.e.f. 10/6/2013 vide DoT OM dated 10th June 2013.

Present Member(F) is again proposing and seeking annulment of Cabinet Decision dated 27/01/2005, while moving the case for 50% IDA Merger amounting to 78.2% IDA as on 1/1/2007 for BSNL Pensioners, and Department of Expenditure is seriously

questioning and seeking justification for review of the Cabinet Decision dated 27/01/2005 regarding Pensionary Liability of BSNL.

9. Safeguarding Pension/ Family Pension of one Lac DoT Pensioners and 3.5 Lacs deemed DOT Retirees i.e would be BSNL Pensioners as on 1/10/2000 in terms of Rule 37-A of CCS Pension Rules and 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 one Lac 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 made by two former Secretaries (Telecom.) vide OM s dated 15/3/2005 and 05/01/2009.

Unless Cabinet Decision dated 27/01/2005 is annulled the Pension revision w.e.f. 01/01/2016 of even one LAC DoT Pensioners/ family pensioners drawing pension in CDA scale as per seventh pay commission recommendations shall also be jeopardized in addition to pension revision of BSNL Pensioners.

This case needs a serious and concerted effort of all the Unions/ Associations/ Joint Forum of Telecom. Unions etc. for annulment of Cabinet Decision dated 27/1/2005 as proposed by then Member(F) on 24/12/2008 and again proposed by present Member(F) recently, while moving the Cabinet Note for 50% IDA Merger for BSNL Pensioners amounting to 78.2% IDA as on 1/1/2007 as given to BSNL Employees w.e.f. 10th June 2013.

Thanking you.

8/10/15


(Kishan Singh) 8/10/15
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