



ALL INDIA BHARAT SANCHAR NIGAM LIMITED
RETIRED EXECUTIVES' ASSOCIATION
Central Headquarters

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No. AIBSNLREA/CHQ/2010/1

Dated: January 18, 2010

To

Shri P J Thomas,
Secretary,
Department of Telecommunication,
Sanchar Bhawan,
New Delhi 110 001.

Sub: Revision of Pension/family pension of the absorbed BSNL Executives drawing pension on IDA scales - Regarding.

Sir,

We have been pleading since long for immediate revision of the pension/family pension of the absorbed BSNL Executives who retired between 1.10.2000 and 31.12.2006 and have been drawing the same on IDA pay scale. Revision of their pension/family pension, in fact, became due following revision of the IDA pay scales of the BSNL Executives w.e.f. 1.1.2007. These ex-employees of DOT/DTS/DTO, on their absorption in BSNL were granted IDA pay scales. Further, in accordance with Rule 37-A of CCS (Pension) Rules 1972, they were granted pension only on IDA (Industrial Dearness Allowance) pattern. But we regret to say that Department of Telecommunication, to our utter surprise, moved a proposal in late 2008 for revision of pension on CDA pattern based on the OM No 4/14/2001-P&PW(D) dated 19.09.2003 issued by the DOP&PW. In the process we have been denied our legitimate revision of pension effective from 1.1.2007.

2.1 As regards the applicability of its OM dated 19.09.2003, the Department of Pension and Pensioners' Welfare has informed under RTI Act 2005 that "DOP&PW O.M.

No. 4/14/2001-P&PW(D) dated 19.9.2003 is applicable to the Govt. employees absorbed in PSU/CAB and were drawing pension on 1.1.1996". Thus the above O.M. rightly is not applicable to the absorbed BSNL pensioners, since BSNL came into existence only w.e.f. 01.10.2000 and there was no pensioner from BSNL to draw pension on 1.1.1996. We are also aware that DOP&PW has taken the same stand when the DOT wanted its views during a meeting held by Secretary (E) and also in file which was moved by DOT.

2.2 Further, Para 2(a) of the above stated OM dated 19.09.2003 confirms that this OM was in sequel to an earlier OM issued by the same DOP&PW vide its F. No. 45/86/97-P&PW(A)-Part-III dated 10.02.1998 to implement one very significant recommendation of the V Central Pay Commission and accepted by the Government of India regarding grant of same/equal dearness relief and fitment benefit to the pensioners as were available to the serving employees retrospectively from 1st CPC era. As is evident from Para 2(a) of OM dated 19.09.2003, that this OM was issued only to overcome some difficulties observed to implement the OM dated 10.02.1998 for the absorbed PSUs/CABs Pensioners. Once the said recommendation of the V CPC got implemented for the absorbed PSUs/CABs Pensioners by issue of the OM dated 19.09.2003, this OM lost its relevance.

2.3 In case of the absorbed employees in Food Corporation of India, another central PSU, revision of pension to its pensioners was ordered only on IDA pattern by the Ministry of Consumer Affairs, Food and Public Distribution vide its F. No 38020/1/2000-FC.3 dated 31.05.2005. Para 7 of this Order further confirms that the decision to revise the pension of the absorbed retired FCI employees on IDA pattern was taken in consultation with DOP&PW and Department of Legal Affairs as well. This Order also reveals that this Ministry was fully aware of the contents of DOP&PW OM No 4/14/2001-P&PW(D) dated 19.09.2003, as is noted from Para 2.1 to 2.3 of the above Order dated 31.05.2005, but did not rightly consider it applicable to the absorbed employees of Food Corporation of India.

2.4 It is further submitted that Department of Pension & Pensioners' Welfare, which is the nodal Department to frame Rules/Laws and issue instructions regarding entitlement/payment of pension of the central Government Employees absorbed in the Public Sector Undertakings/Central Autonomous Bodies, issued notification in the Gazette of India on 30.09.2000 amending Central Civil Services (Pension) Rules 1972 and inserting Rule-37-A after the Rule 37. Some special provisions were also made in this Rule in respect of the retirees from Bharat Sanchar Nigam Limited created on conversion of Department of Telecom Operations and Department of Telecom Services with effect from 1.10.2000. According to the provisions in this Rule, pension of the absorbed retired employees from the PSUs is to be determined on IDA pay scale. *Sub Rule 10 of Rule 37-A provides that "in addition to pension or family pension the*

employees shall be eligible for dearness relief as per industrial dearness pattern."

2.5 Department of Pension & Pensioners' Welfare clarified vide its OM No 4/61/99-P&PW(D) dated 20.12.2002 that in case of absorbed employees their "**pay in IDA pay scale will be taken into account for calculation of average emoluments. In addition to pension or family pension, as the case may be, such absorbed employees shall be eligible to receive Dearness Relief as Industr**

2.6 Department of Telecommunication itself had clarified vide its No. 33-14/2000/SR dated 19.02.2001 that "**for the purpose of reckoning emoluments for calculation of pension and pensionary benefits the emoluments as defined in CCS (Pension) Rules in PSU in IDA pay scales shall be treated as emoluments."**

2.7 In Para 12 of the Judgement delivered on 01.04.2008 in the case No Appeal (civil) 2388 of 2008 [Videsh Sanchar Nigam Ltd vrs Ajit Kar & Ors] before the Hon'ble Supreme Court, judgement on which was delivered on 01.04.2008, it is recorded as follows:- "**Department of Telecommunications in reply to the representation dated 23.08.1998 of the Secretary of VSNL's Retired Employees Association, in their notification states :- (i) Pension in IDA pay scale with IDA relief: Having changed over to IDA pattern of pay scales as per the Government instructions, it is obvious that employees who opted for the Government pension should be paid in the applicable IDA pattern of pay scales with IDA relief. (ii) Revision of pension\026 Rule 70: It is clarified that it is not a revision of pension but change of pension from CDA to IDA pattern of pay scales as per the Government decision. The revision in IDA pattern of pay scales is due from 1.1.1997 and pension shall also be revised". Thus as per above fact the Department of Telecommunication, in case of the absorbed retired employees of Videsh Sanchar Nigam Limited which was a PSU created on conversion of another Government Department i.e. the Overseas Communication Service, had admitted that revision of pension in IDA pattern is due for them w.e.f. 1.1.1997 and this would also be revised.**

2.8 Department of Public Enterprises has also informed under the RTI Act 2005 that "**... DPE has not framed Pension Rules for the employees of CPSEs. The Pension Schemes of the employees of CPSEs converted from Government Departments are being handled by Department of Pension & Pensioners' Welfare. The provisions of Rule 37-A of CCS (Pension) Rules 1972 have been issued by the Department of Pension & Pensioners' Welfare & implementation of the said Rule rests with that department.**" Thus, it is further clear that Rule 37-A of CCS (Pension) Rules 1972 and NOT any other Orders like DOP&PW OM No 4/14/2001-P&PW(D) dated 19.09.2003, as thought otherwise by Department of Telecommunication, governs the pension payment matters in IDA pattern including revision of pension of the Central Government employees absorbed in the PSUs

converted from Government Departments in the same manner as is the case with the Central Government Employees in accordance with various provisions in CCS (Pension) Rules 1972.

2.9 *Hon'ble Supreme Court in its judgement delivered on 30.07.2008 in Writ Petition (C) No 35 of 2006 [Society of Retired Forest Officer, UP Versus State of UP & Ors] has also ruled that "..... **As and when there is a revision of dearness allowance and revision of pay scales then the effect of that revision should be ensured promptly and the fixation should be released as far as possible within two months of the so called revision....**".* But it is regretted that in our case, though the revision of pay scales took place almost two years back, the pension is yet to be revised.

3.0 In view of the above facts and submissions, we earnestly request you to kindly expedite revision of pension/family pension of the absorbed BSNL Executives on IDA pattern, who retired between 1.10.2000 and 31.12.2006, since the revision of IDA pay scales in BSNL has already been implemented with effect from 1.1.2007.

With kind regards,

Yours sincerely,



(S Basu)
General Secretary

Copy to:

1. Shri V K Shukla,
Member (Services), Telecom Commission.
2. Smt Vijayalakshmy K Gupta,
Member (Finance), Telecom Commission.
3. Shri A S Nikhade,
Sr Economics Adviser, Telecom Commission.