



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

ALL INDIA
RETIRED BHARAT SANCHAR NIGAM LIMITED
EXECUTIVE'S WELFARE ASSOCIATION

CENTRAL HEADQUARTERS, NEW DELHI

President
M L SHARMA
Mob.9868240042

General Secretary
KISHAN SINGH
Mob 9968270611

Finance Secretary
K. N MEHRA
Mob.9911314576

No.AIRBSNLEWA/2013-14/

dated at New Delhi 16/9/2013

To

Shri M.F.Farooqui,
Chairman Telecom. Commission & Secretary(T)
Sanchar Bhavan,
20, Ashoka Road,
New Delhi – 110001

Subject : Implementation of the order for 78.2 % IDA merger w.e.f. 1-1-2007 for EX-DOT Employees retiring as BSNL Pensioners before 09-06-2013.

Ref: 1) Dot Memo No 61-01/2012-SU dated 10-06-2013
2) Minutes of the 22nd SCOVA meeting held on 19-02-2013 circulated vide
F.No 42/1/2013- P& PW(G) dated 04/03/2013

Respected Sir,

Orders for revision of ~~Pay~~ Pay of all BSNL Executives/ Non-Executives granting the benefit of 50% IDA Merger with basic pay w.e.f. 1/1/2007 resulting in net 78.2% IDA Merger as on 1/1/2007, were issued vide DOT Memo no.61-01/2012-SU dated 10th June 2013, in accordance with terms and conditions laid down vide DPE O.M. No.2(70)/08-DPE(WC)-GL-VII/09 dated 2.4.2009. DPE's OM dated 2/4/2009 clearly specified the date of implementation as 1/1/2007, but DOT's order has arbitrarily specified 10th June 2013 as cut-off dated for revision/ payment of salary of BSNL Employees existing in BSNL as on that date, which is clearly in violation of letter and spirit of DPE's OM dated 2/4/2009. The exact language of DOT order is quoted below:-

"In exercise of the powers conferred by the Article 145 of the Articles of Association of the Bharat Sanchar Nigam Limited (BSNL), the President is pleased to approve the proposal of BSNL regarding the fitment formula as per Department of Public Enterprises O.M. No.2(70)/08-DPE(WC)-GL-VII/09 dated 02.04.2009

Accordingly, In partial modification of this Department's Order No. 61-01/2009-SU dated 27.02.2009, the benefit of merger of 50% DA effectively amounting to 78.2% as on 01.01.2007 for the purpose of fitment in respect of the Board Level & below Board Level Executives and Non-Unionised Supervisors and Non-Executives of BSNL is hereby allowed from the date of issue of this order,

All Communications to Sh. Kishan Singh General Secretary AIRBSNLEWA
At C-8/230, Yamuna Vihar, Delhi-110053



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2. No arrears will be paid and the revised fitment on the basis of DPE OM dated 02.04.2009 will be paid with prospective effect only."

Thus DOT vide its memo no. 61-01/2012-SU dated 10-06-2013, has allowed 78.2% IDA fixation from 01-01-2007 but the date of effect of this order is arbitrarily fixed as 10-06-2013 so that no arrears will be paid for such fixation prior to 10/6/2013 but increments for six years shall be drawn notionally at higher rates after 78.2% IDA Merger and added to the basic pay of existing employees only w.e.f. 10/6/2013. Which means that pay of the employees will be re-fixed considering 78.2% IDA merger from 1-1-2007 instead of 68.8% IDA merger as was done earlier but actual payment will be effective from 10-06-2013. In the said order there was no mention about the pensioners who retired before 1-1-2007 and also after 1-1-2007 to 09-06-2013. Accordingly BSNL has revised the pay of all serving employees as on 10-06-2013 and taken no action for the pensioners.

Subsequently on 28.06.2013 DOT has asked BSNL some inputs on the method of fixation to serving employees and also action taken for the officials who retired between 1-1-2007 to 09-06-2013, how the order is implemented for them. BSNL in its reply dated 08-08-2013 stated that since the date of effect of the order is 10-06-2013, no action has been taken for the officials retired prior to that date.

Afterwards we met different officers of DOT and have understood that DOT is processing the case for extending the benefit of 78.2% IDA merger for pensioners also. (Both pre2007 and post 2007). The proposal is being prepared and will be sent to DOP&PW for consideration/clarification. It is also understood that the date of effect for the pension revision order will be 10-06-2013 for both the groups i.e. actual payment will be effective from 10-06-2013 only. The logic behind such decision is that since the order was made effective from 10-06-2013 for serving employees, the same principal will be applied for pensioners also.

The effect of such decision of not paying the enhanced pension from date of retirement for post 2007 retirees and from 1-1-2007 for pre 2007 retirees will be as under:-

- 1) For pre 2007 retirees:- 68.8 % IDA merger and necessary revision of pension has already been made effective vide DOT No 40-17/2008-Pen(T)-Vol III dated 15-03-2011 from 1-1-2007. The difference of pension amount as due for this group of pensioners and family pensioners with effect from 1-1-2007 due to 68.8% IDA merger have already been paid. Now if after implementation of 78.2% IDA merger from 1-1-2007, the difference of new revised pension amount from 1-1-2007 to 09-06-2013 is withheld/not paid, it will be a gross injustice to the pensioners and family pensioners. Afterwards implementation of 78.2% IDA merger is a corrective action to correct the mistake caused by miscalculating the 50% IDA merger effectively as 68.8% instead of 78.2%.



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- 2) For post 2007 retirees:- For extending the benefit to this group of retirees, their pay as on 1-1-2007 has to be revised merging 78.2% IDA and the last pay drawn on their retirement day has to be also revised accordingly for subsequent revision of their pension from the next month of their retirement. We understand that DOT is processing to get necessary relaxation of the clause 'last pay drawn' in consultation/approval of DoP&PW. But for them also actual benefit of revised pension will be extended from 10-06-2013. As a result these retirees shall be losing

- Pay arrears from 1-1-2007 to date of retirement
- Pension arrears from date of retirement to 9-06-2013
- Other retrial benefits like Increased Gratuity, Pension Commutation and Leave encashment as would have become due for increased amount of last pay drawn and revised increased pension.

As regards pay arrears it is understood that BSNL is not paying to its regular employees due to present financial constraints, eventhough BSNL as per its fill Board Resolution was prepared to pay the arrears at a future date subject to improvement in its earnings but DOT foreclosed this option vide order dated 10/6/2013. The pensioners also have to accept the same fate prima facie. But why the revised pension, and other consequent retrial benefits from date of retirement and also revised pension from 1-1-2007 for pre 2007 retirees will not be paid until 09-06-2013 is not understood, when such amount is payable by DOT with ample funds under its kitty for payment of Pension. Kindly note that

- ✓ It is a serious injustice to deprive the pensioners and family pensioners from their due pension and pensionary benefits from their date of retirement /1-1-2007, when their pension contribution have been duly paid on maximum of the pay scale.
- ✓ For implementation of 78.2% IDA merger from 1-1-2007, the pay scale of the officials will not change. Only their pay will be shifted to a higher stage in the same pay scale. As such there will not be any change in pension contribution which was already paid on maximum of the pay scale.
- ✓ DOT has already committed in 22nd SCOVA meeting for implementation of 78.2% IDA merger benefit for pensioners also.
- ✓ Various courts including apex court of India has already opined that **pension is property right** hence cannot be withheld or curtailed. There are many judgments but we are mentioning only two cases of the apex court of India for your kind perusal.

All Communications to Sh. Kishan Singh General Secretary AIRBSNLEWA
At C-8/230, Yamuna Vihar, Delhi-110053



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1) Case No 1389 of 2006. Judgement given on 12-05-2006 by Justice S.B.Sinha and Justice P.P.Naolekar. ***"Pension, as is well known, is not a bounty. It is treated to be a deferred salary. It is akin to right to property. It is co-related and has a nexus with the salary payable to the employees as on the date of retirement."***

2) Case No 6770 of 2013. Judgement given on 14-08-2013 by Justice K.S.Radhakrishnan and Justice A.K.Sikri. ***"It is an accepted position that gratuity and pension are not ... bounties. An employee earns these benefits by dint of his long, continuous, faithful and unblemished service,"... "hard earned benefit" that accrues to an employee was in the nature of "property". "This right to property cannot be taken away without the due process of law as per the provisions of Article 300A of the Constitution of India,"..... ' it "hardly needs to be emphasised" that executive instructions don't have statutory character and, therefore, couldn't be termed "law" within the meaning of Article 300A.'***

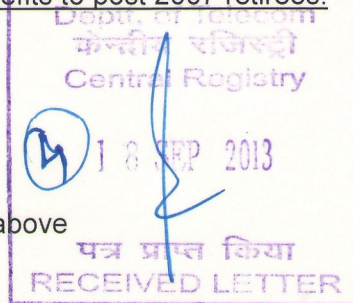
(Full text of both the judgements are enclosed for your ready reference please)

We would therefore request your kind personal intervention into the matter. More than one lakh pensioner/family pensioner and their family members are involved. It will be great injustice to deprive these old helpless people by confiscating their increased pension until 9-6-2013. They entirely depend on your kind and prudent decision. Kindly ensure that the benefit of 78.2% IDA merger is extended in reality from 1-1-2007 for pre 2007 retirees and from date of retirement with all the due superannuation benefits to post 2007 retirees.

With Kind Regards,

Enclosure : Two judgments as above

Dated at New Delhi
The 16th Sept. 2013



Yours faithfully,

(Signature)
(Kishan Singh)
General Secretary

Copy for kind information and necessary action to:-

- (1) Sri S.C.Misra, Member(Services), Govt. of India , New Delhi-110001
- (2) Ms. Annie Moraes, Member(Finance), Govt. of India, New Delhi-110001
- (3) Smt. Rita Teatolia, Addl.Secy.(T), Govt. of India, New Delhi-110001

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