



ALL INDIA BSNL PENSIONERS' WELFARE ASSOCIATION

Central Head Quarters [Regd. No. T 1833/09]
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Date: 12/10/2023

Shri V Srinivas,
Secretary (Pension),
Department of Pension & Pensioners' Welfare,
New Delhi

Respected sir,

Sub: Request implementation of Hon. PB, CAT, Delhi judgement dated 20/9/2023 on OA Nos. 1329/2020, 1271/2020 & 1272/2020 - pension revision from 01/01/2017 for absorbed BSNL/MTNL pensioners - reg

May we draw your kind attention on the issue of pension revision for absorbed DoT employees who opted for government pension on combined service.

2. You may be well aware of the above issue. We have been demanding the pension revision from 01/01/2017 for the absorbees on the basis of 7th CPC fitment factor. In this connection we have discussed with you, sir, as well as JS Shri S N Mathur.long back.

3. Since DoT did not consider our demand our association filed a case before Hon. PB, CAT, Delhi in September 2020 (OA 1329/2020) and the judgement was delivered on 20/09/2023 allowing all the above three OAs. Other two OAs were filed by other associations.

4. Department of Pension & Pensioners' Welfare, represented by its secretary is the second respondent in our petition. We hope that your department would have got a copy of the judgement (copy attached for ready reference). We are aware that DoP&PW is the nodal authority on pension matters.

5. In all the above-referred three OAs (1271, 1272 & 1392) identical prayer was "Revise the pension at par with Central Government pensioners without linking the pension revision with pay revision because pay is paid by BSNL/MTNL whereas pension is paid by the Government from Central Civil Estimate"

6. Hon PB, CAT, Delhi allowed all the OAs which means that the prayers are allowed and clear direction is given to the competent authority among the respondents to

implement the verdict within a specified time of 10 weeks from the date of receipt of judgement copy.

7. Not only lawyers of the department argued before the Hon. Bench but also Director (Estt.), DoT, Shri Raj Kumar appeared and placed the department's views both on 10/07/2023 & 13/07/2023. They placed their arguments I) quoting CAT judgement of Ernakulam, Hyderabad & Bengaluru; ii) stated about so-called incentive at the time of absorption thereby getting more pension; iii) cease to be government employee on the date of absorption as per sub-rule 4 of Rule 37-A of CCS (Pension) Rules, 1972; iv) the petitioners demand both the benefit of PSU & Government; v) result in anomaly to post-2017 retirees in the absence of pay revision etc.

8. So, Hon. PB, CAT, Delhi gave sufficient opportunity to both the parties to present the case. After careful consideration of the arguments, as well based on documentary evidence, the judgement was pronounced. So, it is a well-considered judgement.

9. During the course of arguments, DoP&PW clarificatory letter dated 27/04/2009 (about the applicability of 6th CPC recommendations to BSNL IDA pensioners since they are unique who are covered under Rule 37-A of CCS pension rules) and 08/03/2019 (seeking concrete proposal for pension revision and the proposal for post-2017 retirees in the absence of pay revision) to DoT was also referred by our lawyer.

10. We quote para 22 of the judgement ***"The facts of the case are not disputed, nor is questioned any documents relied upon by the respective parties. There is no ambiguity that at the time of their placement and absorption in BSNL and MTNL, it was categorically stated that the erstwhile employees of the Department of Telecommunication shall continue to be governed by their existing terms and conditions of the service which means that they shall continue to be treated as government servants for all intents and purposes. It is also not in dispute that from time to time, the recommendations of the Central Pay Commission, as accepted and notified by the government, were made applicable in their case too.***

11. ***There is no ambiguity with respect to the general terms and conditions governing absorption, as circulated and quoted in para 5 of this order, stating categorically the provisions of Rule 37-A of the CCS (Pension) Rules, shall guide payment of pension to their employees".***

12. We quote para 28 ***It is clarified that the benefits of revision of pension and family pension as notified by the Central Government on the recommendations of the Pay Commission, shall stand extended in favour of the applicants, analogous to the revision of such pension in case of Central Government pensioners".***

13. We have given the following suggestion to DoT about the modalities to be adopted for implimenting the above judgement.

i) The Central Government pensioners got their pension revised from 01/01/2016 merging basic pension and dearness relief (125%) plus 32% of basic pension. In otherwards the basic pension as on 01/01/2016 was multiplied by 2.57.

ii) In the case of BSNL/MTNL pensioners their pension has to be revised from 01/01/2017 by merging their basic pension and dearness relief (119.5%) plus 32% of basic pension. In otherwards the basic pension as on 01/01/2017 has to be multiplied by 2.515 for those who retired prior to 01/01/2017.

iii) In the case of BSNL/MTNL pensioners who retired after 01/01/2017 (without pay revision) to avoid any anomaly and treat the pensioners as a homogenous class, their basic pay as on 01/01/2017 may be multiplied by 2.515 notionally and they may be allowed increments, stagnation increments, if any, on such notional pay till their date of retirement. Their pension may be fixed at 50% of such notional pay. There are precedences for fixing the pension on notional LPD. For example, accounts cadre pension was fixed on notional pay from 1996 to 2003; ***even in BSNL, when the merger of 78.2% IDA merger was implemented, their pension was determined on the basis of notional pay for those who retired between 01/01/2007 & 09/06/2013; the central government pensioners got their pension fixed at 50% of notional LPD (from 01/01/2016) on the basis of a committee's recommendation headed by Secretary, Pension and approved by the Cabinet.***

iv) The method suggested in point (iii) above will not involve additional burden on BSNL/MTNL which are facing continuous loss; those PSUs have already paid the pension contribution at the maximum of the pay-scale and not at actual pay for those who retired after 2017 also; need not require amendment to Rule 37 (15). it is enough if the Cabinet gives its nod.

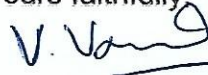
v) The minimum pension and minimum family pension should not be less than Rs.9000/- per month from 01/01/2017.

14. Sir, most of the pensioners are 70 plus and all are waiting for this pension revision for more than six years. In the interest of senior citizens and super-senior citizens we earnestly request you, sir, to tender suitable guidelines to DoT for implementing the above-quoted judgement at the earliest without preferring for an appeal to Hon. Delhi High Court.

Illustration to point iii

Name V Latha (4 th applicant in our petition 1329/2020)	
DoR 31/01/2020 (VRS)	
Basic Pay 1/1/1729400(Actual) 73950 (Notional) *	
Dt. Of Increment 1 st December	
Basic Pay 1/12/1730290 (Actual) 76170 (Notional)	
Basic Pay 1/12/1830630 (Actual) 78460 (Notional)	
Basic Pay 1/10/19 31550 (NE-12 scale) 80820 (Notional)	
Basic Pay 1/12/1931550 80820 (Notional)	
Basic Pay 31/1/2031550 80820 (Notional)	
Actual LPD – Rs.31550 80820 (Notional LPD)	
Existing Basic Pension Rs.15775	40410 (Basic Pension on Notional LPD)
Pre-revised total pension on 1/2/2020 = 15775 + 24815 (157.3% IDA) = 40590	
Revised total pension on Notional Pay on 1/2/2020 = 40410 + 6870 (17%) = 47280	
Increase*in total pension would be Rs.6690/- (16.48%)	
*This notional pay was arrived at by merging basic pay, 119.5% IDA and 32% of basic pay as weightage.	

Thanking you

Yours faithfully

(V Vara Prasad)
General Secretary.

Encl: Copy of PB, CAT, Delhi judgement dt.20/09/2023