

ALL INDIA BSNL PENSIONERS' WELFARE ASSOCIATION
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Date: 02/07/2019

To

Shri Ravi Shankar Prasadji,
Hon. Minister for Communications and Information Technology,
Government of India,
Sanchar Bhawan, New Delhi 110001.

Respected Sir,

Sub: **Pension Revision from 1/1/2017 for BSNL/MTNL IDA pensioners**

We are constrained to seek your kind help on the above issue sir.

Background

1. When the Govt. proposed corporatisation of DoT in 2000, there were protests from the employees. The Govt. appointed a GoM under the chairmanship of **Shri Ram Vilas Paswanji, then Communication Minister**, to look into the demands of the employees. After several rounds of discussions GoM had with leaders of unions, Govt. issued a gazette notification on **30/9/2000**, one day prior to formation of BSNL, amending CCS (Pension) Rules 1972 by incorporating Rule 37-A.

2. Sub-rule 22 of Rule 37-A states "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 and Mahanagar Telephones Nigam limited in which case **the pensionary benefits including family pension shall be paid by the Govt.**"

3. Sub-rule 23 states "The Govt. shall specify the arrangement and the manner including the rate of pensionary contributions to be made by BSNL & MTNL to the Govt. and the manner in which financial liabilities on this account shall be met".

4. Accordingly the absorbees who retired from BSNL/MTNL got their pension including family pension from Gol.

5. In CPSEs, pay of the executives is revised in accordance with Pay Revision Committee (PRC) recommendations. **The terms of reference did not include 'pension revision' in any of the three PRCs.** The pay of the non-executives are revised as per the agreement between the management and the recognised unions. BSNL revised the pay in accordance with 2nd PRC recommendations (with 30% weightage of pay + DA) w.e.f. 1/1/2007. But simultaneously the pension was not revised for those who retired prior to 1/1/2007.

6. After several struggles and negotiations, DoT issued an order on 15/3/2011 based on Cabinet decision, for revision of pension from 1/1/2007 for those who retired before 1/1/2007. The revision was on the same formula that was given to employees to avoid any anomaly in pension for those who retired prior to 1/1/2007 and those who retired after 1/1/2007.

Changed situation

7. There is a change in the situation now with regard to sub-rule 23 of Rule 37-A of CCS (Pension) Rules 1972. **Before 20/7/2016**, the Government's liability for payment of pension/family pension was limited to 60% of revenue received from BSNL/MTNL by way of various taxes. But, by a decision of the Cabinet, DoT issued order on **20/7/2016** annulling that condition which means that it is not linked to the revenue of these two CPSEs. Now 100% liability lies with Govt. However pension contribution is being paid by BSNL/MTNL to the Govt.

8. Conditions mentioned in 3rd PRC recommendations do not permit these two CPSEs, which are facing serious financial crunch to revise the pay of the employees as per 3rd PRC recommendations.

9. Now, the pension revision has nothing to do with the financial position of these two CPSEs as explained in para 7. Hence pension revision need not be linked to pay revision.

Our Demand

10. Pension revision from 1/1/2017 i.e. after 10 years of last revision, by applying 32% weightage as recommended by 7th CPC and implemented to more than 56 lakh C.G. pensioners w.e.f. 1/1/2016. We request for application of a multiplying factor of 2.515 (100 + 119.5 + 32 = 251.5). Beneficiaries may be around 2 lakh pensioners.

Justification

11. C.G pensioners and BSNL/MTNL pensioners (combined service optees) are covered under the same CCS (Pension) Rules 1972 and all the retirement benefits including gratuity are similar to both of them.

12. Both C.G pensioners and BSNL/MTNL pensioners are getting their pension/family pension from Central Civil Estimate. The CGHS facilities are available only to BSNL/MTNL pensioners as they are drawing pension from Central Civil Estimates whereas the employees of BSNL/MTNL are not eligible for the CGHS facilities.

13. Almost all the recommendations of CPC like pension formula, enhanced family pension, age-related additional pension, commutation table etc. are made applicable not only to C.G CDA pensioners but also to BSNL/MTNL IDA pensioners.

14. The minimum & maximum pension of BSNL/MTNL IDA pensioners are not linked to the minimum/maximum pay of BSNL/MTNL but to that of Central Government.

Doubts and our clarifications

15. Pension is related to pay and whether pension can be revised without pay revision is one doubt. It is true that pension is related to pay at the time of initial fixation of pension but pension revision was based on 'existing pension'. Further, minimum/maximum pension of BSNL/MTNL IDA pensioners are not related to their minimum/maximum pay in BSNL/MTNL but that of C.G. employees' minimum/maximum pay. Hence that doubt is not valid.

16. The C.G. pensioners are getting pension on CDA pay and Dearness Relief under that formula but BSNL/MTNL IDA pensioners are getting pension on IDA pay and DR under that formula is another doubt. It is the legal requirement that any CPSE started after 1/1/1989 should only have IDA pay as per Apex Court judgement dated 03/05/1990. Rule 33 & 34 of CCS (Pension) Rules 1972 states that pension should be determined on the basis of emoluments or average emoluments drawn at the time of retirement. So, the argument of CDA & IDA pattern is not a valid one.

17. If CPC fitment factor has to be applied to these IDA pensioners, then their pay has to be notionally revised from IDA to CDA on the basis of 19/9/2003 OM of DoP&PW according to concerned officers in Sanchar Bhawan. When the DoT proposed this during the last pension revision, DoP&PW which issued that OM did not agree and it was a settled matter at that point of time itself. Re-opening of an already settled matter shall not stand legal scrutiny.

18. If 32% fitment factor is given to those who retired prior to 1/1/2017 and if there is no pay revision for employees from 1/1/2017, then an anomaly will arise between those who retired prior to 1/1/2017 and retired after 1/1/2017. It would be a real issue and to solve this issue, we suggest that for those who retire after 1/1/2017 may be given 32% of basic pay at the time of retirement notionally and their pension can be fixed, taking into account the notional pay. There are precedences to fix the pension on the basis of notional pay. That would avoid any financial burden on the part of BSNL/MTNL. When 50% DA merger order was issued to pensioners on **18/7/2016**, it was **fixed on notional basis from 1/1/2007 to 9/6/2013**. So, there is a solution to this problem also.

Conclusion

19. Nothing defies a solution provided there is a will. We are conscious that our demand requires a policy decision and it can't be conceded by the officers in a routine way. We earnestly request the Hon. Minister for Communication to direct the concerned officers to send a concrete proposal, with justification quoted above, as a reply to their communication including their letter dated 8/3/2019 (*copy enclosed*). When we had discussions with concerned officers in DoP&PW, they informed us that they are willing to consider the demand provided DoT sends a concrete proposal with due justification.

Thanking you

Yours faithfully,

(P.Gangadhara Rao)
General Secretary.

Encl: DoP&PW letter dated 8-3-2019