



ALL INDIA BHARAT SANCHAR NIGAM LIMITED
RETIRED EXECUTIVES' ASSOCIATION
Central Headquarters

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No. AIBSNLREA/CHQ/2010/03

Dated: May 13 , 2010

To

Shri P J Thomas,
Secretary,
Department of Telecommunication,
New Delhi 110 001.

Sub: Revision of pension/family pension of the absorbed BSNL Executives retired between 1.10.2000 and 31.12.2006

Ref. Our Letter No. AIBSNLREA/CHQ/2010/01 dated 21.4.2010.

Sir,

We would once again like to submit that the absorbed BSNL Executives who retired between 1.10.2000 and 31.12.2006 after having taken absorption from DOT/DTS/DTO to BSNL are very much perturbed over the inordinate delay in revision of their pension. In fact, the revision of their pension was due along with the revision of the pay scales of the BSNL Executives who were in service on 1.1.2007. The revision of pay scales of the serving BSNL Executives was ordered on 5.3.2009. Thus, there is already a long delay of more than a year in revision of pension of the Executives who retired prior to 01.01.2007. In this connection, we would like to further state that the *Hon'ble Supreme Court in its judgement delivered on 30.07.2008 in Writ Petition (C) No 35 of 2006 [Society of Retired Forest Officer, UP Versus State of UP & Ors]* has also ruled that "**..... As and when there is a revision of dearness allowance and revision of pay scales then the effect of that revision should be ensured promptly and the fixation should be released as far as possible within two months of the so called revision....**". Therefore, there is no reason to delay the revision of the pension of the absorbed BSNL Executives who retired prior to 1.1.2007 in view of the fact that the pay scales of the serving BSNL Executives have been ordered to be revised on 5.3.2009.

2. In this context, we would like to further say that in our letter as referred to above, *we have submitted that revision of pension should be ordered by applying the same fitment benefit as ordered for revision of pay scales of the serving employees.* In this regard, we would like to draw your kind attention that **after the Hon'ble Supreme Court judgement dated 17.12.1982 in the case of D.S.Nakara & others Vs. Union of India, it has become a settled law that there should not be any disparity between the past pensioners and those retired after a specified date.** *The Hon'ble Supreme Court has held that the pensioners form a homogeneous class and they cannot be divided on upward revision of pension.* Quoting the above judgement the V Central Pay Commission has opined on the same lines that *the past and future pensioners form a homogeneous class and recommended complete parity between the past and future pensioners by adopting the same fitment formula for revision of pension as given to the serving employees.* Not only that, the V Central Pay Commission had further recommended a major policy thrust in the revision of pension for the past pensioners that those retired even prior to 3rd or 4th CPC are to be brought to the scales of the 4th CPC by applying the same fitment formula as given to the serving employees and thus it removed the age long disparity between the past and future pensioners. *The above recommendation of the V Central Pay Commission was accepted by the Government. and also implemented.* Incidentally, the VI Central Pay Commission has also recommended the same fitment formula for revision of pension for the past pensioners as was given to the serving employees. *The VI Central Pay Commission had stated in para 5.1.47 of its Report that "..... The Commission notes that modified parity has already been conceded between pre and post 1/1/1996 pensioners. Further, full neutralization of price rise on or after 1/1/1996 has also been extended to all the pensioners. Accordingly, no further changes in the extant rules are necessary. However, in order to maintain the existing modified parity between present and future retirees, it will be necessary to allow the same fitment benefit as is being recommended for the existing Government employees."* Thus, in line with the judgement of Hon'ble Supreme Court, the 5th and 6th Central Pay Commissions have recommended that in order to maintain the parity between the past and future retirees it will be necessary to allow the same fitment benefit as is being given to the serving employees. Thus the underlying principle is that there cannot be any disparity between the past pensioners retired prior to a date and those retired after that date and that the parity can be maintained only if past pensioners are given the same fitment benefit as given to the serving employees.

3. We have also submitted in our earlier representation that it is a settled matter that the absorbed PSU/CAB pensioners who draw their pension on IDA pattern under Government Rules will get their pension revised by application of the same fitment formula as applicable to the serving employees on IDA pattern. The cases of the absorbed pensioners in Food Corporation of India and also of Port & Dock pensioners under the Ministry of Shipping, Transport & Highways are the ideal cases to draw the parallel. In both these Organizations, the revision of pension is granted on IDA pay scales with the same IDA fitment formula as were applicable to their serving employees. *We would now like to draw your kind attention to the various Orders issued by the above stated PSU/CAB for revision of pay scales of their serving employees and revision of pension of their past absorbed employees which ordered application of same fitment formula to the serving and retired employees (past pensioners).*

4. In view of the above, we would request you to kindly intervene in the matter so that the long pending issue for revision of pension of the past pensioners of BSNL who took absorption from DOT/DTS/DTO is now ordered without further delay by applying the same fitment formula which has been granted to the serving employees of BSNL i.e. 30% fitment benefit on both the basic pay plus eligible merged IDA DA as

on 1.1.2007. It is because if the same fitment formula is not applied for revision of pension on any of the components like gross pension and/or eligible merged IDA DA, disparity will be created between the pensioners retired before and after 1.1.2007 which in turn will violate the settled law, Court 's direction, CPC recommendations and Government's policy decisions/Orders on the issue. This will also create an anomaly in respect of fitment formula for revision of pension among the PSUs/CABs. Further, since the Government rules regarding fixation benefit/policies and payment of pension as applicable to the Government Employees are applicable to the BSNL Employees, these rules/orders alone are to be applied in case of the BSNL pensioners - but on the IDA scales and IDA DA. Any attempt to deviate from the settled rules/law/ orders regarding fitment formula will only create confusion and complication. This must have to be avoided.

With kind regards,

Yours sincerely,



(S Basu)
General Secretary

Copy to:

1. Smt Sushma Nath,
Secretary,
Dept of Expenditure, GOI.
2. Smt Rajni Razdan,
Secretary, DOP&PW, GOI.
3. Shri P K Malhotra,
Addl Secretary, DLA, GOI.
4. Shri S C Misra,
Member (Services), Telecom Commission.
5. Smt Vijayalakshmi Gupta,
Member (Finance), Telecom Commission.