

# PENSIONERS' PATRIKA

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## HONOUR THE COURT ORDER



# CWC MEETING AT AHMEDABAD



# PENSIONERS PATRIKA

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## Editorial

# HONOUR THE COURT ORDER

The picture is clear. Honourable Central Administrative Tribunal, in its historic judgement pronounced on 20-9-2023, has allowed the Original Petition (OA1329/2020) filed by AIBSNLPWA.

In our Original Petition we consciously and specifically prayed for pension revision of BSNL/MTNL pensioners, maintaining parity with Central Government pensioners in the matter. Further, we prayed for pension revision with the fitment benefits granted as recommended by the 7<sup>th</sup> CPC, to all the members of our association. We also prayed for delinking pension revision from pay revision of serving staff of BSNL/MTNL. *[Please see page 13 also]*

Above prayers are allowed. The verdict of the Court, quite unambiguous, says:

*"...The competent authority amongst the respondents is directed to forthwith revise the pension and family pension wherever applicable, strictly in accordance with the relevant rules and the entitlement governing pension to various sets of employees of the Central Government, maintaining strict parity. 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."*

Four lakhs retirees of BSNL/MTNL and their family members expect that the Department and the Government shall honour the Court order in its letter and spirit, without approaching Higher Courts with Appeals. They hope that the Minister for Communications, in accordance with the proclaimed policy of the present government, shall give strict instructions to the *babus* to straightaway implement the Court order.

Else, it is travesty of Justice.





**Namasthe to all.**

We are back from the Ahmedabad CWC. We could hold the CWC meeting physically; debate upon all notified items seriously and take definite decisions. The CWC was held in a jubilant atmosphere after getting the historic judgement from CAT and the professional legal opinion from our Lawyers which removed all doubts and confusion.

Almost all CWC members, except very few, could attend Ahmedabad meeting. We are thankful to Com. P S Ramankutty, our Advisor, for being present throughout the CWC meeting despite his health problems.

Some Prophets of Doom had declared that pension revision is impossible without pay revision of serving staff. They even declared that we will not win the case in the court. They may have their own compulsions to say so. However, they are not helping pensioners.

We prayed for pension revision delinking from pay revision. It is allowed. We

prayed for pension revision with CPC fitment factor. It is allowed. There is no chance for an iota of doubt about it.

We are thankful to Com. Abhimanyu, GS of BSNELU, for appreciating the judgement in a write up. He also raised a doubt that the judgement may not benefit the post 2017 retirees. Some others propagate same view. They all should know that one of the applicants, Com. Latha who is our Asst. Treasurer, is a VRS optee and that Court has asked the Applicants keeping parity with central govt. Pensioners. I only request these friends to read the judgement thoroughly and try to understand it without any bias.

Our lawyer Advocate Gautam Narayan has offered his considered professional opinion that the order shall benefit all sections of retirees in BSNL and MTNL. Let us burn and bury all doubts.

We filed the case in September 2020. It was 'lockdown period' on account of Covid. The Court was not functioning regularly. Despite that we could obtain a judgement within three years. It was possible only because of the dedicated service by our

legal team and effective arguments by our senior lawyer. We had not collected any donation from pensioners for the case even though we had spent a huge amount for it. Legal battle in the High Court or in the Apex Court involves huge expenditure. The battle is not over. We shall take it to its logical end.

Kindly read all details of the case, the judgement and decisions of our CWC, published in subsequent pages.

#### **PENSIONERS' DAY**

We call upon all our branches to observe 17th December as Pensioners Day. Since 17th falls on a Sunday the branches can do it one day prior or after. Please hold meetings and explain the significance of the Day, service rendered by late Sh. D S Nakare and our gains as well as problems. Some branches used to organize charity work on the day. Please do it this year also.

#### **LIFE CERTIFICATE**

It is time to submit Life Certificates. Circle/District Units may please organize DLC campaign, details of which were published in last issue of this Patrika.

10-10-2023 V Vara Prasad

# THE VERDICT

**ORDER Dated 20-9-2023**

**Hon'ble Mr. Tarun Shridhar, Member (A)**

In all these O.A(s), the applicants are agitating similar grievance as they are all identically placed and seek identical reliefs; barring number of paragraphs and paginations, facts, circumstances and the issues in all the OAs are identical. Accordingly, with the request and consent of learned counsel for the parties, all the O.A(s) have been taken up together for disposal and these are being decided by a common order. However, facts of only OA No. 1272/2020 are being discussed.

2. Arguments on behalf of the applicants have been collectively put forth, led by Mr. Sanjay Ghosh, learned Senior Advocate, assisted by Mr. Gautam Narayan, Ms. Asmita Singh, Mr. Rohan Mandal, Mr. Harshit Goel, Ms. Akriti Arya and Mr. Siddhant Singh in OA No. 1329/2020 and Ms. Gauri Puri and Ms. Aditi Gupta in OA No. 1272/2020 and OA No. 1329/2020.

3. Arguments on behalf of the respondents have been collectively led by Mr. S.N. Verma, Mr. N.D. Kaushik and Mr. R.V. Sinha, assisted by Mr. Amit Sinha.

4. The applicants were erstwhile employees of the Department of Telecom (DoT), Government of India. The terms and conditions of their service were in accordance with the service rules applicable upon regular government employees. Subsequent to the corporatization leading to creation of Bharat Sanchar Nigam Limited (BSNL) and Mahanagar Telephone Nigam Limited (MTNL) their services were placed at the disposal of these two organizations.

5. The background and history of the case as briefly explained by Shri Sanjay Ghosh, learned senior advocate for the applicants is that at the time of their initial placement and absorption in BSNL and MTNL, it was stipulated that they shall continue to be governed by the terms and conditions of service as were applicable upon them in their capacity as government servants prior to corporatization.

6. Learned counsel clarifies that the terms and conditions which were to remain in operation in the case of the applicants included pensionary benefits; he draws attention to the documents annexed to the O.A. to substantiate this claim. He further informs that pursuant to the recommendations of the various Central Pay Commissions (CPCs) necessary benefits as recommended by the CPCs and accepted by the Government have been extended in favour of the applicants except for revision of pensionary benefits pursuant to Pay Commission recommendations. Aggrieved by the same, they seek the following relief(s) by way of the present O.A.:-

*“(a) Pass an Order directing the Department of Telecommunications to revise the pension/family pension/minimum pension w.e.f. 01.01.2017 for the BSNL combined service Pensioners, who were absorbed from DOT/DTS/DTO we.f. 01.10.2000 and retired prior to 01.01.2017 by applying the fitment formula on IDA pension as on 01.01.2017;*

*(b) Pass an Order directing the Department of Telecommunications to revise the pension/family pension/minimum pension w.e.f. 01.01.2017 for the BSNL combined service Pensioners, who were absorbed from DOT/*

*DTS/DTO w.e.f. 01.10.2000 analogous to the revision of pension/family pension/minimum pension for the Central Government Pensioners based on the recommendations of the 7th Central Pay Commission;*

*(c) Pass an Order directing the Department of Telecommunications to revise the pension for BSNL combined service pensioners parallel to the revision of pension of the Central government servants without linking with Pay revision in BSNL:*

*(d) Pass such other further order (s) as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case and in the interest of justice."*

7. Learned senior counsel also draws attention towards a communication dated 08.03.2019 placed at page 245 of the convenience compilation which is a communication from the Department of Pensions and Public Grievances seeking clarification from the DoT as to why benefit of revision of pension is not being extended to these employees.

8. Learned counsel refers to the General Terms and Conditions governing the absorption of erstwhile employees of the Department of Telecommunication into BSNL/MTNL. Particular attention is drawn to clause 5, which reads as under:-

*"5. Payment of Pension*

*The officers who opt for permanent absorption in BSNL would be governed by the provisions of Rule 37 – A of CCS (Pension) Rules, notification for which was issued by the Department of Pension & Pensioners Welfare on 30.09.2000. For the purpose of reckoning emoluments for calculation of pension and pensionary benefits, the emoluments as defined in CCS (Pension) Rules, in PSU in the IDA pay scales shall be taken.*

*DOT has already clarified that the word "formula" mentioned in clause 8 of Rule 37 –A means payment of pension as per Government Rules in force at that time. BSNL will not dismiss/ remove an absorbed officer without prior approval of the Administrative Ministry/ Department."*

9. Learned counsel would argue that in view of the unambiguous provision contained in the said clause, the respondents cannot absolve themselves of the obligation of making an appropriate revision of the pension of the applicants in accordance with such a revision which has been extended in favour of regular government pensioners. Further attention is drawn to a notification dated 21.12.2012 vide which Central Civil Services (Pension) Rules have been amended. The amendment to Rule 37A of the CCS (Pension) Rules has been done vide Rule 10 of the Amendment Rules, the relevant extracts of which reads as under:-

*"37A. Conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Public Sector Undertaking. –*

*(1) On conversion of a department of the Central Government into a Public Sector Undertaking, all Government servants of that Department shall be transferred en-masse to that Public Sector undertaking, on terms of foreign service without any deputation allowance till such time as they get absorbed in the said undertaking, and such transferred Government servants shall be absorbed in the Public Sector Undertaking with effect from such date as may be notified by the Government."*

*"(21) Nothing contained in sub-rules(13) to (20) shall apply in the case of conversion of the Departments of Telecom Services and Telecom Operations into Bharat Sanchar Nigam Limited, in which case the pensionary*

*benefits including family pension shall be paid by the Government.”*

10. Learned counsel would argue that it may be noted that a specific provision has been placed in the said amendment rules with respect to those employees who were absorbed in BSNL from the Department of Telecommunication (DOT). The amendment categorically states that the liability of pension in case of such employees vests with the Government through the concerned Ministry.

11. Learned counsel reiterates the arguments put forth previously that the Ministry of Personnel, Pensioners and Public Grievances under the DoP&T had also categorically sought a clarification from DOT as to why the benefit of revision of pension was not extended in favour of employees who have been absorbed in BSNL/MTNL from DoT. He has clarified that pursuant to the recommendations of the 7<sup>th</sup> CPC all other benefits except for revision of pension have been extended in favour of the applicants.

12. Mr. R.V. Sinha, learned counsel appearing on behalf of respondent No. 2 (MTNL in O.A. No. 1272/2020) submits that the liability of pension is to be borne by the Government of India and in this case the relief being sought is directed towards respondent No. 1.

13. Mr. SN Verma, learned counsel for the respondents submits that showing any indulgence to the claim of applicants is going to result in discrimination against another set of employees of BSNL/MTNL. Further, what the applicants seeks is a benefit of both the Government as also the PSU. Once they had consciously opted for absorption under a Public Sector Undertaking (PSU), they shall be governed under the provisions of salary, allowances and pension governing such public sector employees. He argues that, in fact, what the applicants desire is the benefit of higher

scales of PSU and better pensionary award of the Government. And they cannot be allowed to choose what suits them at a particular juncture, he submits. He draws strength from the averments made in the counter-reply, specifically, in para 2 and 3, which read as under :

*2. After absorption in BSNL, these employees ceased to be Government servants and they were deemed to have retired from Government service from the date of their absorption as per Sub-rule 4 of Rule *ibid*. As per Sub-rule 8 of Rule 37-A of CCS (Pension) Rules, 1972, these absorbed employees were eligible for pensionary benefits on the basis of the combined service rendered by them with the Central Government and the BSNL in accordance with formula for calculation of pension and family pension under CCS (Pension) Rules, 1972 at the time of their retirement from BSNL. The absorbed employees of BSNL, who retired after 01.10.2000 got pension and dearness relief thereon in IDA pattern on the basis of last pay or last ten months' average pay, whichever is more beneficial, as per Sub-Rules 9 & 10 of Rule *ibid*. The pension to absorbed employees of BSNL is paid by Government as per Sub-rule 21 of Rule *ibid*.*

*3. In case of BSNL absorbed employees, IDA pension was made applicable with effect from 01.10.2000 onwards. Therefore, the applicants of the present OA are ex-absorbed combined services pension optees of BSNL and they are getting their pension/family pension in IDA pattern from Government as per Rule 37-A of CCS (Pension) Rules, 1972 (Annexure A-4 of the OA). Subsequently, on implementation of the recommendations of the 6<sup>th</sup> CPC, DoP&PW issued OM dated 01.09.2008 and 02.09.2008 revising pension/family pension of Government pensioners/family pensioners, who were drawing pension/family pension as on 31.12.2005 (pre-2006 pensioners/family*



*pensioners) and revised rules for grant of pension/Gratuity and Commutation of Pension etc. for Government employees retiring after 01.01.2006 (post-2006 pensioners). However, a substantial number of its recommendations, as contained in DOP&PW's OM No.38/37/08-P&PW(A) dated 01.09.2008, were extended and made applicable to the BSNL DA pensioners also with effect from 01.01.2006, viz (i) calculation of pension, (ii) additional pension with maturity of age, (iii) qualifying service for full pension (iv) commutation (v) limit of gratuity (vi) family pension (vii) leave encashment amount etc.*

14. Mr. ND Kaushik, learned counsel submits that the relief being sought by the applicants is not maintainable. Drawing strength from the averments made in the counter reply he too argues that what the applicants are seeking is preferential treatment to the detriment of other employees of BSNL and the same organisation cannot and should not create two sets of employees in terms of financial benefits. Assisted by Mr. Raj Kumar, Director (Establishment) in the Department of Telecommunication, he clarifies that right now BSNL is not in a position to bear the financial liability of pension and in case, the relief sought for by the applicants is awarded in their favour, similar demand on the ground of discriminatory treatment is likely to be raised by other BSNL employees, thus, placing unbearable financial burden on BSNL, which is already reeling under losses.

15. Learned counsel appearing on behalf of BSNL and MTNL submit that in terms of the relief sought and the rules governing the same, the issue is to be decided by the Government and in case there is a financial liability, the same is to be borne by the Government. BSNL and MTNL have neither any role to play nor any responsibility / obligation to discharge.

16. Mr. Sanjoy Ghose, learned senior counsel reiterates that the claim preferred by the applicants in this O.A. is fully covered under the Central Civil Services (Pension) Amendment Rules 2000, wherein Rule 37 A has been inserted. He argues that while provision for a pension fund to be managed by a trust has been incorporated in the said Amendment Rules, there is a specific dispensation with respect to the erstwhile employees of Department of Telecommunications who was absorbed in BSNL. He again quotes Rule

21 of the said Rules which, though quoted earlier, is reproduced as under:-

*"(21) Nothing contained in sub-rules (12) to (20) shall apply in the case of conversion of the Departments of Telecom Services and Telecom Operations into Bharat Sanchar Nigam Limited, in which case the pensionary benefits including family pension shall be paid by the Government."*

He further draws attention to a communication of the Department of Telecommunications dated 09.11.2000 which reads as under:-

*"Subject: Entitlement for Pension, other Retirement Benefits, Job Security and Carry over of Leave in respect of Employees to be Absorbed in BSNL."*

*It has been decided by the Government that the employees of DOT who will be absorbed in Bharat Sanchar Nigam Limited (BSNL) will be entitled to the Government's scheme of pension/family pension even after their absorption in BSNL. Payment of pension will be made by the Government and for this, arrangements, are being worked out for obtaining pension contribution from BSNL to be deposited with the Government. It has also been decided that dismissal or removal from service of an employee after his absorption in the PSU for any subsequent misconduct shall*



not amount to forfeiture of the retirement benefits for the service rendered under the Government and in the event of his dismissal, removal or retrenchment the decisions of BSNL shall be subject to review by the Administrative Ministry. The Government has already issued Notification dated 30.9.2000 to this effect wherein the pension framework has been made part of the CCS (Pension) Rules, amending Rule 37 using powers under Article 309 of the Constitution of India (Copy enclosed).

It has further been decided that the Earned Leave and the Half Pay Leave at the credit of the employees on the date of absorption shall stand transferred to the PSU.

May be widely circulated in your circle/ unit so that the employees are duly informed of the decision taken by the Government”

In addition, he refers to a clarification issued by the Department of Pension & Pensioners' Welfare on 27.04.2009, with respect to the applicability of revised rules for determining qualifying service of ex-DOT employees who were absorbed in BSNL. The said communication reads as under:-

“Subject: Regarding clarification about the applicability of revised rules with effect from 01.01.2006 with reference to 6th CPC on enhanced amount of DCRG, calculation of emoluments for pension/family pension, Commutation of pension and qualifying service to ex-DOT employees absorbed in BSNL, whose pensionary benefits are regulated under Rule 37-A of CCS (Pension) Rules, 1972.

The Department of Telecom is requested to refer to their ID No. 40-31/2008-Pen (T) dated 18.3.09 for clarification on applicability of DoP&PW O.M. dated 2.9.2008. The Department of Telecom has submitted as under:

Consequent upon the implementation of the Government decision on the recommendation of 6th Central Pay Commission and as per Department of Pension and Employees Welfare OM dated 01.09.2008 (read 2.9.2008), rule regarding limit of DCRG, Calculation of emoluments for pension/ family pension Commutation of pension and qualifying service etc. have changes with effect from 01.01.2006.

In this connection, it is submitted that the Explanation given under Sub-Rule (8) of Rule 37-A of CCS (Pension) Rules, 1972 says that the amount of pension/family pension of the absorbed employees on superannuation from PSU/AB shall be calculated in the same way as would be the case with a Central Government servant retiring on superannuation, on the same date it is worthwhile to add that SNI is the only PSU that has been granted a special dispensation under sub rule (21) of Rule 37-A of CCS (Pension) Rules, 1972 to the effect that the pensionary benefits including family pension to the absorbed employees of BSNL is paid by the Government. This Department is of the view that the change as per DoP&PW's OM dated 02.09.2008 mentioned in para 2 above are also applicable to IDA pensioners of BSNL.

2 The en-mass transferred absorbees opting for pension for combined service in Govt. and PSU/CAB are entitled for pension in terms of Rule 37A(8) “in accordance with the formula for calculation of pension/family pension under these rules as may be in force at the time of his retirement from the PSU/CAB”. The formula applicable to Central Govt. pensioners has been changed vide DoP&PW OM. dated 2.9.2008 and therefore, the changed formula provided in OM. dated 2.9.2008 is applicable to such absorbees also. The DoP&PW OM dated 1.9.2008 referred to in Deptt. Of Telecommunication reference has no relevance as this OM contains instructions for

*revision of pension of pre 2006 central Government pensioners only.”*

17. He argues that it is abundantly clear that not only is the claim of pension of the applicants, being ex-employees of DOT who were absorbed in BSNL, to be determined strictly on the pattern of entitlement of regular Government employees but it is to be revised from time to time, without exception, strictly on the same analogy.

18. Ms. Gauri Puri, learned counsel for the applicants in O.A. Nos. 1271/2020 and 1272/2020 argues that right from the stage of deputation of the applicants from DOT to BSNL till the clarification of 2009, each and every communication/document/notification establishes that the applicants are to be governed by pension and family pension in accordance with the entitlement of regular Government employees. She emphatically states that their initial terms of deputation leading to absorption have specific terms and conditions to this effect. Reversing the situation now amounts to denying their legitimate claim and expectation. These employees agreed to get absorbed in BSNL only on account of assurance of social security by way of pension which was made applicable to them in their status as the Government servants. She also draws attention to the Office Memorandum dated 20.07.2016 which states that pension liability in respect of employees of DOT who were absorbed in BSNL and retired on 01.10.2000 is solely to be borne by the Government of India; she clearly mentions that BSNL has no liability in respect of these employees. She further submits that a condition imposed earlier that the liability of pension shall not consist more than 60% of the annual revenue; however, this condition has also been since rescinded. Alleging discrimination she submits that the benefits of revision on account of recommendations of the 7<sup>th</sup> Central Pay Commission have been

extended to serving absorbed BSNL and MTNL employees except for the ones who had retired. This is in contravention to what has been set forth in the amended Central Civil Services Pension Rules, specifically Rule 37 A.

19. Vehemently contesting the averments and the arguments put forth by the learned counsel for the applicants, Mr. S N Verma, learned Senior Central Government Standing Counsel, draws attention to the Rule 375 of CCS (Pension) Rules, 2020 and submits, once the applicants opted to be absorbed in BSNL, they ceased to be Government employees with effect from the date of such absorption. The provisions of CCS Pension Rules which provide for fixation and subsequent revision of pensions is a general provision applicable on the Government pensioners. Once the applicants have ceased to possess the status of the Government employee and got absorbed in a public sector, they would be outside the purview of these rules as they govern only govt. servants. The provision of revision of pension pursuant to the recommendation of Central Pay Commission was incorporated to redress the anomaly in pension between past and future retirees. In the instant case, if the applicants' prayer is allowed, such anomalies are likely to be created once again. He submits that once the applicants have been absorbed in BSNL, they cannot claim to be governed under CCS Pension Rules. The reason these employees continue to get pension is solely on account of their being erstwhile DOT employees. They cannot claim an open-ended and indefinite benefit of the provisions of CCS Pension Rules considering the fact that when they retired, they were not the employees of the government but of BSNL. The provisions of Rule 37 being quoted by the applicants through their learned counsel is a special dispensation given to these employees and they continue to enjoy the same. However, revision on account of Central Pay Commission is a subsequent event, and hence

cannot be automatically extended in their favour.

The Central Pay Commission domain is only for Government employees and not employees of public sector undertakings even though they may have been absorbed, he adds. He further argues that these employees having retired, in this case from BSNL, are already enjoying a different set of benefits and rewards as are extended to PSU employees. Sh. Verma further submits that the issue under consideration in this OA has been a subject of O.A. No. 346/2018 decided on 30.10.2019 by the Ernakulam Bench as also another O.A. No. 116-134/2018 dated 27.11.2019 of the Bangalore Bench. Both these Benches have held that BSNL was a commercial and corporate entity, and once an employee has consciously chosen to opt for absorption in a corporate body, he could not claim the benefits available to a Government employee nor can he claim parity in any other respect.

20. Mr. N.D. Kaushik, learned counsel for the respondents while supporting the arguments put forth by Mr. S N Verma, learned counsel, further informs that the issue has been settled by the Hyderabad Bench of this Tribunal in O.A. No. 813/2017 dated 11.01.2019, besides the Ernakulam Bench and Bangalore Bench and the said Benches have also identically held that once absorbed in a public sector undertaking, the applicants cannot be claiming the benefits available to the Government employees. He also places on record, for our consideration, a judgment of Hon'ble Apex Court in Civil Appeal No. 3520/1991 decided on 25.07.1997. The said judgment has extensively discussed the doctrine of precedence and impressed upon maintaining consistency and uniformity in judicial verdicts. He reiterates that once the coordinate Benches of the Tribunal have adjudicated this issue, we are bound to adjudicate it on similar lines.

21. We have gone through the voluminous pleadings on record and also heard the detailed arguments put forth by the learned counsel on more than a couple of occasions.

22. 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. 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 that provisions of Rule 37 (A) of the CCS (Pension) Rules, shall guide payment of pension to these employees.

23. Section 37 (A) of the CCS (Pension) Rules has to be read in totality and sub para 21 of the same further clarifies that pensionary benefits of these employees, including family pension shall be paid by the government. In fact, several communications and memoranda, extracts of which have been quoted in this judgment, lead only to one inference that a very well-considered conscious decision was taken and expressly stated that the terms and conditions of the service of employees of Department of Telecommunications shall remain protected even on their absorption in BSNL/MTNL and further, it has been emphasized that these terms and conditions are inclusive of pension and family pension.

24. The relevant rules as quoted above have further clarified that since BSNL and MTNL are corporate entities, the liability of pension and family pension shall be borne by the government. We do appreciate the arguments put forth by the learned counsel for the respondents, especially the fact that once the applicants have ceased to be government employees, they should not and cannot expect the benefits available to government employees in perpetuity. Further, we also appreciate that there may have been specific facts and circumstances at the relevant time of their absorption when the decision to protect their terms and conditions was taken. However, no document has been shown to us which would substantiate these arguments that protection was to be available for a specific period only.

25. Learned counsels have submitted that the applicants have now ceased to be governed by the CCS (Pension) Rules and in case they are allowed to agitate their claim at this juncture, it would open up the Pandora box and thus, strike at the very roots of the governance of corporate entities.

26. We are not inclined to consider the extended arguments on behalf of the respondents even though we acknowledge some merit in these. The decision qua these employees, as further reflected under innumerable communications, is unambiguous and has been, so far, implemented also. We reiterate that even on their absorption in the corporate undertaking, the terms and conditions of services governing them were to remain the same as they existed when they are employees of the Department of Telecommunications. Further, these terms and conditions include pension and family pension and this has been expressly stated in the rules and several subsequent communications which have been elaborately quoted in some of the preceding paragraphs of this order.

27. We have no hesitation in concluding that the present application deserves positive consideration. **The government had given a promise and stated it in black and white. How could it now retract from the promise, that too not by any law or rules but by simply a refusal to honour it?**

28. In view of the elaborate discussion above, the OA stands allowed. **The competent authority amongst the respondents is directed to forthwith revise the pension and family pension wherever applicable, strictly in accordance with the relevant rules and the entitlement governing pension to various sets of employees of the Central Government, maintaining strict parity. 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.**

29. The directions contained herein shall be complied with within a period of ten weeks from the date of receipt of a certified copy of this order.

30. The OA stand allowed against the background of the aforesaid directions. Pending MA(s), if any, stands disposed of accordingly.

There shall be no orders as to costs.

**(Pratima K. Gupta)**  
Member (J)

**(Tarun Shridhar)**  
Member (A)



## OAs ALLOWED

On 20th September 2023, Honourable Judge pronounced the judgement only in one sentence; i.e. "OAs allowed". He signed the judgement and then left the Chamber. It means all the Original Applications (OAs) in the three cases are allowed.

Our OA in 1329/2020 was as follows:

*"In light of the facts and circumstances set out hereinabove, it is most respectfully prayed that this Hon'ble Court may kindly be pleased to –*

*i. Declare that the members of the Applicant Association are entitled to parity with Central Government pensioners in the matter of revision of pension on the same yardstick as granted to Central Government pensioners;*

*ii. Direct the Respondents to revise the pension of the members of the Applicant Association in terms of the recommendations of the 7th Central Pay Commission;*

*iii. Direct Respondents to de-link the issue of revision of pension from pay revision for absorbee pensioners of BSNL;*

*iv. Pass such other order/s as may be deemed fit and proper in the facts of the present case."*

**Important:** We raised the issue of parity and that is allowed by the Court.

## 20 ADJOURNMENTS.

The case No 1329/2020  
Submitted on 10-09-2020.  
Filed on 16-09-2020  
Admitted on 18-09-2020.

Listed/postponed on

18-11-2020

23-12-2020

08-03-2021

18-05-2021

15-06-2021

21-07-2021

05-08-2021

10-09-2021

22-10-2021

26-10-2021

09-12-2021

10-02-2022

31-03-2022

18-04-2022

26-07-2022

02-08-2022

06-09-2022

13-07-2023

16-08-2023

24-08-2023

Disposed on 20-09-2023.

# PROMPT ACTION

**CHQ Letter dated 29-9-2023 to  
Shri Ashwini Vaishnawji,  
Hon. Minister for Communications & IT, New Delhi**

Respected Sir,

**Sub: Pension Revision from  
1/1/2017 for BSNL/MTNL  
pensioners on the basis of  
7th CPC fitment factor -  
as directed by Hon PB, CAT  
Delhi on 20/09/2023**

We may draw your kind attention to the above issue. May we recall to your kind memory that we could meet you, *sir*, in March 2022 (subsequently also) with the help of Hon Parliamentary Affairs Minister Shri Pralhad Joshiji. At that point of time we were clearly informed that "Pay revision and pension revision cannot go together because pay is paid by BSNL whereas pension is paid by Government from Central budget".

Unfortunately the babus in Sanchar Bhawan stated that "pension revision intrinsically linked to pay revision". We sought legal remedy to get the justified pension revision at par with Central Government pensioners because both are covered under the same rule.

Hon PB, CAT, Delhi gave a judgement in our favour in OA 1329/2020 pronounced on 20/09/2023. The verdict clearly states that absorbed BSNL/MTNL pensioners' pension should be revised at par with Central Government pensioners from 01/01/2017.

Most of the pensioners are 70 plus. The Government led by Shri Narendra Modiji gives utmost priority to the welfare of senior citizens. Keeping the interest of the senior citizens in mind, we request you, *sir*, to direct the babus sitting in Sanchar Bhawan to revise the pension at par with Central Government pensioners, without any more delay, as directed by Hon PB, CAT, Delhi.

We are willing for a serious, fruitful discussion with the concerned authorities to work-out the modalities of its implementation.

With kind regards

Sd/-  
(V Vara Prasad)  
General Secretary.

# IMPLEMENT CAT JUDGEMENT

**The CAT Judgement came out on 25-9-2023. On 27th itself our CHQ wrote a letter to Secretary, Telecom requesting him to implement the Judgement. Folowing letter dated 11-10-2023 is a detailed letter on the matter. A similar detailed letter is sent to Secretary, Pension Department also.**

To  
Dr Neeraj Mittal, Secretary (Telecom),  
Sanchar Bhawan, New Delhi-110001

Respected sir,

**Sub: Request implementation of Hon. PB, CAT, Delhi judgement dated 20/9/2023 on OA Nos. 1329/2020, 1271/2020 & 1272/2020**

This is in continuation of our letter dated 27/09/2023.

1. The above OAs are with regard to pension revision from 01/01/2017 on the basis of 7<sup>th</sup> CPC fitment factor for DoT employees absorbed in BSNL/MTNL who opted for Government pension on combined service.

2. Hon. PB, CAT, Delhi pronounced its judgement on 20/09/2023 in clear terms, without any ambiguity, directed the respondent viz. DoT, to revise the pension at par with Central Government pensioners within 10 weeks time from the date of receipt. We hope that DoT would have received the judgement copy.

3. May we draw your kind attention to the background of the issue. We have written umpteen letters on this subject, discussed with concerned officers several times, discussed with Hon MoC (previous & present) on many occasions about the need for revision of pension from 01/01/2017 on the basis of 7<sup>th</sup> CPC fitment factor based on justification.

4. At our request, then Member (S), Dr Mahesh Shukla convened a meeting with all BSNL/MTNL pensioners' associations on 17/10/2022 in which nearly 15 pensioners' associations participated. In that meeting some officers including DDG (Estt.), DDG (Accts) participated. After consulting DoP&PW (nodal department) DoT proposed pension revision from 01/01/2017 with zero percent fitment. In this connection, Power Point Presentation (PPP) was shown to us.

5. All the pensioners' associations in one voice rejected that proposal of zero percent because it does not give any benefit except merger of basic pension with dearness relief.

6. In the absence of any guidelines for pension revision to absorbed BSNL/MTNL employees, despite a request by DoP&PW to Department of Public Enterprises (DPE) it is requested to treat the above judgement as a guideline for pension revision to absorbed BSNL/MTNL pensioners and implement the above judgement because it would provide a permanent solution.

7. Not only lawyers of the department argued before the Hon. Bench but also Director (Estt.) Shri Raj Kumar appeared and placed the department's views both on 10/07/2023 & 13/07/2023. They placed their arguments quoting CAT judgement of Ernakulam, Hyderabad & Bengaluru; stated about so-called incentive at the time of absorption thereby getting more

pension; cease to be government employee on the date of absorption as per sub-rule 4 of Rule 37-A of CCS (Pension) Rules, 1972; the petitioners demand both the benefit of PSU & Government; 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. 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”**

10. 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 which means DoT to implement the verdict within a specified time of 10 weeks.

11. 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.**

**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”.**

**How to implement the above-referred 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.

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 implement the above-quoted judgement without preferring for an appeal to Hon. Delhi High Court.

As stake-holders we may please be given an opportunity at the earliest to discuss about the modalities to implement the court order.

An illustration to Point iii is given below.

Thanking you

Yours faithfully,

Sd/-

( V Vara Prasad)  
General Secretary.

**ILLUSTRATION:**

**Name: V Latha (4th applicant in our OA 1329/2020)**

**Date of Retirement: : 31-01-2020 (VRS)**

<b>Basic Pay on 1-1-2017</b>	<b>29400.00 (Actual)</b>	<b>Rs 73950.00 (Notional)</b>
<b>Date of Increment: 1st December</b>		
<b>Basic Pay on 1-12-2017</b>	<b>30290.00 (Actual)</b>	<b>Rs 76170.00 (Notional)</b>
<b>Basic Pay on 1-12-2018</b>	<b>30630.00 (Actual)</b>	<b>Rs 78460.00 (Notional)</b>
<b>Basic Pay on 1-10-2019</b>	<b>31550.00(Actual)</b>	<b>Rs 80820.00 (Notional)</b>
	<b>(NE 12 scale)</b>	
<b>Basic Pay on 1-12-2019</b>	<b>31550.00 (Actual)</b>	<b>Rs 80820.00 (Notional)</b>
<b>Basic Pay on 31-1-2020</b>	<b>31550.00 (Actual)</b>	<b>Rs 80820.00 (Notional)</b>
<b>Actual LPD :</b>	<b>Rs 31550.00</b>	<b>Rs. 80820 (Notional LPD)</b>
<b>Existing Basic Pension:</b>	<b>Rs 15775.00</b>	<b>Rs 40410 (BP on Notional LPD)</b>

**Pre-revised total pension on 1-2-2020: Rs 15775 +24815 (157.3% IDA) = 40590.00**

**Revised total pension on Notional Pay: Rs 40410+6870 (17% DA) = 47280.00**

**Increase in total pension would be Rs 6690.00 (16.48%)**

**\* The notional pay is arrived at by merging Basic Pay, 119.5% IDA and 32% of BP as weightage.**

# THEY CANNOT APPRECIATE VICTORY OF PENSIONERS

## Reply to AIBDPA

I happened to see the whatsapp message of GS of AIBDPA under the caption "Pension Revision – Court Case – Voice Clips".

He has mentioned **"delinking has already been decided by DoT as communicated to all the 17 Pensioners Associations who participated in the meeting with DoT on 17/10/2022. It is already decided matter". What is there to rejoice in the court judgement?**

Our association only demanded minutes of 17/10/2022 meeting on that day itself. After one month, because of resistance from officers like DDG (Estt), "Record of discussion" was sent on 17/11/2022 which was unsigned.

In that, **nowhere they have mentioned about delinking**. Our association sent a letter to Telecom Secretary on 28/11/2022 protesting against the content of that. Both are attached.

Further, if it is already decided matter, then why Joint Forum of BSNL/MTNL pensioners Association demanded "Pension Revision with 15% fitment **delinking** from pay revision" during their recent Jantar Mantar Dharna on 24/8/2023.

**DoT did not mention in the court about their decision to delink pension revision**

**from pay revision but vehemently argued against it.** Regarding grant of DA for the Corona period (deducted already wrongly) AIBDPA filed a case before Hon High Court of Kerala and won the case also.

**Why they could not take it to its logical end?**

Our Kerala Circle Association filed a case in Ernakulam CAT regarding "Extra Increment" case and won. When the department went in appeal to Hon Kerala HC, there also we contested and the appeal was dismissed. **We took it to the logical end and pensioners got the benefit.**

We won the case of Pension anomaly in both Principal Bench of CAT, Delhi and Hon Delhi High court. When the judgement was not implemented, we filed contempt petition; even after that disposal, when DoT did not honour the judgement, we filed "contempt to contempt petition" and ultimately DoT had to issue orders and **more than 4000 pensioners including the members of AIBDPA enjoyed the fruit.**

We donnot expect AIBDPA to congratulate our association for its victory in the court. We can't but condemn their attempt to belittle our efforts.

**D Gopalakrishnan, CHQ President,**  
24-9-2023.

# THE CASES

We took extreme care in selecting the applicants and preparing the affidavit. The petitioners in our Case No. OA 1329/2020 were

1. AIBSNLPWA represented by the then GS Com. P Gangadhara Rao, Bangalore (A Gr. A Executive retired after 2007)

2. Com. P S Ramankutty, Gr. C, Trivandrum (A Non Executive retired before 2007)

3. Com. Anupam Kaul, Retd AGM, BSNL New Delhi (An Executive retired after 2007)

4. Smt. V Latha, Gr. C, Chennai (A Non Executive retired after 2017 under VRS)

Two other cases filed by other Associations also were taken up along with our OA and a common order was issued by the Hon'ble Tribunal. Their cases are:

OA 1272/2020

1. AIRBSNLEWA, through its GS Sh. Prahlad Rai
2. SNPWA, through its GS Sh. G L Jogi
3. Sh. A K Dey, Gr. B, Kolkata
4. Sh. S C Mitra, Gr. C, Kolkata
5. Sh. G C Naskar, Gr D, Kolkata
6. Sh. Rajendra Singh, Gr B, Delhi
7. Sh. K K Prabhakar, Gr B, Faridabad
8. Sh. Sundara Murthy, Gr B, Chennai

OA 1271/2020

1. RTOWA, Delhi thro: Sh. S S Nanda, GS
2. RTOWA, Mumbai thro: Sh. K Jawahar, President,
3. Sh. S M Sawant, GS, MTNL PWA, BY.
4. Sh. Ranbir Singh, Gr B, MTNL, Delhi
5. Sh. M K Bagchi, Gr B, MTNL Delhi
6. Sh. Rajendra Kumar, Gr B, MTNL Delhi
7. Sh. A K Kapoor, Gr B, MTNL Delhi
8. Sh. B R Pathak, Gr B, MTNL BY
9. Sh. J S Yadav, Gr B, MTNL BY
10. Sh. Virendra Singh, Gr B, MTNL, BY
11. Sh. K A Haldankar, Gr C, MTNL BY
12. Sh. E M Rajpure, Gr C, MTNL BY
13. Sh. S K Yadav, Gr C, MTNL BY



## THEY CAN, BUT BSNL CANNOT

Trivandrum: On 15-10-2023, a warm welcome was accorded to the Chinese ship carrying cranes for International Seaport at Vizhinjam, near Trivandrum. Both the Chief Minister of Kerala and Sh. V Muraleedharan, Minister of State for External Affairs, GOI participated in the function to welcome the

Chinese vessel. The Seaport is owned by Gautam Adani Group. Similar cranes from China are imported for Mundra Port in Gujarat, owned by same Adani Group. Adani can use Chinese equipment. Ambanis also can import device or technology from any foreign country including China to give 5G service. But, our BSNL cannot. For BSNL, there is Atma Nirbhar Bharat .....

# PROFESSIONAL LEGAL OPINION ON CAT JUDGEMENT

From

**Adv. Gautam Narayan, (Enrolment  
No. D/1392/2001**

*Re: Legal Opinion with regard to applicability of common judgment dated 20.09.2023 of the Principal Bench of the Central Administrative Tribunal, New Delhi in OA No.1271/2020, 1272/2020 and 1329/2020 to absorbee pensioners of BSNL whose date of superannuation is after 01.01.2017.*

**Querist: All India BSNL Pensioners' Welfare Association**

1. My opinion has been sought with regard to whether the common judgment dated 20.09.2023 delivered by the Principal Bench of the Central Administrative Tribunal, New Delhi in OA No.1271/2020, 1272/2020 and 1329/2020 (hereinafter referred to as "the common judgment dated 20.09.2023") will cover/encompass the case of even those erstwhile DoT employees who were absorbed in BSNL and who superannuated after 01.01.2017.

2. I have gone through the common judgment dated 20.09.2023. In my considered view, having given thoughtful consideration to the common judgment, it will cover all persons who were absorbed from the erstwhile DoT in BSNL on corporatisation of the former in the year 2000 and superannuated/will superannuate from the latter.

3. This is evident from a reading of Para 22 of the common judgment dated 20.09.2023 which refers explicitly to absorbee pensioners and makes no distinction between those who have superannuated prior to 01.01.2017 and those who will superannuate thereafter. Para.22 of the common judgment is being reproduced herein below for ease of reference:

***"22. 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 Tele communication 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. 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 that provisions of Rule 37 (A) of the CCS(Pension) Rules, shall guide payment of pension to these employees.***

(emphasis supplied)



4. Moreover, in Para 28, the Hon'ble Tribunal has once again clarified that the benefit of pension revision will extend to all Applicants and indisputably persons who will superannuate after 01.01.2017 are also members of Applicant No.1 in OA No.1329/2020. In fact, Applicant No.4 in the said OA will retire after 01.01.2017. Para.28 is also being reproduced herein below for ease of reference:

**28. In view of the elaborate discussion above, the OA stands allowed. The competent authority amongst the respondents is directed to forthwith revise the pension and family pension wherever applicable, strictly in accordance with the relevant rules and the entitlement governing pension to various sets of employees of the Central Government, maintaining strict parity. 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.**

(emphasis supplied)

5. In view of the aforesaid paragraphs, in my opinion, there is no ambiguity with regard to the application of the common judgment to all absorbee pensioners without any distinction on the basis of their time of superannuation.

6. The query is answered accordingly, on the basis of my *bona fide* interpretation of the common judgment dated 20.09.2023. This is my professional opinion and it is for the querist to take such further necessary actions as it considers appropriate to protect its rights.

Opined Accordingly.

Sd/-

Yours sincerely,  
**Gautam Narayan**

## OUR JUDICIARY

The Madras High Court Advocates' Association passed a resolution on September 26, 2023 condemning Judicial Member of Chennai bench of CAT for having asked a senior member of the Bar to "get out" during the hearing of a case. The resolution stated that the conduct of the judicial member is deplorable and her conduct does not inspire confidence in her impartiality. The resolution was signed by 230 lawyers. Order copies in about 150 cases were yet to be issued by the Chennai bench of CAT since an administrative member had retired from service, without signing them, after the pronouncement of the orders in open court by him as well as the judicial member between January and April this year. [News]

# AHMEDABAD CWC RESOLUTION ON PENSION REVISION

The Central Working Committee of AIBSNLPWA held at Ahmedabad on 1 st and 2nd of October 2023 under the Presidentship of Com D Goplal Krishnan reviewed the issue of Pension Revision in totality.

The CWC wholeheartedly welcome the historic judgement pronounced by Hon'ble Principal Bench of CAT, New Delhi on 20-09-2023 and released on 25-09-2023. The judgement unambiguously proved the demand formulated by AIBSNLPWA is correct. The CWC congratulates the CHQ for engaging Senior Counsel as per the decision of Vizag AIC. The CWC expresses its sincere thanks to the team of lawyers who efficiently and effectively presented the case before the PB CAT, New Delhi. The CWC appreciates the efforts taken by the CHQ leadership for winning the case.

Overwhelming majority of pensioners hailed the judgement and welcome it, but however a doubt arises whether the judgement is applicable to post-2017 retirees.

After careful study of the judgement, honest professional written legal opinion tendered by our lawyer Sri Gautam Narayan that the Pension revision should be given at par with Central Govt. Pensioners to all those who were absorbed from DOT irrespective of the date of retirement whether pre-2017 or post-2017. It allays the apprehension of some members.

The CWC also recognise that this legal victory is the first step and it has to be taken to the logical end. CWC directs the CHQ to take necessary steps for implementing the judgement through discussion with concerned authorities including political intervention.

If DOT decides to file an appeal before Hon'ble Delhi High Court, the CWC directs the CHQ to take all necessary steps to defeat the appeal legally.

In the event of appeal by DOT, the CWC directs the CHQ to give an appeal for donation for the legal fund at appropriate time.



**CAVEAT:** Our advocate has filed a Caveat in Delhi High Court so that the High Court shall not dispose any appeal from the Department against the CAT order, without hearing our side

# AHMEDABAD CWC RESOLUTIONS

## Appreciation to Gujarat Reception Committee

The CWC of AIBSNLPWA held at Ahmedabad on 1 st and 2 nd October 2023 wholeheartedly congratulate Gujarat Reception Committee led by Com Kanu Rana, CS for conducting the CWC in a grand manner.

The CWC congratulates the team of volunteers who were courteous and extended all hospitality to the CWC members. The CWC expects that the event would help the organization to grow further in Gujarat.

### On Office rent and purchase of Lap-top

Keeping the Grant provided by Pension Dept and as per the guidelines of that department which provides for expenditure on office rent, the CWC requests the General Secretary to open a CHQ office in Vijayawada in a suitable place and also to purchase a lap-top for the Association

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## PENSIONERS OF PROJECT CIRCLES

After migration to SAMPANN, pensioners retired from STR, STP, ETR, WTR Etc. can transfer their pension account to the CCAs of respective territorial circle. They can do it by applying to the existing Pr CCA directly or through the CCA of their Circle. For example, our Karnataka CS Com. Changappa transferred his pension account from Pr. CCA Chennai to Pr. CCA, Bangalore.

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## LEADERS OF THE MOVEMENT

District level Leaders elected recently

<u>District</u>	<u>President</u>	<u>Secretary</u>	<u>Treasurer</u>
AS- Jorhat	Bapkon Gogoi	Paban Borah	Pulin Borah
AS-Kamrup	Tanju Sharma	Sachindrath kakati	Dilip Kumar Sarkar
KL-Ernakulam	K M Joseph	K M Pushkaran	K A Antony
KL-Calicut	M Govinda Raj	P Bhuvan Raj	G P Rajendran
KL -Palakkad	T Muralidhran	K Natarajan	M P Krishndas
UPW-Mathura	B K Sharma	Kamal Singh	D C Tiwari

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## REGRET

While publishing (in Patrika July-August 2023) the list of office bearers elected by Jharkhand Circle Conference, a mistake took place. Instead of Com. S K Sharma name of Com. R K Tiwari was shown as Circle President. Com. Tiwari is MP Circle President. I regret very much for the unintentional mistake.... P S Ramankutty, Editor

# AHMEDABAD CWC A MILESTONE

P S Ramankutty

Com. K R Rana, our Gujarat Circle Secretary is man of enduring enthusiasm. Before our Vizag AIC in 2022 he conveyed his desire to me that he wanted to invite next AIC to Gujarat. I suggested to him to come to Visakhapatnam, witness the conference, watch the arrangements there and then decide whether to invite next conference or not. He agreed. He attended the Vizag event and thoroughly studied the immense responsibility undertaken by the Reception Committee, headed by Com. Patnaik who is our Vice President now. Then Com. Rana felt that it was a difficult task and he preferred to invite next CWC. He did it. He took up the responsibility and has accomplished it. Com. Rana was seen everywhere, in the Airport and Railway stations to receive CWC Members. He was seen at the lodges where CWC members and visitors were accommodated. He was present at the Reception Counter, in the dining hall, in the conference hall. He did not take the mike to make speeches.

At a point of time Com. K R Rana was bit worried about finance. But our members and leaders in Ahmedabad and Bhavnagar rose to the occasion, donated liberally and CWC was held with super arrangements, both lodging and boarding. He worked systematically and with total dedication. Every CWC member returned from Ahmedabad meet with only great appreciation of the hospitality extended by our Gujarat comrades.

Com. Varaprasad, our General Secretary, presented a pretty lengthy report narrating all details of various issues related to the agenda items notified. Our Treasurer *the perfect* Com. T S Vittoban presented the audited accounts for the year ended on 31-3-2023 and the interim accounts

thereafter till CWC Meet. The CWC approved the accounts and debated on the other agenda items.

The central working committee met in a happy atmosphere of victory in the legal battle. All appreciated the service rendered by our legal team and the great work done by Com. D Gopalakrishnan who meticulously prepared the documents for drafting the affidavit and Com. Anupam Kaul who coordinated the work with lawyers and our CHO.

I was surprised to see that some wise men were pleading that “we should not go to High Court”. They started this chorus even before Ahmedabad CWC meeting. Fact is that we do not want to go to the High Court at all. We want that the Department should honour the verdict pronounced by the Tribunal on 20-9-2023 and settle the matter once for all. We do not want to prolong the legal fight. But, if the Department prefers to file an Appeal against the CAT decision in High Court should we not fight it out? Or, should we keep quiet paving way for the negative minds in Sanchar Bhavan approach the High Court and get away with a stay order? Those who argue that we should keep quiet are working against the pensioners. We cannot accept their advice.

However, all decisions were taken unanimously by the Ahmedabad CWC. We have proved that we have enough wisdom – collective wisdom – to analyze the situation and take correct decisions. We are committed to pensioners; not to any political group. We met; we debated upon the issues and we took unanimous decisions to march ahead.

# AHMEDABAD CWC

## A BRIEF REPORT

The meeting of CWC elected by Visakhapatnam AIC was held in Hotel White Cloud, Ahmedabad on 1<sup>st</sup> and 2<sup>nd</sup> October 2023 as notified. Following office-bearers present:

**President:** Sh. D Gopalakrishnan,

**Vice Presidents:**

Sh. M R Patnaik,

Sh. R S N Murthy,

Sh. P. Gangadhara Rao,

Sh. S G Panicker,

Sh. Atmaram Verma,

Sh. K Muthiyalu,

Sh. R D Ram

**Gen. Secretary:** Sh. V Vara Prasad,

**Deputy GS:** Sh. Anupam Kaul,

**Treasurer:** Sh. T S Vittoban,

**Asst Treasurer:** Smt. V Latha,

**Asst. General Secretaries:**

Sh. M Rajasekhara Reddy,

Ms. V Ratna,

Sh. Ramakant R Varma,

Sh. R N Singh,

Sh. G Babu,

Sh. R N Padanair,

Sh. Ashok G Nalwade,

Sh. P Jayaraman,

Sh. N Somanadham,

Sh. Mahatma Pathak,

**Org. Secretaries:**

Sh. P Pulla Rao,

Sh. Rajendra Chowdhary,

Sh. J S Dahiya,

Sh. C K Hosamani,

Smt. A Savitha,

Smt. A P Saraswathy,

Sh. P Venugopal,

Sh. A Sudhakar Rao and

Sh. Saket Shukla

Comrades (G Natarajan (VP) and C B Singh (VP) who tendered resignations did not attend. Com. J K Tripathy (VP), B Arunachalam (OS) and BPS Chouhan (CS Chhattisgarh) availed leave. Com. Gopal Dadar (CS Uttranchal) was absent. Com. Parveen Sharma (CS Delhi) could not attend and the Circle was represented by Com. Munshilal. Though we have seven branches we could not form a Circle unit in Himachal Pradesh so far. Com. B D Sharma, District Secretary of Solan was present in the meeting. CWC, later on, nominated Com. B D Sharma as the Convener and authorized him to convene Circle Conference of Himachal Pradesh at the earliest in consultation with CHQ. Com. P S Ramankutty, Advisor was present throughout the meeting.

### **Condolences**

The House stood up in silence for a minute paying tributes to those who died in Balassore train accident and members of our Association who departed during the period.

When the meeting started at 10.15 AM on 1-10-2023, Com. DG, President



announced that Chennai Telephone Circle has nominated Com. M. Ranganathan in place of Com. Natarajan and Rajasthan Circle has nominated Com. Gyan Singh in place of Com. C B Singh. The House accepted the nominations and coopted Comrades Ranganathan and Gyan Singh as Vice Presidents.

Then Com. Vara Prasad, GS presented the report, assisted by other office-bearers. Com. T S Vittoban presented the audited accounts for 2022-2023 and also the unaudited accounts from April to August 2023. House approved the accounts and decided to debate upon the report.

#### **Felicitations:**

The Reception Committee desired to felicitate all CWC members for the historic victory in the legal battle waged by the Association for pension revision. As a token of appreciation, some of the office-bearers were garlanded and all the remaining CWC members were given floral bouquet. More than 50 comrades from various districts of Gujarat attended the function including some seniors who are not that much active these days due to old age.

#### **P S Ramankutty:**

Addressing the gathering Com. PSR focused on the significance of the Court order accepting our demand. He reminded the house that pensioners did not get any benefit automatically after last wage revision. In September 2008 6<sup>th</sup>

CPC report was implemented but we did not get pension revision. On 5-3-2009 BSNL revised pay of serving Executives but did not revise pension of retired Executives. On 7-5-2010 BSNL revised pay of serving Non Executive but ignored the retirees. IN that background we convened the national convention on 20-8-2009 at Tambaram. Shri D D Mistry was invited knowing his politics and he was elected as an office-bearer too. But after some time he resigned from the post. Our main target when AIBSNLPWA was formed was pension revision at any cost. WE achieved it in 2011. Then we struggled a lot and achieved some other benefits extended to BSNL retirees; viz. Full pension after 10 years' service, 50% of Last Pay Drawn for post 2006 retirees, two family pensions for re-employed Ex-servicemen, family pension to unmarried/divorced daughters of BSNL pensioners. Then in 2016 with the help of late Sh Anantkumar we achieved pension revision formula modified with 78.2% IDR. Most significant was annulment of 60:40 sharing formula. It has paved way for the present judgement from the CAT. Com. PSR narrated how we fought for family pension of some widows in Gujarat, Odisha, MP, AP, Tamilnadu etc. He appreciated the service rendered by DG in collecting and supplying all required documents relevant to the case to the lawyers. Com PSR reminded the CWC members that we have just won the battle at first stage only. We may have to continue the fight till an order is issued revising our pension.

**D Gopalakrishnan:**

Then Com. DG, the CHQ President spoke for an hour quite effectively and authentically placing all details of the pension revision issue, the efforts we made to settle the issue through negotiations and agitations and the circumstances that compelled us to resort to legal remedy. He explained how some other organizations handled the issue changing their positions. But our Association stuck to the stand consciously taken after repeated deliberations in many CWC meetings and national conferences. We debated upon the issue in CWC in 2013. We constituted a committee to draft our demand. It was approved by Chennai CWC in April 2014. He pointed out that we did not rush to the Court with petitions. We explored all other options to settle the matter but failed. We consciously selected the petitioners. First petitioner is our association, AIBSNLPWA through the then GS Com. Gangadhara Rao who retired in 2008 as an executive. Second is Com. Ramankutty (pre-2007 retiree). Then Com. Anupam Kaul (post 2007 Retiree) and Com. Latha who retired on 31/1/2020 under VRS-2019 scheme. Two were Executives and two were Non Executives. Every section of BSNL retirees is represented as petitioners in our Original Petition and that OA was allowed by the Court. As such all BSNL retirees shall be benefitted by the judgement. Some people are propagating, without studying the Court order properly, that post-2017 retirees

shall not get the benefit. Our Association is the first applicant in the case and we prayed for pension revision of all members of the association. We have done this with clear understanding and perspective. The judgement is quite clear and unambiguous that our pension should be revised with CPC fitment factor and at par with central government pensioners.

Com. DG read out the professionally perfect legal opinion given in writing by our lawyer Adv. Gautam Narayan and explained the contents in detail. He asserted that this Legal Opinion of the Lawyer has removed all doubts and settled all apprehensions.

Com. DG said that some people, in and out, tried to create confusion earlier propagating that pension revision is not possible without pay revision in BSNL. We dismissed that wrong notion and stood firm. Now the Court of Law has itself vindicated our stand.

The entire House appreciated the assertions of Com. DG with prolonged applause.

Reception Committee felicitated some senior comrades who came to attend the special function despite their age related problems.

After the Lunch, when the House reassembled Com. Anupam Kaul, Dy GS ably gave gist of Com. DG's speech in

Hindi and he further narrated his personal experiences in fighting the legal battle. He pointed that during the last three years one and a half year was covid period when the Court did not function. SO we got the judgement within a period of one and a half years period only because we engaged a senior lawyer Adv. Sanjoy Ghosh even though we had to spend a huge amount of RS 18 lakhs for it. He narrated the way how the judges dealt the 'senior officer' from DoT during the hearing. Given the attitude of the people sitting in Sanchar Bhavan we must expect that they will obtain some legal opinion to file Appeal in the High Court and we must be prepared for a prolonged legal fight if necessary.

#### **Other Court Cases:**

President informed the CWC that we had filed two cases before Ernakulam Bench of CAT. 1) for revised pension on Last Pay Drawn for BSNL staff retired between 1-10-2000 and 31-12-2005. It was decided in favour of Government and we have filed an Appeal in Kerala High Court which is pending. 2) for arrears of pension from 1-1-2007 to 9-6-2013, on account of pension revision with 78.2% IDR. The case is heard and now stands postponed to 3-10-2023. (Again it is postponed to 7-12-2023....Editor) Government pleader placed before the Tribunal that a similar case was decided in favour of pensioners but Department has approached Supreme Court with Special Leave Petition. That case was fought by Com. B D Sharma of Himachal

Pradesh who is present in this meeting. Let us hear him.

**B D Sharma:** Myself and 28 others filed a case before CAT Chandigarh in 2017. Judgement was pronounced in our favour on 23-1-2019 to pay arrears. But so far neither BSNL nor DoT have complied with the CAT order and hence filed a Contempt of Court petition. Then BSNL filed an Appeal in HP High Court. It was dismissed on the plea of delay. Then BSNL and DoT filed SLP before Supreme Court. On 27-9-2023 authorities submitted wrong information before Supreme Court that they have implemented CAT order and because of that SC disposed the Case. Now the Contempt Petition will be heard on 23-11-2023.

#### **Organizational Review:**

Initiating debate on organizational matters General Secretary informed the House about action taken regarding dispute in MP Circle and Jabalpur branch as directed by last AIC. He said if similar issues come up in other Circles CHQ cannot intervene everywhere and it is the responsibility of Circles to deal it properly in a democratic way if any dispute arises below the circle level. Fresh election was conducted in MP Circle. There are some issues regarding finance.

Whatsapp groups are maintained by many Circles. But few circles have not added GS as participant and hence CHQ is not aware of organizational matters in those areas. All information conveyed

by CHQ through whatsapp should be shared with members by Circles so that any information will reach more than 20000 members instantaneously. Pension Department has taken some initiative for Digital Life Certificate campaign. As an identified organization we too should participate in it.

President, intervening in the debate, told that organizational discipline, democratic functioning and financial discipline are the three core principles of our organisation and we should strictly adhere to those principles. He recalled the constitutional amendment passed in Vizag AIC about submission statement of audited accounts by the Districts to Circle and Circle to CHQ. He emphasized the importance of maintaining the membership list at Branch/District level.

Participating in the debate that followed Comrades K Muthiyalu, J S Dahiya, V S Thakur, Saket Shukla, Shyamalendu Bhattacharjee, Sundara Krishnan, G S Bajwa, Upender, S Thangaraj Venkiteswara Rao and Rajasekhara Reddy reported the organizational developments in their Circles.

General Secretary said that our comrades should not post messages of other organizations in our whatsapp groups. Some complaints were received that Com. Muthiyalu made some speeches opposing CPC fitment demand that we will not win the case in the court.

I spoke to Com. Muthiyalu in June 2023. No CHQ office bearer should speak against AIC/CWC decisions. Similarly, some people sent emails that Com. DG spoke in favour of 5% or 10%.

DG told that he never spoke in favour of 5% or 10% or 15%. He recalled that even in Vizag AIC he told that if DoT decides for pension revision with some percentage then we shall not stand in the way but continue our legal fight to achieve 7<sup>th</sup> CPC fitment factor. Rather Com. Muthiyalu admitted his mistake in Vizag CWC, regretted for the same but again he was indulging in such activities after AIC.

Com. Muthiyalu submitted that he did not speak against the AIC decision.

President told that once a decision is taken in CWC/AIC it is binding on all. If review is needed it can be raised in proper forum. Any indisciplined action should be stopped forthwith. Let us close the debate on it now.

The meet adjourned at 2000 hours.

**2-10-2023**

The house paid respects to father of the Nation, Mahathma Gandhi and Lal Bahadur Sastri, being their birth-anniversary.

President announced that CHQ leaders had some discussion with MP leaders

about the organizational problems there and suitable instructions have been given for protecting the fund of the Association. House accepted the proposals.

President further presented few resolutions regarding TA/DA, Editor's allowance, Com. T S Vittoban taking over charge of Printer & Publisher of the Patrika etc. House approved the same.

Then GS presented the resolution on Pension Revision and future course of action. Com. Muthiyalu suggested that we should not go to High Court. President told that we are not going to High Court. In case the DoT goes to High Court with Appeal against CAT verdict we should engage a senior lawyer there and fight it out. Else all efforts made so far will be a waste. The House accepted his views and the Resolution was adopted unanimously. *[The resolution is printed in page 22.]*

Continuing the debate on organizational matters Comrades R S N Murthy, Nareshlal, Changappa, Smt. A P Saraswathy, R A Sharma, B N Behera, Smt. Savitha, R M Patnaik, J N Dubey, T P George, H N Singh, Anupm Kaul, J S

Malik, Hosamani, Narender, Kailash Gautam, Venugopal, M K Das, Rajasekhara Reddy, Saket Shukla, Atmaram Verma and R R Verma spoke on various issues like BSNLMRS, CGHS, FMA etc.

Com. Ramankutty stressed upon the task to help widows or divorced/unmarried daughters of deceased members.

Summing up the debate General Secretary further clarified the rulings on DLC campaign, FMA etc. He assured that CHQ shall take note of various issues raised by members.

As none invited next CWC or AIC it was decided to consider the matter later on.

Before concluding the Reception Committee arranged another function to felicitate all active comrades of Ahmedabad who worked day and night for the successful conduct of the CWC. The comrades were offered shawls by CHQ leaders.

With National Anthem the CWC meeting was adjourned sine die at 1400 hours on 2-10-2023.



Inspired by the success of Ahmedabad CWC, Punjab comrades have now decided to invite next CWC to Patiala.



# AIBSNLPWA FORMATION DAY CELEBRATIONS 2023





# PENSIONERS PATRIKA

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