

Be rational – It is not notional
ON REVISION OF PAY WITH 78.2 % FIXATION BENEFIT

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It is two months now that the order of DoT and BSNL for revision of pay with 78.2 % DA w.e.f. 01-01-2007 have been released. The employees who are in service on or after 10.06.2013 have got the benefit of revised pay fixation with 78.2% of DA w.e.f. 1.1.2007, but the actual benefit of pay fixation has been allowed w.e.f. 10.06.2013. While this revised pay fixation benefit w.e.f. 01-01-2007 has been allowed to those who were in service on 10.06.2013, it has not been extended to those who have retired between 01.01.2007 and 09.06.2013, even though both the groups got their earlier pay revision w.e.f. 1.1.2007. Both the above categories of employees were in service as on 01-01-2007 and had their pay revised with 68.8 % DA fixation earlier as per the DoT orders dated 27th February, 2009. The DoT order dated 10th June 2013 extending the benefit of 78.2 % DA fixation benefit w.e.f. 01-01-2007 itself states that **the said order of DoT is in partial modification of DoT's earlier order dated 27.02.2009**. And as such extending the revised fixation benefit to one group and denying the same for the other group is in effect a misreading the orders of the DoT apart from not implementing the orders of DoT in letter and spirit and is also discriminatory.

Whenever any order gets released, it is customary for some to reveal their knee jerk reactions to it without analyzing the issue threadbare. By this they may inadvertently cause damage to the cause itself which they profess to espouse. This was the state of affairs when the order of DoT and BSNL was released on 10th June 2013 on pay revision with 78.2 % DA fixation. Just because the order stated that there will be no arrears for the period from 01-01-2007 to 09-06-2013 they jumped to the conclusion that the fixation is notional. Some referred to some DoP orders which cannot be a parallel here in this case. A few went to the extent that those who retired between 01-01-2007 to 09-06-2013 should be given revised pay benefit of 78.2 % for the last month of their retirement or at least on the date of their retirement to be eligible for increased pension and additional retirement benefits.

The funny part of it is neither DoT nor BSNL in their order dated 10th June 2013 had termed the pay revision w.e.f. January 2007 as notional. This we pointed out in our earlier write up on the same issue (see our write up hosted on 3rd July 2013). We pointed out that *“neither in the order of DoT communicating the Presidential Directive nor in the order of BSNL the word “notionally” is found anywhere. . . . Just because the arrears are not paid now, the fixation cannot be called as notional. If the intention of the DoT or BSNL was to fix the pay notionally then it should have been specifically mentioned in the order itself. It cannot be so assumed.”*

Nevertheless the stand taken by a few including some associations has created the confusion. It seems now that the DoT has asked BSNL to furnish some inputs including whether the pay revision is notional. Peculiarly, it is the DoT, which is the administrative ministry, which

conveyed the Presidential Directive by its order dated 10th June 2013 based on which BSNL released its order. Now DoT asks BSNL to clarify whether the fixation is notional. So it is crystal clear that DoT has not seen in the order of BSNL dated 10th June 2013 anything to suggest that the pay fixation is notional. Further it also shows that DoT also has not meant this pay fixation as notional in their order dated 10th June 2013, nor DoT has declared it as notional till date. Not only that. The said order dated 10th June 2013 of DoT is that conveying the Presidential approval for the pay revision with 78.2 % DA fixation. And this order does not mention that the pay revision is notional. Therefore, it is quite logical that the Presidential approval also would not have mentioned that it is notional. Further, the DoT order reads “ The President is pleased to approve the **proposal of BSNL regarding the fitment formula as per the DPE order . . . dated 02-04-2009**” That means the proposal sent by BSNL to the President, obviously through the DoT i.e. the administrative Ministry, also does not mention it is notional. It is only so because the DPE order dated 02-04-2009 modifying its earlier order to give fitment benefit of 78.2% DA in the revised pay scales, based on which the proposals of BSNL were sent for Presidential approval, never said these were notional. What was given in DPE order dated 02-04-2009 was part of a regular pay fixation formula in the pay scales which were also regular. Further, Para 3 of the said DPE order reiterates that this has to be viewed as a total package and it is applicable to all CPSEs. So there is no scope for DoT/ BSNL to send a proposal for treating the 78.2 % DA merger fixation as notional or treating part of the pay fixation 68.8 % as actual and the balance part of the pay fixation 9.4 % as notional.

This is what we mentioned in our earlier write up *“The notion that the fixation is notional is in the minds of a few only and not in the orders”*

Be rational. The pay revision is not notional.

Nevertheless, the confusion so created by a few has started its rounds that now DoT itself is indecisive and confused. An executive association which was a party to the agreement made last year has now asked for giving last one month (or last one day ?) pay with the 78.2 % fixation for those who had retired during the interim period from 01-01-2007 to 09-06-2013. That means they are of the view that the pay revision is notional. When the agreement says that the arrears will be paid at a future date how can it be notional ? Do they say that the order of BSNL is a breach of agreement made with them ? And if so what is there for them to rejoice and celebrate the release of the order as a victory ?

Assuming for the sake of an argument that as per the pay revision order of DoT/ BSNL the revision of pay with 78.2 % DA is notional then since the orders of DoT and BSNL are issued as per the Presidential Directive then the Presidential directive itself should have mentioned it as notional. In that case if the Presidential directive is to treat the pay from 01-01-2007 to 09-06-2013 as notional then how come these people now ask DoT/ BSNL to pay the last one month pay for those who retired from January 2007 to 09-06-2013 with 78.2 % fixation ? If the interim period of 6 years 5 months and 9 days are to be treated as notional as per Presidential directive, then whether DoT/ BSNL has any authority to make such a payment for any part of the period even for a month or even for a day ?

So if the interim period is notional, how can they ask for 78.2 % fitment benefit for a month ? And if it is not notional why should they ask for pay for just one month when the employee is eligible for the pay with 78.2 % fitment benefit for the full period and as such is eligible for additional pension and terminal benefits? What a contradiction !

For taking the stand of asking just last month's (or last day's) pay they have stated that since the revised pay was not actually paid, those who retired during the interim period will not get additional terminal benefits and increased pension as per CCS (Pension) Rules. Well. Under what rules then an employee can be given higher pay for the last month or the last day alone ? Is there any rule ? Is there any precedence? Is it tenable by any law ? Further by taking such a stand do they not agree to forego the arrears forever writing it off as notional ?

We repeat. Be rational. The pay revision is not notional.

When the pay revision is not stated as notional as shown above either by DoT or by BSNL or in the Presidential directive or the DPE Order or in the proposal of BSNL sent to President, where lies the problem in revising the pay of those who were in service as on 01-01-2007 with 78.2% fixation benefit? Why should these associations ask for one month pay or one day pay when the employees are rightfully eligible for revision of pay with 78.2% DA merger? Is the one month or one day pay is as mercy or '*bhiksha*'? Are the terminal benefits not the legal rights of a pensioner under the Pension Rules ? Is it a gratis ?

Well. It is often told that history repeats. These are the very same people who went to Secretary DoT on a number of occasions asking for pension revision for pre-2007 BSNL pensioners in CDA pay scales since they had no knowledge that the pre-2007 BSNL pensioners are eligible to get revision of pension and that too in IDA pay scale.

Well, it is not enough if one merely reads the Pension Rules. One has to understand it.

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