

PENSION-REVISION-CONFUSION

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1. It is now more than six years now that we published our article in this website captioned "Pension Revision Tension" when the pension revision of pre 2007 BSNL pensioners was due for revision. There were so many rumors spread by many serving Unions/Associations and also by some pensioners' associations that the DoT is not going to revise the pension since it was argued that pension revision is not in Rule 37A; that DoT is of the view that there is no precedent for pension revision of BSNL absorbed; that the pension of pre 2007 will be revised as per 6th CPC recommendation of giving 40% fitment over the gross pension etc etc. At that point of time, the ITS officers who had not given option to get absorbed in BSNL/MTNL were making a demand for pension revision to be in CDA pattern and application of presumptive CDA pay as per DOP&PW order dated 19-09-2003 for BSNL pensioners. This created a tension in the minds of not only the primary members but also in the leaders of various Unions/Associations of serving employees including the leadership of some pensioners' associations as well. In their knee jerk reaction, they, without analyzing the issue as per the rules or the settled law of the land, started giving so many suggestions that would only be a dis-service to the cause of the pensioners. This created more tension in the minds of the pensioners. Some Unions/associations either to please the ITS lobby or due to their ignorance on the issue started supporting revision of pension in CDA pattern stating that it is beneficial, without understanding that neither it is beneficial nor it is practical. It was so funny that they were even demanding that the pension of pre 2007 pensioners was to be revised as per 6th CPC fitment formula w.e.f. 01-01-2006. One pensioners' association was demanding that revision of pension in BSNL should be either as suggested by Sixth Central Pay Commission or as suggested by the Jagannath Rao Committee (2nd PRC). It is at that stage we released the said article "Pension-Revision-Tension" in our website with clearcut analysis and reasoning as to why our revision of pension should be or could be in **IDA pattern only with effect from the date when the pay of the serving employees is revised and with the same fitment formula that is given to the serving employees on their revision of pay.** This was an eye opener to many, since even those who were earlier supporting CDA pattern or taking a stand of either 'this or that' came around and one pensioners' association which was steadfast in supporting CDA pattern openly wrote to us that they are with us only on this issue. And finally after another eight months, the cabinet memo for pension revision was moved by DoT in IDA pattern only which was approved by the cabinet and DoT issued the order on 15th March 2011 **which vindicated our stand on all these issues viz., pension revision in IDA pattern, date of effect of revised pension and the fixation benefit.**
2. It is quite surprising that though there is a precedent now that the pension revision for BSNL pensioners is to be done with the same fitment benefit that is given to the serving

employees of BSNL and from the same date on which the pay of the serving employees gets revised, still a lot of confusion is getting created by some people on the issue. Leave alone pension revision orders of other PSUs like Port Trust , FCI etc, which we quoted in our earlier article, now the pension revision order dated 15-03-2011 issued by DoT revising the pension of pre 2007 BSNL pensioners itself is in place which states "the matter regarding revision of pension in respect of BSNL IDA pensioners who retired during the period from 01-10-2000 to 31-12-2006 *pursuant to the wage revision in BSNL with effect from 1-1-2007 had been under consideration of the Govt. of India.*" So, unlike the earlier occasion, now at least to the DoT it will be clear that the revision of pension of BSNL pensioners falls due only when pay revision takes place for serving employees and the fitment benefit for the pension has to be the same as given to the serving BSNL employees. Then why this empty noise now being created that the fixation given to Central Govt. employees by 7th CPC should be given to BSNL pensioners? This unwanted creation of confusion could only jeopardize the interests of the BSNL pensioners. This clearly exposes the wisdom of those who are making the noise now.

3. Again, one executive association wants to take up the issue of pension revision with DPE and wants this issue of pension revision to be included in the terms of reference to 3rd PRC. In the same breath it wants DoT to take up the revision of pension for BSNL/MTNL pensioners with the empowered committee to the 7th CPC. We are thrilled! Probably, the BSNL/MTNL pensioners would get one pension revision at CPC formula w.e.f. 01-01-2016 and again another pension revision, of the so revised pension as per 7th CPC, to be given as per 3rd PRC w.e.f. 01-01-2017. What a great bonanza! Can any sensible person think of such a great thing?
4. One pensioners' association referring to the above stand of the said executive association claims that they are not confused. Good. They say that PRC cannot suggest any pension revision. Exactly so. We fully agree. Further, their stand that PRC is only for executives who are 10 % and not for non executive who are 90 % is also true. They also say that the wage revision of non executives is based on bargaining capacity. Absolutely right. But then in the earlier pay revision of non-executives w.e.f. 01-01-2007, why did they wanted and accepted the period of pay revision as 10 years (though they were offered pay revision after every 5 years which would have entitled the non-executive pensioners to get pension revision after every 5 years) and also the same fitment formula of 30% as given to the executives, especially when BSNL was then in sound financial position with good affordability? Do they feel that it was the maximum limit of the bargaining capacity of the non executive unions?
5. We are sure that the issue of pension revision for BSNL absorbed pensioners is not in the domain of CPC, since we are BSNL pensioners and not Central Government pensioners. Nor it is in the domain of PRC or wage revision committee as well, since our pension

though determined as per the pay drawn in BSNL under CCS Pension Rules, is paid by Government. Therefore, the PRC or wage revision committee for the CPSEs cannot make any recommendation on either pension or revision of pension of BSNL absorbed. Still, we are interested in PRC, because the pay of an executive in BSNL can be revised only on the basis of recommendation of a PRC. And also the pension revision of a retired executive of BSNL depends on the fitment benefit that is given to the serving executives. Similarly, the pay of a non-executive in BSNL can be revised only through the deliberations of wage revision committee. And the pension revision of a retired non executive of BSNL depends on the fitment benefit that is given to the serving non executives. Though the next pay revision is due on 01-01-2017 for both executives and for non executives in BSNL, we wish that it is held early and not delayed since it is only after the pay revision of executives in BSNL, the cause of action for pension revision of retired BSNL executive will arise. Same is the position with wage revision negotiation for the non-executive employees which will have impact on revision of pension of the retired non executives of BSNL absorbed.

6. As such the said action of some Unions/associations of serving non executives/ executives and also of some pensioners' associations and their demands on the issue of pension revision only reminds us the story of four blind men trying to make out how an elephant would look like. Now let us see further.
7. First of all, it should be understood by one and all that there is a major difference in revision of pay scales and fixation benefit as against the issue of pension revision. The pay revision in Central Government/CPSUs gets realized more due to the collective bargaining power/the better presentation of the case by the employees' unions/associations. While in Central Govt. many a time it depends upon the political climate also, but in PSUs it is based on the paying capacity of the PSU as well.
8. Whereas in contrast to this is the revision of pension or fixation benefit of pension. This depends on the Rules of the day and the settled law of the land. Whatever may be the effort one may make (after all a pensioner association cannot give a call for a strike), unless there is a change in basic rules one cannot get anything either more or less. For example, to put it simply, the pension of BSNL pensioner is based on CCS (Pension) Rules 1972. Whatever may be the CCS (Pension) on that day, it is applicable to BSNL pensioners also. Any change, modification or amendment in CCS (Pension) Rules 1972 is equally applicable to BSNL pensioners. For instance, the minimum pension to be 50 % of the minimum of the scale corresponding to the cadre in which an employee has retired was given as per 5th CPC. This is applicable to BSNL pensioners also. The ceiling of Gratuity was increased from 3.5 lakhs to 10 lakhs, the pension to be calculated on last pay drawn (or the average of last 10 months' pay whichever is higher), dispensing with pro rata pension, additional pension after attaining the age of 80 or more etc – all these were recommended by 6th

CPC and accepted by the Government. When these were given effect to for Central Govt. pensioners, these were also made applicable to BSNL pensioners. The recent DOP&PW order dated 6th April 2016 for revision of pension of pre 2006 pensioners- delinking of revised pension from qualifying service of 33 years is equally applicable to pre 2006 BSNL pensioners also. They would also be eligible for full pension even if they had rendered less than 33 years of service the service in DoT and BSNL put together. It is so, because these Rules on Ceiling of gratuity, service to be completed for full pension, quantum of pension, emoluments for the fixation of pension, etc., are in the provisions of CCS (Pension) Rules 1972 and hence any change incorporated in the provisions of CCS (Pension) Rules 1972 is applicable to BSNL pensioners.

9. Now some over-enthusiastic persons are claiming that since we are paid pension as per CCS (Pension) Rules 1972 and since our pension is paid by the Government, we should get revision of pension as per 7th CPC recommendation. What a great Idea! We wonder whether they have ever gone through CCS (Pension) Rules 1972.
10. It is true that as we had stated earlier since we are paid pension as per CCS (pension) Rules, all the rules in the said pension rules as amended from time to time are applicable to BSNL pensioners. **But where is rule in CCS (Pension) Rules 1972 which states about "Revision of Pension"?**
11. Emoluments is in Rule 33 and 34, Classes of Pension is in Rule 35, Rule 36. Rule 49 is regulation of pension, Rule 50 is Gratuity etc. Where is then Revision of pension ? Which Rule or Para ?
12. It should be amply clear to one and all that when a CPC gives its report, it gives recommendations on the issues related to provisions in pension rules like ceiling in gratuity, minimum service for full pension, emoluments for the purpose of pension etc., besides giving recommendations on revision of pension, fitment benefit etc. All these are given in a single report by the CPC. But the DOP&PW issues two orders one on **revision of provisions relating to pension** and another order for **revision of pension**. In the DOP&PW order on Revision of provisions relating to pension/gratuity it not only issues the necessary orders for the same but also incorporates the same as amendment in CCS (Pension) Rules 1972 through Gazette Notifications. Hence these rules are applicable to BSNL pensioners as well. Please see DOP&PW order dated 02-09-2008 on the subject **"...Revision of Provisions relating to pension/gratuity ..."** . In this order you would find in para 14 that it is mentioned that formal amendments to CCS (Pension) Rules 1972 ...will be issued". Then go through another DOP&PW order dated 01-09-2008 on the subject: **...Revision of pension of pre 2006 pensioners/family pensioners"**. This is exactly the order regarding revision of pension for the past pensioners. There is no such para in this order that formal amendments to CCS (Pension) Rules 1972 will be issued. Why it is So? Because

the provisions in CCS (Pension) Rules alone are amended. The revision of pension is not in the provisions of CCS (Pension) Rules 1972 relating to pension. So there is no necessity to issue any amendment for a rule which is not there. Friends, at least keep your eyes fully open while reading the orders.

13. So, for our friends who say that since we are covered by CCS (Pension) Rules 1972, we should get the fitment benefit as recommended by CPC, we could only say that the orders for revision of pension or fitment benefit are not incorporated in CCS (Pension) Rules i.e., they are not a part and parcel of Pension Rules. This applied to all the pension revision orders issued while implementing the recommendations of 5th CPC, 6th CPC or which is likely to be issued when Govt. accepts the recommendations of 7th CPC.

14. One pensioners' association which by taking out a single Para 2.1 from the DOP&PW order dated 01-09-2008 that "these orders apply to all pensioners/family pensioners who were drawing pension on 01-01-2006 under CCS (Pension) Rules 1972" claims that since the BSNL retired are also drawing pension under CCS (Pension) Rules 1972, they are eligible for pension revision as per CPC. But do these friends have a selective amnesia? How these persons failed to see the Para 4.1 of the same order which says that "the pension/family pension of existing pre 2006 pensioners/family pensioners will be consolidated w.e.f. 01-01-2006 by adding together . . ." and gives the Pension, 50 % DA merger, 24% DA etc., in (i) (ii) (iii) of Para 4.1. Were the BSNL pensioners receiving 50 % DP and 24% DA as on 01-01-2006? The BSNL pensioner was not drawing any DP and was drawing only 58.1% DA as on 01-01-2006. How can a DP of 50% and DA of 24% can be added to his pension which he was not receiving as on 01-01-2006 ? Do they not understand from this, that the said order is not applicable for BSNL pensioners ? Or do these friends expect for a bonus in revision of pension ?

15. These friends claim at the top of their voice that " **WE ARE BSNL RETIREES; BUT WE ARE CENTRAL GOVT. PENSIONERS.**" Is it True? Let us analyse .

16. But just see Rule 37 A under which we got absorbed in BSNL.

Sub Rule 4 of Para 37 A states

"Rule 37 A (4) The permanent absorption of the Government servants as employees of the Public Sector Undertaking shall take effect from the date on which their options are accepted by the Government and **on and from the date of such acceptance, such employees shall cease to be Government servants and they shall be deemed to have retired from Government service.**" (emphasis ours)

17. So as per the above Rule 37 A (4) they cease to be Govt. servants and deemed to have retired from Govt. service. Then if they had accepted a pro rata pension upto 30-09-2000 only then they could call themselves as central Govt. pensioners. (Though pro rata pension

was not an option when options were called for. It was later introduced with retrospective effect from 01-10-2000.) Having opted for BSNL and as such they are no more Govt. servants w.e.f.01-10-2000 how they claim to be central Govt. pensioners? Have they not gone through Rule 37 A of CCS (Pension) rules, 1972 before giving option for absorption in BSNL? Well an ordinary member might have done so on the belief that his leaders would have gone through and had guided them properly. But what about the leaders themselves?

18. Let us remember that **We are BSNL pensioners and our pension is paid by Central Govt.**
See further . . .

19. I was absorbed in BSNL very like any other DoT employee. I retired on superannuation on 30th April 2006. I was issued a Pension Payment Order by the CCA Tamilnadu Circle Chennai. In Page 2 of this PPO near the signature of the Pension Payment Order Issuing Authority it is stamped in BOLD Capital letters "**BSNL PENSIONER. DEARNNESS RELIEF PAYABLE @ IDA RATES**". I had not asked to put the said stamp and term me specifically as BSNL Pensioner. Obviously I think the CCA would have put the said rubber stamp as "BSNL PENSIONER" on the PPO of every BSNL retiree. I think as such our friends who claim that they are BSNL retirees but they are Central Govt. pensioners could have also got their PPO stamped as "BSNL Pensioner". If it is so what I wish to know is whether they objected to the CCA for terming them as BSNL pensioner since they claim that they are Central Govt. pensioners. If they had so objected to stamping them as "**BSNL Pensioner**" and the CCA had refused for any change in the PPO on these lines asked for by them in that case how they are receiving pension by a 'defective PPO' which terms them as BSNL Pensioner whereas as per their claim they are Central Govt. Pensioners. Or could it be that they did not even go through their own Pension Payment order?
Let us see further ...

20. Even a cursory look at the pension revision order of DoT dated 15-03-2011 would show who we are.

Para 1. The employees of erstwhile Department of Telecom. (DoT) who were absorbed in BSNL . . .

Para 2 : The matter regarding revision of pension in respect of **BSNL IDA pensioners . . .**

Para 3 : to all BSNL absorbed pensioners/family pensioners.. . .

Para 3.2 . . . Pre 2007 BSNL pensioner/family pensioner means

Para 4.1. . . . The pension/family pension of pre 2007 BSNL pensioner/family pensioner .

Para 4.2 . . . The fixation of pensioncorresponding to the pre revised scale of pay from which the BSNL pensioner has retired.

21. At every para of DoT order dated 15-03-2011 for revision of pension, it emphatically terms us as BSNL pensioner. Did it not irk them then? When their IDA pension based on BSNL IDA pay was revised w.e.f. 01-01-2007 vide DoT order dated 15-03-2011 as above **which repeatedly terms the BSNL retiree as a BSNL pensioner at every para**, they did not even make a whimper that they are not BSNL pensioners, but are Central Govt. pensioners and so the said order is not applicable to them and refuse to receive the arrears of the revision of pension and also the increased pension given on implementation of the order. Why so? Because, in the last occasion also at one stage they demanded pension revision as per fitment benefit of 6th CPC and at another stage requested pension revision as per 6th CPC or as suggested by the Jagannath Rao Committee (2nd PRC) but then realizing that **IDA pension revision is higher and more beneficial**, they received IDA pension revision. Even now, since they fear that as BSNL is not running in profit, there may not be any pay revision in 2017 and therefore they are making a demand for pension revision as per 7th CPC. So they have now discovered that they are Central Govt. pensioners. **The 7th CPC has recommended fitment benefit as 14.22 % only. (Pay 100 + DA125 % = total 225. Multiplication factor 2.57. So 257-225=32 divided by 225 multiplied by 100 is equal to 14.22).** BSNL gave a fitment benefit of 30% in 2007. If BSNL gives even 15 % benefit in 2017 which would be more than Central Govt., would these people again switchover their slogan that they are BSNL pensioners? And why should one think that BSNL not making that much profit would not revise pay in 2017? Did not MTNL making such huge losses for over a decade grant the same 30% fitment benefit as given to BSNL in 2007? By expressing this view that BSNL will not revise the pay in 2017, even if so opined by any top brass in BSNL now, are these leaders of pensioners' associations making a slander campaign on the serving employees Unions/associations that they are incapable and cannot get a revision of pay in 2017 since BSNL is not having much profit, whereas their counterparts in MTNL, despite MTNL was in red for a long time, got the pay fitment benefit of same 30% as given to BSNL employees in 2007?
22. One pensioners' association stand is that first pension fixation is only linked with pay structure. That is, their pension is to be based in last pay drawn in IDA in BSNL when they retire and subsequent revision of pension should be as per CPC recommendation.
23. Now there is no law or rule till date that a CPC should be held once in 10 years or the pay of a Central Govt. employee to be revised once in 10 years. Pay fixation by the first CPC pay was in 1946, the second CPC 1960, the third CPC 1973, the fourth CPC 1986, the fifth CPC 1996, the sixth CPC 2006 and now the seventh is in 2016. Since after the fourth CPC, the fifth and sixth and seventh were held in 10 years in a row, we cannot be assured of a CPC exactly in 10 years. The leaders of the pensioners' associations who are in the Trade Union movement for over 5 decades could very well remember the earlier years when the Unions fought for setting up of a CPC. And even now setting up of a CPC is not as per any law or standing instructions though it has come to stay as 10 years.

24. Whereas in PSUs, as per DPE guidelines a pay revision could be in 5 to 10 years. You may well remember that in 2007 the Unions demanded in their negotiations for next pay revision in 5 years and even when the management was ready to concede, they finally agreed for next pay revision in 10 years as given for the executives. Now if the wage revision in 2007 had stipulated the subsequent one as 5 years or so, or the ensuing pay revision in 2017 stipulates the next pay revision in 5 years, would the pensioners' association claiming that their pension is to be revised as per CPC will wait till the next CPC for ten years or demand the pension revision on revision of pay of serving employees in 5 years whatever may be the percentage when the wages are revised.
25. We in AIBSNLREA the only association which took the correct stand in the earlier pension revision in 2007 which was subsequently vindicated on all the issues viz., pension in IDA pattern, same fitment formula as given to serving employees, date of effect to be the same as the date of pay revision of serving employees, still hold the same view. We hold the view not because the money to be received would be higher or lower but because it is by a settled law. We have not changed the view since the reasoning which we followed on the earlier occasion viz., the rules and settled law had not changed.
26. We think that those who have never gone through Rule 37 A of CCS (Pension) Rules 1972 before giving option and/or those who had not gone through their own personal PPO and/or those who had not gone through the DoT order dated 15-03-2011 by which pension revision was ordered could have never gone through the CCS (Pension) Rules 1972 in toto and understood it. If we are wrong in our above thinking, then it would only mean that these friends are trying to create a confusion in the pension revision issue in the minds of the hapless BSNL pensioners with a hidden agenda.
27. After receiving pension from the very first day as a pensioner under a PPO which terms them BSNL Pensioners, accepting the IDA pension revision which was ordered by DoT order dated 15-03-2011 which repeatedly termed the BSNL retirees as BSNL pensioners, now they claim that they are Central Govt.pensioners and are running from pillar to post and moving every nook and corner with this claim of pension revision as per 7th CPC. We wholeheartedly appreciate them for their untiring efforts but alas it is with a wrong perception and in a wrong direction. However, we wish them 'Good Luck'.
28. We had stated in the earlier para that "Revision of pension" is not in the provisions of CCS (Pension) Rules 1972. Then how the Central Govt. pensioners are getting revision of pension? How we, the BSNL pensioners got revision of pension w.e.f. 01-01-2007?

(to be continued ...)

In a Nut shell

1. Revision of pension of BSNL pensioners falls due only when pay revision takes place for serving employees and the fitment benefit for the pension has to be the same as given to the serving BSNL employees.
2. Revision of pension should be or could be in **IDA pattern only with effect from the date when the pay of the serving employees is revised and with the same fitment formula that is given to the serving employees on their revision of pay.**
3. The issue of pension revision for BSNL absorbed pensioners is not in the domain of CPC, since we are BSNL pensioners and not Central Government pensioners. Nor it is in the domain of PRC or wage revision committee as well, since our pension though determined as per the pay drawn in BSNL under CCS Pension Rules, is paid by Government. Therefore, the PRC or wage revision committee for the CPSEs cannot make any recommendation on either pension or revision of pension of BSNL absorbed.
4. Any change, modification or amendment in CCS (Pension) Rules 1972 is equally applicable to BSNL pensioners. That does not mean BSNL pensioners are eligible for pension revision as per CPC. DOP&PW order dated 01-09-2008 is not applicable to BSNL Pensioners.
5. The claim at the top of their voice by some friends that “ WE ARE BSNL RETIREES; BUT WE ARE CENTRAL GOVT. PENSIONERS” is not True. According to Sub Rule 4 of Para 37 A of CCS (Pension) Rules, 1972, “**on and from the date of such acceptance (of option), such employees shall cease to be Government servants and they shall be deemed to have retired from Government service.**” Our PPOs either bear a stamp or have printed prominently the letters, “**BSNL PENSIONER**”.
6. In every para of its order dated 15-03-2011 for revision of pension, DOT emphatically terms us as BSNL pensioner.
7. Even now, since they fear that as BSNL is not running in profit, there may not be any pay revision in 2017 and therefore they are making a demand for pension revision as per 7th CPC. So they have now discovered that they are Central Govt. pensioners. **The 7th CPC has recommended fitment benefit as 14.22 % only. (Pay 100 + DA 125% = total 225. Multiplication factor 2.57. So 257-225=32 divided by 225 multiplied by 100 is equal to 14.22).** BSNL gave a fitment benefit of 30% in 2007. If BSNL gives even 15 % benefit in 2017 that would be more than 7th CPC recommended 14.22%
8. Despite MTNL was in red for a long time, they got the pay fitment benefit of same 30% as given to BSNL employees in 2007.

Note: If anyone wants further queries on this issue of pension revision, the author may be contacted in his e-mail address rathan_aangarai@yahoo.com. After sorting out the queries every month the reply will be hosted in website.