

## PCAT NEW DELHI JUDGEMENT – WHAT IS IN STORE?

There have been instantaneous celebrations after the Principal Bench of CAT, New Delhi allowed three OAs filed by different pensioners' associations of BSNL and MTNL, last week. BSNL absorbed pensioners have expressed excitement, doubts, anxiety varying according to their allegiance and understanding of the issue. Initial excitement caused by calculated propaganda even before the contents of the PCAT order were known, has started dying down as is natural, after the publication of the order, leaving doubts and anxiety lingering in different sections of the pensioners. The leaders who had claimed historical victory have now started talking of 'have to go a long way,' and 'orders cannot be issued immediately.'

It is true that the pensioners associations which were advocating pension revision without pay revision of BSNL employees and pension revision in VII CPC scales, have secured a favourable verdict, by barraging the court with numerous rules and orders, many irrelevant to the case and as claimed by one of these associations, by engaging a senior counsel at humongous cost. It is true that the judgment has provided them an opportunity to restore the sagging spirit and lost hope of their member pensioners. Such has been the noise generated as if this is a victory greater than the achievement in ensuring payment of pension by Government through Rule 37A for BSNL absorbed retirees.

We do not want to go into the nitty-gritty of the judgement and its implementability. It is for the respondents to study the order, get it examined by their legal experts and decide further action. But unfortunately, the court order has not suggested any solution to remove the anomaly which will arise out of its order in respect of those BSNL employees who retired on or after 1.1.2017, who will draw lesser pension than the pre-1.1.2017 pensioners.

We have been time and again explaining that concept of pension revision consequent to pay revision of the employees of the same organization was incorporated only to remove the anomaly in pension between the past and future retirees.

This fact has been admitted by one of the pensioners associations which had filed the OA in PCAT New Delhi in its affidavit stating that "*the pension for those who retired prior to 01.01.2007 was not revised along with pay revision. The employees who retired after 01.01.2007 from BSNL got more pension based on their revised pay. However, the employees who retired prior to 01.01.2007 including even one day prior got less pension. In order to correct this anomalous situation DOT prepared a Cabinet Note for pension revision for pre-2007 retirees, which was approved by the Cabinet on 20.01.2011, based on which DOT issued an O.M. on 15.03.2011 for pension revision from 01.01.2007 for those who retired prior to 01.01.2007*" and thus acknowledging the link between pay revision and pension revision. **But they did not bother to even think of those who will retire after 1.1.2017.**

Any attempt to delink pension revision from the pay revision of the employees of the same organization will lead to an anomaly wherein the past pensioners will draw more pension than the future pensioners. Although many experts have burnt midnight oil to devise a methodology to revise pension without revision of pay and without leading to any anomaly, no one has succeeded in the attempt till now.

Neither the applicant associations, nor has the court taken care of the post-1.1.2017 pensioners, totally ignoring the impact of delinking. The applicant associations failed to

include this in their affidavits and therefore their promise now that this will be taken care of after implementation of the judgement does not cut ice with this category of pensioners.

And it is to be seen how the respondents will act on the judgement of PCAT New Delhi, as there are already three judgements by three different tribunals, at Ernakulam, Bangalore and Hyderabad, all the three rejecting similar prayers. Notably, the applicant in the Ernakulam CAT was the same association represented by its then CHQ President, which is now one of the applicants in PCAT New Delhi represented by the same person. For reasons known to them only, they have not even shared this information with their members either in the past or even today and also did not feel it fit to file an appeal against rejection of their application citing sub Rule (4), (7) and (8) of Rule 37 A of CCS (Pension) Rules, 1972 by the CAT Ernakulam. It is astonishing that they did not even file a rejoinder in the case.

Since there is no hierarchy among the tribunals, the respondents will be in a fix, with three tribunals dismissing the OAs and one allowing the OAs, all on the same matter.

It is quite but natural that human beings tend to believe in what they want to believe and speaking out the truth will not be acceptable to them and even may attract adverse reaction from some of them. But sustained efforts to explain the facts is the need of the hour and we will honestly do it over and over, unequivocally, as we believe that Truth has always prevailed, despite all the obstacles it faced.

-----AIBSNLREA CHQ, 29<sup>th</sup> September 2023-----