

REVISION OF PAY WITH 78.2 % FIXATION –
Additional Pensionary Benefits OF BSNL PENSIONERS

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The order for fitment in revised IDA pay scales of the Executives and non Executives of BSNL w.e.f. 01-01-2007 by allowing 78.2 % DA as fixation benefit has been finally released after a long delay of four years after the DPE issued Orders modifying its earlier Order on fixation benefit and one year from the date the agreement that was signed by BSNL with the unions and a few Executives' associations. On receipt of the approval of DOT, BSNL has also released the order on 10th June 2013.

As usual, the said orders have created anxiety among some pensioners. This is also due to the views expressed by a few that there will be problem in getting the additional pensionary benefits at least with respect to those who retired from 01-01-2007 to 09-06-2013. While some of those who expressed such views appear to be genuinely concerned about the same, but in case of a few others, it is only for creating general confusion and for mudslinging on others and with an eye to settle the old scores that they had with some other leaders while in service.

The viewers of our website know that we in AIBSNLREA always genuinely analyze the problems threadbare and dispassionately. We believe that the interest of all the pensioners, irrespective of the cadres from which they retired from, are one and the same on many issues. That is why even where we think that some of the views expressed by others are not correct, we just discuss the issue without naming the persons who expressed different views. Now let us analyze the issues that are said to be creating the anxiety among the pensioners.

The first comment from a few is that these orders have not spelt anything about pensioners though the agreement between BSNL and the Unions/Associations mentioned that it will be applied to pensioners also. There is no substance in this view. First of all, we should realize that we get pay from BSNL but our pension is being paid by DOT, This is an unique rule which is applicable only in case of BSNL absorbed employees – not even to MTNL absorbed employees. In case of others, whether it is MTNL, FCI, Port Trust etc, which were also converted from Government Departments to PSU/CAB, even though they are also covered by CCS (Pension) Rules 1972, their pay is being paid by the respective PSU/CAB but the pension is to be paid by the trusts and not by the Government. However, in few cases pending constitution of the trusts, pension is being paid by the concerned PSU as in the case of MTNL. This unique protection for pension only for the BSNL absorbed employees is available as per Sub Rule 21 of Rule 37 A of CCS (Pension) Rules 1972.

Therefore, issue of orders on any pension related matters of absorbed BSNL employees is not in the domain of BSNL. It is only the DOT i.e. the Government can issue the orders on pension related matters. Even earlier when pay revision was ordered w.e.f. 01.01.2007, the order of BSNL did not mention about pension of the absorbed employees. Despite this, did not the pre 2007 absorbed BSNL pensioners get their pension revised ? Regular viewers of our website will know the hurdles that was got created jointly by some Unions and Executives Association of BSNL and MTNL demanding for revision of pension in CDA scale and also about our efforts in countering their demand and getting the Order issued for revision of pension in IDA scales only. At least, such problems are not there now. So there is no need to be worried on this issue. DOT will certainly address to this issue.

The second comment, which is all the more serious, is that the pensioners who retired from 01-01-2007 to 09-06-2013 will not get the additional pensionary benefit since they will not receive the fitment benefit w.e.f. 01.01.2007 as this is effective from 10th June 2013. Further, from 1st January 2007 to 9th June 2013, their pay will be fixed “notionally” only. I really wonder from where they got the idea that the fixation as on 1st January 2007 is to be done notionally. The very fact that the arrears is not to be paid does not mean that the fixation is notional. Let us further elaborate on this issue.

Neither in the order of DOT communicating the Presidential Directive nor in the order of BSNL, the word “notionally” is found anywhere. The notion that the fixation is notional is in the minds of a few only and not in the orders. It is known to one and all that when the pay is fixed notionally, the benefit would be extended from a future date. But the obverse of the same is not true. Just because the arrears is not paid now, the fixation cannot be called as notional. Because, 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 otherwise.

Again let us have a look at the DOT order dated 10th June 2013 conveying the approval. It would be seen that it is not a fresh order issued in supersession of its earlier order for merger of 50% of DA effectively amounting to 68.8% of DA for the purpose of fitment in the revised pay scales w.e.f. 01.01.2007. It has been clearly mentioned in the said order dated 10.06.2013 that “Accordingly, **in partial modification** of this Department order No. 61-01/2009-SU Dated 27.02.2009 . . .”. Therefore, except that what has been stated in the said order dated 10.06.2013 modifying the earlier order dated 27.02.2009 regarding merger of 50% DA effectively amounting to 78.2 % DA as on 01-01-2007 for the purpose of pay fixation in revised pay scales, all other paras of the earlier order dated 27th February 2009 remain unchanged. Now, let us consider the points modified by the DOT in its order dated 10th June 2013. These are as follows:-(i) Benefit of merger of 50 % DA effectively amounting to 78.2 % as on 01-01-2007 for the purpose of fitment [Modifying para 2 (i) for effective merger of 68.8% DA] and (ii) No arrears will be paid and the revised fitment will be paid with prospective effect only.

So, barring these two points all the other paras in the DoT order dated 27th February 2009 still hold good i.e. there is no changes in those paras. These are:-

- (i) The implementation is w.e.f. 01.01.2007 (Para 1)
- (ii) Fitment method giving 30 % fitment benefit (Para 2.1)
- (iii) Annual increment will be 3 % of revised pay (para 3)
- (iv) Full neutralization of DA w.e.f. 01.01.2007 (Para 4)

Therefore, for all those who were in service as on 01-01-2007, the revision of pay with the fitment formula of 78.2 % DA in place of 68.8% of DA which was given earlier shall have to be allowed. That annual increment at 3 % of the revised pay shall also to be given with full neutralization of DA w.e.f. 01.01.2007. The increment being not a fixed amount but being 3 % of revised pay, the increment that are falling due after the above revised fitment is to be worked out which will obviously be higher than the amount of the earlier increment. This applies to the increase of pay by 3 % on any promotion. The DA is also to be calculated on the revised pay. The order as stands on date does not exclude fitment of pay in the revised pay scales w.e.f. 01.01.2007 for those who retired from 01-01-2007 to 09-06-2013. How there could be a discrimination between those who were in service on 01.01.2007 and still in service after 09.06.2013 and the others who were also in service on 01.01.2007 but retired before 10.06.2013 regarding fitment in revised IDA pay scales w.e.f. 01.01.2007 given to all those who were in service as on that date? As such, the revised fitment of pay, annual increment, increase in pay due to promotion if any, and DA is to be worked out for all who were in service as on 01.01.2007. However, as per the Orders, those who are in service as on 10-06-2013 and thereafter are only to be paid the arrears w.e.f. 10-06-2013. And for those who retired prior to 10-06-2013, the above is to be worked out till the date of their retirement for working out their last pay drawn on the date of retirement though no arrears of pay will be paid. There is no escape from this.

Para 3 of DPE order dated 02-04-09 states “that Government has also decided that benefits under this O.M. with the earlier decision as conveyed vide O.M. dated 26-11-2008 and 09-02-2009 has **to be viewed as a total package**. It has also been decided that the pay revision package as communicated by earlier O.M.s along with the above modifications would be applicable to all CPSEs.” The orders of both DOT and BSNL also read that “all instructions/guidelines issued by DPE from time to time in this regard may be scrupulously followed”. So there is no scope for DOT/BSNL to treat part of the pay fixation as actual and part of the pay fixation as notional. Thus what is stated in the orders of DOT/ BSNL that there would be no arrears of pay due to this fixation of 78.2 % from 01-01-2007 to 09-06-2013 would only mean that the arrears of pay are not to be paid now. This doesn't mean that the pay fixation itself is notional. Moreover, the Orders issued by DoT/BSNL also do not say that the pay fixation is notional.

The utter most confusion that has been created is that since the revised pay is not actually drawn by those who retired from 01.01.2007 to 09.06.2013 their pension and terminal benefit cannot be fixed on the revised pay.

We have already seen that the fixation is not notional. Neither it is mentioned notional nor specifically stated to be so either in the DoT orders and BSNL orders. It is just an inference by a few based on the premise that the arrears are not paid up to 09.06.2013.

Again, assuming for the sake of argument that those who retired between 01.01.2007 to 09.06.2013 cannot get additional terminal benefits arrived by the fitment benefit of 78.2 %. Then what would be the scenario?

In case of pensioners retired prior to January 2007, there is no doubt in the minds of anybody that sooner or later DoT will issue the orders for revising the pension. Even those who were earlier skeptical of our demand of pension revision in IDA and thought that the revision would be in CDA, later understood that we were correct in our conception. Also given the fact that DOT had now given a firm commitment in SCOVA, which is recorded, that the pre 2007 pensioners will get revision of pension on 78.2 % when the same is given to serving employees, it is clear that it is only the question of time that the pre 2007 pensioners gets their revised pension with fitment benefit of 78.2 %.

Next in case of those who are in service as on 10.06.2013 and are to retire later at any point of time, there cannot be any doubt in the minds of anybody that they will also automatically get their pension fixed on their last pay drawn which is itself based on fitment formula 78.2 %.

So, those who retired prior to January 2007 will get benefit of 78.2 % fitment in pension and those who retire on or after 10.06.2013 will also get the benefit of 78.2 % fitment. Therefore, how one can say that those who retired in between 1.1.2007 and 09.6.2013 i.e. during the intervening period of 6 years 5 months and 9 days could be left out and cannot get the benefit out of the present Orders of DOT and BSNL? Would it be lawful by any stretch of imagination ?

But it is unfortunate that the present controversy is being created and doubts being raised by some individuals and union/associations only. This may be utilized by the administration to their advantage in order to deny some legitimate benefits. This is also bound to delay the settlement of pay fixation with effective merger of 78.2% of DA in revised pay scales effective from 01.01.2007 for those who retired after 01.01.2007 which will cause further delay in payment of additional pensionery benefits to them. The present scenario reminds us of the turbulent period when controversy was raised whether the revision of pension for pre-2007 pensioners would be in CDA scale or IDA scale. Perhaps, we are yet to learn lessons from past mistakes.
