



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

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No. AIBSNLREA/CHQ/2009/36

Dated: October 01, 2009

To

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

Sub: DOT's move for circulation of its draft Cabinet Memo containing its own proposal to seek approval of Cabinet for revision of pension on CDA pattern to the Employees of DOT, DTO and DTS absorbed in Bharat Sanchar Nigam Limited who are drawing pension on IDA pattern as per provision in Rule 37-A of CCS (Pension) Rules 1972 and consequent denial of long pending revision of pension of the absorbed BSNL Executives retired between 1.10.2000 and 31.12.2006

Sir,

We are perturbed by the decision of the Department of Telecommunication to seek approval of the Cabinet for revision of pension on CDA (Central Dearness Allowance) pattern to the absorbed Employees in BSNL who draw their pay and pension on IDA (Industrial Dearness Allowance) pattern as per provisions under Rule 37-A of CCS (Pension) Rules 1972 which were notified in Gazette of India and administered by the Department of Pension & Pensioners' Welfare. We also learn that this move is on the behest of a very negligible number of residual ITS Group A Officers who refused to take absorption in BSNL/MTNL and hold important policy making positions, though over 3.5 lakhs employees belonging to Group B, C and D Services including Group A

Officers of other disciplines including some ITS Group A Officers of DoT/DTO/DTS have already got themselves absorbed.

2.1 We are told that Department of Telecommunication is relying on the OM No 4/14/2001-P&PW(D) dated 19.09.2003 issued by the Department of Pension & Pensioners' Welfare and even sought the views of that Department i.e. DOP&PW on the matter. We further understand that Department of Pension & Pensioners' Welfare has not agreed to the views of Department of Telecommunication regarding the applicability of the above stated OM in respect of the absorbed central Government (i.e. DOT/DTO/DTS) Employees in Bharat Sanchar Nigam Limited.

2.2 Department of Pension and Pensioners' Welfare which issued the OM dated 19.09.2003 has incidentally 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.*" Since BSNL came into existence only on 01.10.2000, there was no pensioner from this PSU to draw pension on 1.1.1996. Thus the above O.M. rightly can not be applicable to BSNL.

2.3 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. While no problem was found in implementing the OM dated 10.02.1998 for the Central Government Pensioners, numerous difficulties were observed while implementing this OM for the absorbed PSUs/CABs Pensioners. As is evident from Para 2(a) of OM dated 19.09.2003, that this OM was issued only to overcome those problems. Once the said recommendation of the V CPC was implemented successfully through OM dated 10.02.1998 for the Central Government Pensioners and subsequently for the absorbed PSUs/CABs Pensioners who were drawing pension on 1.1.1996 by issue of another OM dated 19.09.2003, both these OMs lost their relevance and further application.

2.4 In case of the absorbed employees in Food Corporation of India, another central PSU, revision of pension to its pensioners was ordered only in 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. This Order clearly 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 by Ministry of Consumer Affairs, but did not rightly consider it applicable to the absorbed employees of FCI.

2.5 Department of Pension & Pensioners' Welfare had also 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 Industrial DA pattern as per provision of sub rule 10 of Rule 37A.*"

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, 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 of 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. Department of Telecommunication, in case of the absorbed retired employees of VSNL which was a PSU created on conversion of Overseas Communication Service, had admitted that **revision of pension on IDA pattern** is due for them w.e.f. 1.1.1997 and this would also be revised.

2.8 The 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....*".

3.0 From the foregoings, it would be appreciated that payment of pension and its revision to the absorbed employees has to be only on IDA pattern. The present move by the Department of Telecommunication is nothing but an effort to re-write the Rules regarding entitlement for pension and other pensionary benefits to the central Government Employees absorbed in the PSUs/CABs.

4.0 In view of the above, we request you to drop the move to seek approval of the Cabinet to the proposal for revision of pension on CDA pattern to the absorbed retired employees of BSNL and also order immediate revision of pension of the absorbed

Executives of BSNL on IDA pattern, who had retired between 1.10.2000 and 31.12.2006 and at present drawing pension on IDA pattern as admissible under the existing Rules/Orders, since the revision of IDA pay scales for the Executives in BSNL has already been implemented with effect from 1.1.2007.

With kind regards,

Yours sincerely,

A handwritten signature in black ink, appearing to be 'S Basu', written in a cursive style.

(S Basu)
General Secretary