

**ALL INDIA
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No. AIBSNLEA/CHQ/SEC(T)/2015

Dated 01.04.2015

To,

Sri Rakesh Garg,
Chairman Telecom Commission & Secretary,
Department of Telecom Commission,
20, Ashoka Road
New Delhi-110001

Subject: Attempt of DOT to change the pension rules in respect of DOT/DTS employees subsequently absorbed in BSNL.

Respected Sir,

It has come to our notice that DOT has taken approval of a Cabinet memo (dated 29-12-2010 approved by cabinet on 15-1-2011) limiting the government liability of pension in respect of employees of DoT/DTS/DTO, who retired prior to 1-10-2000 and those who have worked or working in BSNL on deemed deputation and for those who absorbed in BSNL, to 60% of annual receipts to Government from (i) Dividend Income from MTNL/BSNL, (ii) License fee from MTNL/BSNL, (iii) Corporate Tax/Excise Duty/Service Tax paid by BSNL. It is also mentioned in the said cabinet approval that, if the annual pension liability exceeds the figure 60%, the balance amount is to be paid by BSNL. The cabinet has in the past approved the rule 37A (21) of CCS Pension Rule 1972 in which it has been notified that the pension of BSNL's absorbed (Ex. DOT) retirees will be liability of Govt. of India.

We would like to put forward our strong protest against the said provisions of the above mentioned cabinet approval.

Grounds

1. Whereas, the Government has notified certain conditions vide which BSNL absorbees shall be entitled to pension under CCS Pension Rule 1972 as amended from time to time.
2. Whereas, unlike from other PSUs, BSNL retired employees are being paid pension under Rule 37A (21) of CCS Pension Rule 1972 by the Govt. of India.
3. Whereas, BSNL has already paid pension contribution to DOT in respect of service rendered by BSNL absorbees in BSNL after absorption till the date of retirement and now they are also at par with other central Govt. pensioners under above mentioned rule 37 A of CCS Pension Rule as mentioned in point 2 above.
4. DO letter of the then Secretary, Department of Telecom, Govt. of India No. 1-45/2003-B dated 15.03.2005 (copy enclosed) is self-explanatory wherein it is stated that **"In respect of officials/ officers absorbed in BSNL, BSNL will be liable to pay the pension contribution in accordance with FR116. The liability on account of pension will be that of Govt. of India.**

5. Vide DO letter A-11013/1/2005-Admn-II/Abs Cell dated 21st October 2008 (copy enclosed) issued by the DOT Joint secretary to the CMD BSNL which categorically states that :
- (i) Sub Rule 21 of Rule 37-A of CCS (pension rules 1972) lays down that nothing contained in sub rules (12) to (20) shall apply in the case of conversion of the Department 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. The aforesaid sub rule leaves no scope for any doubt and should assure Gr-A officers as well as BSNL that payment of pensionary benefits including family pension in respect of the absorbees in BSNL is the responsibility of the Government irrespective of other arrangements made with BSNL regarding contribution etc.

But as per Cabinet note no F. No 40-17/2008-Pen (T), Govt. of India, Deptt. of Telecom copy No /70 dated 28th December, 2010 para 3.5 states that if BSNL receipt is less than 60% then the payment of pension will be paid by BSNL.

It is very arbitrary that as per Cabinet approval, DO letter of Secretary, Department of Telecom, Govt. of India DO letter no 1-45/2003-B dated 15.03.2005 and Jt. Secretary, DOT, Govt. of India DO letter no. A-11013/1/2005-Admn-II/Abs Cell dated 21st October 2008, the absorbees of the BSNL have been assured that the pension liability, including family pension shall be on account Govt. of India.

Now that the DOT is in the process of changing the conditions 15 (Fifteen) years after the assurances and commitments given to the employees which is clearly a case of going back of the agreement signed with the employees who had made a well thought decision of giving away the Government status and opting for the BSNL. Now if any change is made in the said clauses that would tantamount to breach of agreement and if any such decision is taken, the employees / retired employees (BSNL optees) shall also be given a chance to reconsider their decision of remaining in BSNL or opting for Government status.

The honorable Supreme Court Judgments in this regard are also very clear that the pension is the property of employee, and cannot be modified.

It is also to highlight that employees who have served in DOT more the 25 to 30 years, and the pension contribution of the rest period served in BSNL have been paid to DOT by BSNL till the date of retirement. Then the DOT is trying to change the rule to stop the pension of their employees. Hence the condition of 60% receipts from BSNL should be separated as regards with pension, when the pension contribution of each employees had paid by BSNL to Deptt. Of Telecom till the date of retirement, as per earlier condition which has been approved by the cabinet at the time of absorption in BSNL.

In view of above, we request your good self to consider the issue in light of the above mentioned points and **not to process the provisions of the cabinet memo dated 28-12-2010 for further implementation.**

With kind regards,

Encl: As above

Yours sincerely
Sd-
(Prahlad Rai)
General Secretary

Copy to:-

1. Smt. Anne Moris, Member (Finance), Telecom commission, DoT, New Delhi.
2. Sri Anupam Srivastava, CMD, BSNL, New Delhi.