

## Annulment of Pension Liability on 60:40 ratio

### - Is it a boon or a bane ?

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1. The Union Cabinet has now given its seal of approval to the DOT's proposal for annulment of the earlier arrangement of pension liability on 60:40 ratio between DOT and BSNL **where in BSNL was to share the liability for payment of pension not only to the BSNL pensioners but also the DOT pensioners who retired prior to 01.10.2000 i.e., prior to formation of BSNL.** Though we welcome the above decision of the Union Cabinet that would reduce the undue burden on BSNL in grave situation when the receipts from BSNL/MTNL on dividends etc by DOT falls short of 60% of the expenditure on account of payment of pension, we do have some genuine reasons for an apprehension regarding the same. Whether it is a boon or a bane ?
2. Rule 37-A was incorporated in CCS (Pension) Rules 1972 on 30.09.2000 - just a day before BSNL was formed. Those serving in the Department of Telecommunications, Department of Telecom Services and Department of Telecom Operations were asked either to opt for BSNL (BSNL/MTNL – only in case of the officers) or opt to remain in DOT. Factually, there was no compulsion on any. Though there was an initial hesitancy in the minds of a few, when the options were called for, giving the detailed terms and conditions, except a few employees and officers, all the other employees opted for BSNL/MTNL. They did so because they were satisfied that their pension is secure as per Rule 37-A under which they opted for absorption. What does the Rule 37 A state ?
3. The Sub Rule 21 of Rule 37 A of CCS (Pension) Rules 1972 states that “..... **in the case of conversion of Departments of Telecom and Telecom Operations to Bharat Sanchar Nigam limited ..... the pensionary benefits including family pension shall be paid by the Government**”. Again the **Sub Rule 22 of Rule 37-A** states that “for the purpose of payment of pensionary benefits including family pension referred to in Sub Rule 21, the **Government shall specify the arrangement and manner including the rate of pensionary contributions to be made by Bharat Sanchar Nigam Limited to the Government and the manner in which the financial liabilities on this account shall be met.**” This was the position on that date i.e.30.09.2000 which made it clear that apart from specifying the arrangement, the rate of pensionary contributions to be made by BSNL will also be specified. **But nevertheless, the responsibility for payment of pension to the absorbed BSNL pensioners rested only with the Government and not BSNL.**
4. So as far as a DOT employee is concerned, once he is absorbed in BSNL he is assured of his pension on the combined service put in DOT and BSNL. His pension would be based on his IDA pay received by him in BSNL. This is eventually higher since all the non-executives received a

minimum benefit of Rs.1500/- and similarly the executives also received a minimum benefit Rs.2500/- at the time of their pay-fixation in BSNL. That is why despite some unions/associations then desperately propagating against absorption and adopting delaying tactics, a vast majority of the employees opted for absorption in BSNL. They were sure that their pension is safe as per Rule 37-A. It was also clear that the arrangements between the DOT and BSNL in sharing the pension liability, would no way affect their individual pension which is as secured as the pension of any other Central Government pensioner. Let us just have a glimpse of the Pension Payment Order of a BSNL pensioner and a DOT pensioner. Both are issued by the Department of Telecommunications and signed by the officers of the same CCA office. The only difference in the PPO of an absorbed BSNL pensioner is that, there is a mention in it as "BSNL Pensioner with IDA Pension" and on the other hand in the PPO of a DOT pensioner, it is mentioned as "Telecom Pensioner with CDA pension". Otherwise, there is no difference in the matter of owning the responsibility by DOT in paying both of them their pension.

5. Further, Para (iii) of DOT Secretary's letter dated 15<sup>th</sup> March 2005 to CMD BSNL also reiterates that "the liability on account of pension payable will be that of Government of India." So there was no ambiguity or cause of fear in any BSNL pensioner about guarantee of receiving his pension.
6. Though the existing arrangement for sharing the pension liability of DOT/BSNL pensioner on 60:40 ratio did not in reality affect the individual pensioners in any way, it is also true that it would have drained the finances of BSNL in case the amount falls short of 60% of the receipts from BSNL/MTNL on account of dividends etc for payment of pension. Our association i.e. AIBSNLREA had long back taken up the issue and even petitioned to the Hon'ble Prime Minister of India on this issue. On 30.07.2014 itself, it took up the issue with Minister of Communications & IT and Secretary (Pension). The DOP&PW, on its part, forwarded our representation to DOT for appropriate action. AIBSNLREA was more vocal against BSNL sharing the pension liability of the pre-October 2000 DOT pensioners/family pensioners whose numbers are much higher than the number of absorbed BSNL pensioners/family pensioners. Moreover, Rule 37-A only spoke about an arrangement for sharing pension liability of the absorbed BSNL pensioners and not of past DOT pensioners/family pensioners. But no other Union/Association, both serving and pensioners, ever raised this point. Moreover, no order has ever been issued specifying the pension liability between DOT and MTNL after the Government decided to shoulder the responsibility to pay pension to the absorbed MTNL pensioners retrospectively w.e.f. 1.10.2000. Therefore, the question arises why there be an arrangement for sharing pension liability only between DOT and BSNL and NOT between DOT and MTNL. We are happy that at last the Government has conceded to our point and also annulled this specific unjustified provision for sharing the pension liability of the DOT pensioners/family pensioners who retired before 1.10.2000.
7. But now for the past few months, we noticed that a vicious propaganda was orchestrated by an executive pensioners association which is an extended arm of another serving executive association that unless the 60:40 clause is removed, no revision of pension with 7 8.2% is

possible. They went on to propagate that even the DOT's ITS officers who were on deputation in BSNL and since retired would also not get their pension revision as per 7<sup>th</sup> CPC. **It is really a wonder how it slipped out of their mind that DOE had already cleared the very proposal from DOT for revision of pension with fitment benefit by merger of 78.2% DA in October 2014 itself i.e. almost two years back from now and also advised DOT to seek approval of Cabinet for the same. Moreover, was there any single incidence that any BSNL retiree was ever denied of his pension during the last 16 years due to presence of the pension liability clause? Certainly, not.** The very idea of the said propaganda was just to create panic in the minds of BSNL pensioners. They subsequently stated that as per the reply that they received through RTI, the pension of BSNL pensioners is being paid from the Consolidated Fund of India. This information which they received now, that the pension of the absorbed BSNL pensioners is paid from the Consolidated Fund of India, was a known fact since long to many – but unfortunately not to them. Thus when the pension of a BSNL pensioner is paid from the consolidated fund of India, why there ever be a problem for payment of pension or revision of pension to a BSNL pensioner ?

8. On our part, we countered the said propaganda effectively through our write ups. We had earlier stated at Para 8 of our write up "Is our Pension Secure" that "Though we also feel that the 60:40 formula as evolved by DOT and asking BSNL to pay the amount exceeding 60% of dividend etc, would hurt BSNL finances and its viability, but it is in no way going to affect the BSNL pensioners from receiving their full pension. A pensioner is not going to receive 60% of pension from Government and rest 40% from BSNL. His full pension is assured as Government's liability. The issue of 60:40 formula is an internal matter between DOT and BSNL and does not alter the pension liability position of the Government. **Further this formula vis-à-vis "arrangement" is not permanent. If need be, it can be modified or even annulled depending on the requirement. But the Government's liability to pay pension remains.**" Now the recent Cabinet decision annulling the pension liability clause vindicated our stand.
9. Incidentally, the website of the same executive pensioners association, while reporting on the status of 78.2% IDA fitment benefit issue, quoting a senior Officer of DOT carried a news on 14th July, 2014 that "DOT is paying 2400 crores more to the BSNL pensioners than 60:40 formula . . . . . from 2011-12". If that was their information, they should have at least known that pension liability clause does not come in any way in DOT shouldering the responsibility to pay pension and even revise pension of the absorbed BSNL pensioners. Moreover, under the same situation Department of Expenditure (DOE), as back as on 15<sup>th</sup> October, 2014, had no hesitation to clear the DOT's proposal to allow fitment benefit by merger of 78.2% IDA. Thus their very attempt to make an issue out of nothing confirms either their lack of knowledge on the subject or attempt to mislead the pensioners to create panic to serve their own purpose.
10. Now when the said executive pensioners' association, which is an extended arm of a serving executive association, was seen raising its pitch that unless the arrangement for pension

liability on 60:40 ratio is annulled, our pension revision will never be there, another pensioners association claiming themselves as the “biggest pensioners association”, spilled the beans out in the open. They said in their website on 10/07/2016 that “***When the Department is willing to remove the 60% condition why should we oppose it?***”

11. Then what is the halla gulla about 60 : 40 annulment ? whose baby it is ? Who really started this in a big way ?
12. **So is it not crystal clear now that it is the department which started the idea of annulment of 60:40 sharing liability between DoT and BSNL ?** That it is the baby of DoT. That the same DOT which moved the 60:40 arrangement and got the cabinet approval in 2005 now wanted the same to be annulled. Could be that now they wanted the same to look like the demand of the Unions/associations. That is why it seems that some Unions and executive associations and pensioners associations were taken on board to make the demand vociferously sometime back that unless 60:40 is annulled the pension revision is not possible.
13. Now every Union/association is claiming that the annulment of the present arrangement of pension liability on 60:40 ratio is because of their exclusive effort. One pensioners’ association is found even challenging another pensioner association to prove their claim by showing any letter written by them to the department on this issue. So all are happy and busy in pocketing the credit. We are also happy about the annulment of the arrangement of pension liability on 60:40 ratio, but only on one count that now no Department will find an excuse to delay pension revision cases on the pretext of this clause, though its existence could never deny us payment of our pension at any given time.
14. Now let us think from another angle. Why the department now wanted to annul the pension liability clause which was in existence for over last 11 years and move a cabinet memo to reverse its earlier decision ? Why the department (DOT) which according to the website of another executive pensioners association had even pumped in 2400 crores more in excess of its 60% share to ensure payment of pension of the BSNL pensioners from 2013, suddenly takes upon itself the exercise to annul the pension liability clause? Was there any compulsion on the part of DoT and the Government behind this move? Did DOT take some Unions/associations of serving employees and pensioners, who usually play to their tunes, on board to make a war cry on this issue for the past couple of months in order to make the BSNL employees and pensioners believe that it is in their interest?
15. Now let us see what is happening with MTNL. All of us know that MTNL is in red for over a decade. As per Rule 37 A the pension of MTNL pensioners was to be paid by a trust. But the trust was never formed and the MTNL itself was paying the pension to its pensioners and not the Government. We also know that MTNL is not fully owned by Government and its shares are listed in Stock Exchange.
16. There was a long pending demand by MTNL employees that they also be paid pension by Government in the same way as the pension of the BSNL pensioners is paid. After dragging

its feet for quite a few years, the Government finally issued a G.O. on 03/03/2014 and amended Rule 37-A to allow the pension of the MTNL pensioners also to be paid by Government. What happened by that decision? The liability of MTNL towards payment of pension to its pensioners was fully shifted to the Government. No Order was ever issued for pension liability between DOT and MTNL. The result was obvious. The next few days saw the share of MTNL swinging considerably up. Did MTNL improve its services or made any high profit in those few days or weeks? Definitely not. Then what made the MTNL market to swing up ? It is only because of shifting of the liability for payment of pension to the MTNL pensioners from MTNL to the Government. When the number of pensioners are more than the number of serving employees and the amount spent on pension is more than the amount spent on salaries, surely no shareholder would like to bear the responsibility of pensioners. Thus, the decision to take over the financial burden for payment of pension from MTNL by the Government on its shoulder, caused the share value of MTNL to make a high jump.

17. Now let us compare the situation in BSNL. BSNL was making a high profit of nearly 10000 crores in 2006. The profit started decreasing and in a year or two BSNL was stated to be running in loss and the loss in each year only increased over the years. But now **BSNL has not only been claiming financial turn-around for the last two years wherein it is told that BSNL made operating profit of about 674 crores in the financial year 2014-15 and 2000 crores in the financial year 2015-16. Who knows whether this was due to window dressing and just a confidence building measure among the investors ?** Similarly though the pension liability on BSNL was only on paper, still it would have certainly affected in the market if the Government wishes to sell shares of BSNL. A BSNL with no pension liability would definitely fetch higher price in share market than the one which has 40% pension liability.
18. Therefore, what for the liability of 40% share on BSNL is removed? At least not for the sake of BSNL pensioners alone. They are already assured of Government pension as per sub Rule 21 of Rule 37-A of CCS (Pension) Rules, 1972. During the time of absorption itself, many apprehended that the pension would not be secure if we take absorption in BSNL. But the absorbed BSNL pensioners are receiving not only the pension but also the revision of pension for the past 16 years and will continue to receive the same forever. Thus, the pension liability clause on 60:40 ratio was not the problem of BSNL pensioners. It was the problem of BSNL and DOT to get one of its bottleneck for its long pending proposal for disinvestment of BSNL removed. There cannot be any doubt that the share of BSNL without the 40% pension liability of past pensioners would definitely fetch a higher value in share market than it could have with the liability. Therefore, it appears that DOT has now opened the deck for its proposal for disinvestment of BSNL. *The BSNL pensioners and more so the serving employees of BSNL in particular would realise this shortly, as the game plan gets unfolded, as to who serves whose interests.* Now a debate may start whether the Government decision on annulling the 60:40 pension liability between DoT and BSNL, even though it was only in paper, is really a boon or a bane. Let us hope it does not prove to be a bane on a later date.