

APPLICABILITY OF
DOP&PW ORDER NO 4/14/2001-P&PW(D) DATED 19.09.2003 –
OUR STAND VINDICATED

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Though there has been gossips here and there about the pension revision for the BSNL absorbed past pensioners in CDA pattern applying DoP&PW OM No 4/14/2001-P&PW(D) dated 19-09-2003 by the DoT, we were very clear from the very beginning that this order is not applicable in case of BSNL pensioners.

It can be well remembered that even during September 2003 when the said order was released, a huge cry was raised by some people who wanted all the terms and conditions for absorption be made known before they opt for BSNL. They made a propaganda that we will not get IDA pension as given in Rule 37-A. But we were sure that this is not the case.

At the very outset the subject of the said DoP&PW order read as it is for those “**opting for pensionary benefits of combined service** in Government and public sector undertakings (PSU)”. It should be clear to all that when we opted for BSNL there was no scope for exercising option either for 'pro rata pension' or 'pension for combined service' but only to accept pension on combined service in Government (i.e. DOT) and the PSU (i.e. BSNL) as provided under Rule 37-A. Though subsequently the said option for pro rata pension / continued pension for combined service were introduced in Rule 37-A by an amendment on 14/10/2005 and given retrospective effect from 01-10-2000 by another amendment dated 25/10/2007, these amendments were notified much later and were not available in 2003 when we opted for absorption in BSNL. Thus, our opting for pensionary benefits of combined service does not arise.

Further to this, a clear reading of the said DoP&PW order dated 19-09-2003 gives further clarity on the issue. Para (a) of the said O.M. reads “**For the purpose of fixation of pension as per O.M. dated 10.2.1998**, all absorbees shall be notionally brought on to CDA scale w.e.f. 1.1.1996.”. Hence it should be clear that this order is regarding fixation of pension as per OM dated 10-02-1998. Thus, the clue is the DoP&PW order dated 10-02-1998 in which certain instructions had been given about fixation of pension. This DoP&PW order dated 10-02-1998 is the first order and the order dated 19-09-2003 is a sequel to the first order dated 10-02-1998.

Now we have to have a look at the DoP&PW OM F.No.45/86/97-P&PW(A)-Part-III dated 10-02-1998.

Before we see what the said order is about, a small history will be helpful to understand the background of issue of the order dated 10-02-1998. From 2nd CPC in 1960 to 4th CPC in 1986 the plight of the pensioners was very miserable. The dearness relief which was given to the pensioners were less than the dearness allowance given to the serving employees. Further in every CPC when the fitment benefit was given to the serving employees, the past pensioners were

not given any fitment benefit. This created a situation in which a person who retired in a senior rank, say as a Class I officer (say DE), sometime in sixties or seventies after 2nd or 3rd CPC was getting a lower pension than a person retired in junior rank, say a Class III employee (say a head clerk) who retired after 1986, after 4th CPC. Likewise a person who retired as a class III employee in sixties or seventies was getting a pension very much lower than an employee who retired after 1986 serving in the same cadre or even as a class IV employee. This anomalous situation created a genuine heart burn for the past pensioners. This issue was also taken up by some pensioners' associations with 5th CPC. **TESA (I) which is a service association of the TES Group B Officers and those promoted therefrom in Department of Telecommunication took up this issue with 5th CPC and asked for a minimum pension on 'one cadre one pension concept' which was then available only in armed forces.**

The 5th CPC was convinced by this genuine demand. It recommended that the pension of the past pensioners should be revised by giving the same fitment benefit given to the serving employees in each CPC 2nd, 3rd, 4th etc and then fix it as in 5th CPC. That is for a pensioner who retired prior to 1960 in 1st CPC scale, his pension will be fixed in 1960 in 2nd CPC scales with the same fitment benefit given to serving employees, again fixed in 1973 with the same fitment benefit given to serving employees in 3rd CPC, then again fixed in 1986 giving the same fitment benefit given to the serving employees by 4th CPC, and again fixed in 1996 giving the same fitment benefit given to the serving employees in 5th CPC. Further 5th CPC also recommended that even after fixing pension as detailed above, if the pensioner draws a pension lower than 50 % of the minimum of the 5th CPC scale for the cadre in which he retired, his pension will be further fixed subject to the minimum of 50 % of the minimum of the pay scale of the cadre in which he retired [**under the principle of one cadre one pension concept as asked by TESA(I)**].

The Govt. accepted the said recommendation of the 5th CPC. **Now the DoP&PW order F.No.45/86/97-P&PW(A)-Part-III dated 10-02-1998 illustrates the method of fixation for the past pensioners fixing them at every earlier CPCs as recommended by 5th CPC.** However, the arrears were allowed only from 01-01-1996.

Now let us see what the DoP&PW order dated 10-02-1998 says. Para 1 to 18 of the said order dated 10-02-1998 illustrates the method of fixing pension for Central Govt. pensioners. Para 19 says the method to be applied for the Central Govt. employees absorbed in PSU for fixation of their pension under the same concept.

Though the fixation of pension for the past pensioners in Central Govt. posed no problem, in case of PSU absorbed employees the method had some ambiguity since earlier they were having CDA scales in Government and then they had IDA scales in the PSU and the pension was in IDA scale only. Hence the DoP&PW order dated 19-09-2003 is a clarification to order dated 10-02-1998 explaining how to fix pension for those absorbed employees who retired prior to 01-01-1996 and were drawing pension on 01-01-1996.

Thus the said order is a specific order, an one time measure, for implementing the recommendation of 5th CPC of minimum pension, for those who retired prior to 01-01-1996. It is not a general order for *pension revision* of the PSU absorbed employees. Since as per the subsequent Orders, the DA for serving employees and the DR for the pensioners is granted in the same manner both in Central Government and in the PSUs and full neutralization is given to all (from January 1996 in Central Government Departments and January 1997 in PSUs) and also the past pensioners being given the same fitment benefit as given to the serving employees, such problems are not to arise for the past pensioners of any PSU.

As far as BSNL absorbed pensioners is concerned, since they were absorbed only on 1st October 2000 i.e., after 1996 (5th CPC), this DoP&PW order dated 19-09-2003, which is an one time measure for *fixation of pension* for those who retired prior to 01-01-1996, is in no way connected with their *revision of pension*. In other words, the DoP&PW order dated 19-09-2003 has no relevance with the *revision of pension* for the past pensioners absorbed in BSNL who retired between 1.10.2000 and 31.12.2006.

The DoP&PW has since confirmed under the RTI Act 2005 **that the provisions of the above OM dated 19-09-2003 for revision of pension of the absorbed Government Employees on pre-sumptive CDA pay scale is applicable to the Govt Employees absorbed in PSU/CAB and were drawing pension on 1.1.1996.**

Therefore, the above confirmation by DoP&PW vindicates our stand on this issue

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- **15.08.2009:APPLICABILITY OF DOP&PW'S OM NO. 4/14/2001-P&PW(D) DATED 19.09.2003 FOR REVISION OF PENSION ON PRE-SUMPTIVE CDA PAY SCALE:** DOP&PW has since confirmed under the RTI Act 2005 that the provisions of the above OM for revision of pension of the absorbed Government Employees on pre-sumptive CDA pay scale is applicable to the Govt Employees absorbed in PSU/CAB and were drawing pension on 1.1.1996. This implies that the said OM is not applicable to the absorbed Govt Employees in BSNL which came into existence only on 1.10.2000. DOP&PW has also confirmed that a proposal from DOT for revision of pension of the absorbed Govt Employees in BSNL on pre-sumptive CDA pay scale in terms of the above stated OM has been examined in DOP&PW which was under submission to Ministry of Law & Justice.