

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
CONTEMPT PETITION (CIVIL) NO. \_\_\_\_ OF 2024  
IN  
ORIGINAL APPLICATION NO. 1329 OF 2020**

**IN THE MATTER OF:**

All India BSNL Pensioners'  
Welfare Association & Ors.

...Petitioners

Versus

Mr. Neeraj Mittal, Secretary  
Department of Telecom & Ors.

...Respondents

**CONTEMPT PETITION UNDER SECTION 17 OF THE  
ADMINISTRATIVE TRIBUNALS ACT, 1985 READ WITH  
SECTION 12 OF THE CONTEMPT OF COURTS ACT, 1971**

TO,

THE HON'BLE CHAIRMAN, VICE-CHAIRMAN AND  
MEMBERS OF THE CENTRAL ADMINISTRATIVE  
TRIBUNAL,  
PRINCIPAL BENCH AT NEW DELHI

THE HUMBLE PETITION OF THE  
PETITIONERS ABOVE NAMED:

**MOST RESPECTFULLY SHOWETH:**

1. That by way of the present Contempt Petition, the Petitioners are seeking to bring to the attention of this Hon'ble Tribunal acts of omission on part of the Respondents which are in clear and flagrant violation and wilful disobedience and defiance of the directions issued by this Hon'ble Tribunal vide its final judgement and order

dated 20.09.2023 passed in Original Application No.1329/2020 titled '*All India BSNL Pensioners' Welfare Association & Ors. v. Union of India & Ors.*'. A true copy of the final order and judgement dated 20.09.2023 passed by this Hon'ble Tribunal in OA No.1329/2020 titled '*All India BSNL Pensioners' Welfare Association & Ors. v. Union of India & Ors.*' is annexed herewith as **Annexure C-1**.

2. Petitioner No.1 is a registered pensioners' association which was formed in August, 2009 and comprises of thousands of members who are all pensioners having retired from BSNL after being absorbed from the Department of Telecommunications and as such, had filed the Original Application No.1329 of 2020 before this Hon'ble Tribunal in a representative capacity. The Petitioner Nos.2, 3 and 4 are the members of the Petitioner No.1 Association. The contents of the Original Application No.1329 of 2020 preferred by the Petitioners are not being repeated in the interest of brevity and the Petitioners crave leave that the same may be read as part of the present petition as well. A true copy of the Original Application No.1329 of 2020 preferred by the Petitioners before this Hon'ble Tribunal is annexed herewith as **AnnexureC-2**.

3. Respondent No.1 is Mr.Neeraj Mittal, Secretary, Department of Telecommunications, Union of India. Respondent No.2 is Mr.V Srinivas, Secretary, Department of Pension and Pensioners' Welfare, Government of India (Respondent No.2 in the Application). Respondent No.3 is Mr.TV Somanathan, Secretary, Department of Expenditure. The Respondents are responsible for implementing the final judgment and order dated 20.09.2023 passed by this Hon'ble Tribunal in OA No. 1329/2020 titled '*All India BSNL Pensioners' Welfare Association & Ors. v. Union of India & Ors.*'.
4. The relevant facts for the just and proper adjudication of the present Contempt Petition are elucidated hereunder:
  - (i) The Petitioners were the employees of the Department of Telecommunications, Government of India with the service conditions similar to a regular Government employee;
  - (ii) On 01.10.2000, due to the corporatization leading to creation of Bharat Sanchar Nigam Limited (BSNL) and the services of the Petitioners were placed at the disposal of BSNL. Further, at the time of absorption, a 'Presidential Order' was issued which held out an assurance, that the pension payable for combined service in Department of Telecommunication

(DOT) and BSNL, to all employees who choose to get absorbed in BSNL, will be paid by the Central Government, as incorporated under Rule 37-A of the CCS (Pension) Rules, 1972.

- (iii) It is important to note that the unique condition, which is specific to BSNL viz., retention of status of a Government servant upon retirement for the purpose of entitlement to pension, was one of the primary reasons that motivated the Petitioners herein to opt for absorption in BSNL. However, unfortunately after adoption of the recommendations of the 7<sup>th</sup> Central Pay Commission (“CPC”) by the Central Government, revising pay scales of Government employees, simultaneously revising pension payable to retirees, the pension being paid to the Petitioners was not revised by the Respondents which was in violation of Rule 37-A of the 1972 Rules as was also held by this Hon’ble Tribunal in its final judgment and order dated 20.09.2023.
- (iv) Being aggrieved by the non-revision of the pension as per the 7<sup>th</sup> CPC, Petitioners preferred the Original Application No.1329/2020 before this Tribunal seeking the following reliefs:

- a. Declare that the members of the Applicant Association enjoy parity with Central Government Pensioners in the matter of revision of pension on the same yardstick as granted to Central Government pensioners;
  - b. Direct the Respondents to revise the pension of the Members of the Applicant Association in terms of the recommendations of the 7<sup>th</sup> Central Pay Commission;
  - c. Direct Respondents to de-link the issue of revision of pension from pay revision for absorbee pensioners of BSNL;
  - d. Pass such other order/s as may be deemed fit and proper in the facts of the present case.
- (v) The Petitioners preferred the Original Application before the Hon'ble Tribunal on the ground that the non-revision of the pension by the Respondents is contrary to the scheme laid down under Rule 37-A of the CCS (Pension) Rules, 1972 wherein Rule 37-A(22) read with 37-A(24) explicitly provide that the responsibility for payment of pension of officers who were absorbed in BSNL from DOT lies with the Government of India. Therefore, the Petitioners enjoy

parity with Central Government employees qua retirement benefits and they cannot be denied the benefit of revision of pension at par with Central Government Pensioners.

- (vi) This Hon'ble Tribunal was pleased to allow the Original Application No.1329 of 2020 filed by the Petitioners herein vide the final judgment and order dated 20.09.2023. This Hon'ble Tribunal held that the Section 37(A) of the CCS (Pension) Rules has to be read as a whole and sub-rule 21 of the same clarifies that the pensionary benefits of the Petitioners even after absorption in BSNL shall be paid by the Government including the family pension. The Hon'ble Tribunal reiterated that even after the absorption of the Petitioners in the corporate undertaking i.e. BSNL, the terms and conditions of services governing them were to remain the same as they existed when they were the employees of the DOT. The relevant paragraphs of the judgment are being reproduced hereinbelow:

*“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.”*

- (vii) The Hon'ble Tribunal was pleased to direct the Respondent as follows:

*“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 appellants, 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.”*

- (viii) The final judgment and order was delivered by the Hon’ble Tribunal on 20.09.2023. However, till date, the Petitioners have not received any communication from the Respondents regarding the revision of their pension and other benefits as was directed by this Hon’ble Tribunal.
- (ix) In the meanwhile, the Petitioners have requested the Respondent to implement the judgment vide representations dated 27.09.2023, 11.10.2023, 15.11.2023, 29.12.2023, 11.03.2024 and 28.03.2024 but have not received any response to their representations. A true copy of representation dated 15.11.2023 sent by the Petitioner Association is annexed herewith as **Annexure C-3**.
5. It is submitted that vide its final judgment and order dated 20.09.2023 this Hon’ble Tribunal had granted 10 weeks to the



Competent Authority amongst the Respondents, responsible for revising the pension, and to thereby implement the judgment. The said period of 10 weeks expired on 30.11.2023. However, the Respondents have failed to comply with the directions of the Hon'ble Tribunal regarding revision of the pension and family pension of the Petitioners.

6. It is also pertinent to state that the Respondents have preferred WP (C) No.4955 of 2024 before the Hon'ble High Court of Delhi challenging the final judgment and order dated 20.09.2023 passed by this Hon'ble Tribunal in OA No. 1329 of 2020. It is pertinent to note that the Application came to be listed before the Hon'ble High Court on 05.04.2024 when an adjournment was sought on behalf of the Respondents in the present application / Petitioners before the Hon'ble High Court; however, the Hon'ble High Court did not issue notice in the petition and further clarified that the Petitioners herein are at liberty to proceed with contempt proceedings for implementation of the final judgment and order dated 20.09.2023 of this Hon'ble Tribunal. A true copy of order dated 05.04.2024 of the Hon'ble High Court of Delhi in WP (C) No.4955 of 2024 is annexed herewith as **Annexure C-4**.

7. It is therefore submitted that the Respondents / Alleged Contemnors have interfered with the administration of justice and have lowered the dignity and the majesty of this Hon'ble Tribunal by not complying with the directions of this Hon'ble Tribunal in its final judgment and order dated 20.09.2023 in OA No. 1329 of 2020. The Respondents have also caused unnecessary harassment to the Petitioners for which the Respondents are liable to indemnify the Petitioners.
8. That in view of the aforesaid facts and circumstances, it is necessary that in the interest of justice, this Hon'ble Tribunal be pleased to exercise the contempt jurisdiction vested in it and to punish the Respondents / Alleged Contemnors for their contumacious act of violating the final judgment and order dated 20.09.2023 in OA 1329/2020 of this Hon'ble Tribunal.
9. That the present Contempt Petition has been preferred within the period of limitation.
10. That the Petitioners have not filed any other similar petition before any court.

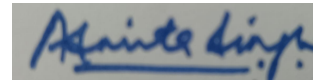
### **PRAYER**

In light of the above-mentioned facts and circumstances, it is most respectfully prayed that this Hon'ble Tribunal may be pleased to:

- a) Initiate contempt proceedings against the Respondents for wilful disobedience of the final judgment and order dated 20.09.2023 passed by this Hon'ble Tribunal in Original Application No.1329/2020 titled '*All India BSNL Pensioners' Welfare Association & Ors. v. Union of India & Ors.*';
- b) Direct the Respondents to comply with the final judgment and order dated 20.09.2023 passed by this Hon'ble Tribunal in Original Application No.1329/2020 titled '*All India BSNL Pensioners' Welfare Association & Ors. v. Union of India & Ors.*'; and
- c) Pass any further order (s), direction (s) as maybe deemed fit and proper in the interest of justice.

**PETITIONER**

**THROUGH**



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Date: 21.04.2024  
Place: New Delhi