

Ministry of Law & Justice
Department of Legal Affairs

Comp No. 100121

Department of Telecom (DoT) has sought advice of this Department on the feasibility of challenging the Order dated 20.09.2023 of Hon'ble CAT (PB), New Delhi passed in OA No 1272/2020 with OA No. 1271/2020 & 1329/2020 - seeking to revise pension/family pension/ minimum pension with effect from 01.01.2017 for BSNL/MTNL combined service pensioners.

2. Facts of the case have been mentioned by DOT in the referring note. The issue involved in the matter is regarding revision of pension of the retired pensioners of BSNL combined service employees. Contention of the retired pensioners associations/employees is that, as the pension of BSNL combined service employees is paid by Government and the pay of combined service employee is paid by BSNL, pension may be revised by the Government w.e.f. 01.01.2017 in the absence of any wage revision by BSNL. With this logic, some of the applicants approached to the Hon'ble CAT (PB), New Delhi for seeking reliefs. It has further been informed that Department of Pension & Pensioners' Welfare, Department of Public Enterprises and Department of Expenditure are also cited respondents in these OAs. T

3. Hon'ble CAT in its Order dt. 20.09.2023 has observed and directed as follows –

"In view of the elaborate discussion above, the OA stands allowed. The competent authority amongst 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. 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."

4. We have gone through the reference. Government Counsels in the matters have opined that case is fit for challenge on the grounds stated in their opinion. DOT also intends to challenge the order on the grounds mentioned in the reference.

5. Rule 37 of CCS (Pension) Rules, 2021 provides Conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Public Sector Undertaking. Further, Sub Rules 26 and 27 of Rule 37 specifically provides about the combined service pensioners and read as-

26) Nothing contained in sub-rules (18) to (25) shall apply in the case of conversion of the Departments of Telecom Services and Telecom Operations into Bharat

Sanchar Nigam Limited and Mahanagar Telephone Nigam Limited, in which case the pensionary benefits including family pension shall be paid by the Government.

(27) For the payment of pensionary benefits including family pension referred to in sub-rule (26), the Government shall specify the arrangements and the manner including the rate of pensionary contributions to be made by Bharat Sanchar Nigam Limited and Mahanagar Telephone Nigam Limited to the Government and the manner in which financial liabilities on this account shall be met.

6. In view of the above, it is the domain of the Government to specify the manner in which financial liabilities shall be met in this regard . As per the referring Department the combined service pensioners are governed by Pay Revision Committee recommendations. Though, recommendations of the 3rd Pay revision committee has been implemented in most of the PSUs, it has not yet been implemented in the BSNL/MTNL yet, as the pay has not yet been revised, so there is no thrust to revise the pension of the retired employees.

7. Taking into account factual matrix of the case in hand and rule position in this regard, it seems to be a fit case for challenge. However, DOT may take decision in consultation with the Department of Pension & Pensioners' Welfare and Department of Public Enterprises being nodal departments on the issue in hand.

May kindly see.

20/10/2023 03:20 PM
SAVITA RANI SINGAL
ALA, DOLA

3rd Floor, Lok Nayak Bhawan
Khan Market, New Delhi-110003
Dated 15th Nov, 2023

OFFICE MEMORANDUM

Subject:- Comments sought by DoT in respect of Order dated 20.09.2023 of Hon'ble CAT (PB), New Delhi in OA No. 1272/2020, 1271/2020 & 1329/2020 filed in Hon'ble CAT Delhi regarding revision of pension/family pension/minimum pension w.e.f 01.01.2017 for BSNL/MTNL combined service pensioners-reg

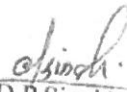
The undersigned is directed to refer to Department of Telecom's OM No. 38-52/2020-Pen(T) dated 27.09.2023 on the subject cited above. The matter has been examined in the Department and the comments of this Department are as under:-

2. It is observed that Hon'ble Tribunal, Principal Bench, New Delhi vide its Order dated 20.09.2023 in OA No. 1271, 1272 & 1329 of 2020 has allowed the OA (for revision of Pension of BSNL/MTNL pensioners) with following observations vide para 28 of its order dated 20.09.2023:-

"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, maintain 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."

3. Since, the Hon'ble CAT has ordered for revision of pension and family pension strictly as per relevant rules, it is for DoT to take an administrative decision in the matter. DoPPW has no further comments to offer.

4. This issues with the approval of competent authority.


(D.P. Singh)

Under Secretary to the Government of India

Shri Kuldeep Kumar
Under Secretary (STP)
Room No., Sanchar Bhawan
20, Ashoka Road, New Delhi-110 001

COURT CASE
MOST IMMEDIATE

सं० W-05/0012/2020-DPE(WC)

वित्त मंत्रालय
लोक उद्यम विभाग

लोक उद्यम भवन, ब्लॉक सं० 14,
सी.जी.ओ. काम्पलेक्स, लोदी रोड, नई दिल्ली- 110003
दिनांक: 17.10.2023

OFFICE MEMORANDUM

Subject: OA No. 1272/2020, 1271/2021 & 1329/2020 filed by All India Retired Bharat Sanchar Nigam Ltd Executives Welfare Association & Others against Bharat Sanchar Nigam Ltd and Others before Hon'ble CAT, PB, at New Delhi-regarding

The undersigned is directed to refer to Department of Telecommunications (DoT)'s e-mail dated 27.09.2023 on the subject cited above and to state that the order passed by the Hon'ble CAT, PB, at New Delhi in OAs mentioned above, has already been examined in the department and conveyed vide DPE OM dated 08.12.2020 (Copy enclosed). It is further added that the matter concerns D/o Telecommunications (DoT) & D/o Pension and Pensioners Welfare (DoPPW) and ~~the~~ DPE has no role in the matter.

2. This issues with the approval of the Competent Authority.


(नरेश कुमार)
अवर सचिव

संलग्नक :-उपरोक्तानुसार

Department of Telecommunications,
[Kind Attention: Shri Kuldeep Kumar, Under Secretary)
Room No. 514, Sanchar Bhawan,
20, Ashoka Road, New Delhi - 110001
Email: kuldeep.k97@nic.in

**Government of India
Ministry of Finance
Department of Expenditure
E-V Branch**

Department of Telecommunications (DoT) may please refer to the notes recorded in their E File No. 38-52/2020-Pen(T)-Pt. seeking comments of DoE in the matter

2. In this connection, it is submitted that pension being derivative of pay needs to be revised in line with the applicable last pay drawn of the existing pay scales. Making any deviation in the existing criteria of pension fixation may have grave repercussions. In this regard, the view taken by the Administrative Ministry for challenging the order 20.09.2023 of the CAT (PB), New Delhi appears to be appropriate. Accordingly, DoT is requested to defend the interest of UoI on behalf of Secretary (Expenditure). DoT is also requested to get the draft reply vetted by DPE, DoP&PW and DoE before filing W.P in the High Court of Delhi.
3. This issues with the approval of Competent Authority.

Ranjeet
4/11/2024
(Ranjeet Kumar)
Under Secretary
Tele: 2309 5633

DoT (Kind attn.-Sh. Kuldeep Kumar, US (STP)), 514, Sanchar Bhawan, 20 Ashoka Road, New Delhi-110001

D/o Expenditure's I.D. Note No. 28(2)/E-V/2023, dated 01.01.2024