

## ***Pension Related Circulars/ Orders***

DOT No. 36-15/2000-Pen(T) dated 09.11.2000

***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.

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

**Enclosure**

### **MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS**

(Department of Pension and Pensioners' Welfare)

#### **NOTIFICATION**

New Delhi, the 30th September, 2000

S.O.904(E) – In exercise of the powers conferred by the proviso to article 309 and clause (5) of article 148 of the Constitution and after consultation with the Comptroller and Auditor General of India in relation to persons serving in the Indian Audit and Accounts Department, the President hereby makes the following rules further to amend the Central Civil Services (Pension) Rules, 1972, namely:

1. (1) These rules may be called the Central Civil Services (Pension) Amendment Rules, 2000.  
(2) They shall come into force on the date of their publication in the Official Gazette.
2. In the Central Civil Services (Pension) Rules, 1972, after rule 37, the following rule shall be inserted, namely:  
"37A. Conditions for payment of pension on absorption consequent upon conversion of a Government Department into a Central autonomous body or a Public Sector Undertaking.  
  
(1) On conversion of a department of the Central Government into a public sector undertaking or an autonomous body, all Government servants of that Department shall be transferred en-masse to that public sector undertaking or autonomous body, as the case may be, on terms of foreign service without any deputation allowance till such time as they get absorbed in the said undertaking or body, as the case may be and such transferred Government servants shall be absorbed in the public sector undertaking or autonomous body, as the case may be, with effect from such date as may be notified by the Government.

- (2)** The Central Government shall allow the transferred Government servants an option to revert back to the Government or to seek permanent absorption in the public sector undertaking or autonomous body, as the case may be.
- (3)** The option referred to in sub-rule (2) shall be exercised by every transferred Government servant in such manner and within such period as may be specified by the Government.
- (4)** The permanent absorption of the Government servants as employees of the public sector undertaking or autonomous body shall take effect from the date on which their options are accepted by the government and on and from the date of such acceptance, such employees shall cease to be Government servants and they shall be deemed to have retired from Government service.
- (5)** Upon absorption of Government servants in the public sector undertaking or autonomous body, the posts which they were holding in the Government before such absorption shall stand abolished.
- (6)** The employees who opt to revert to Government service shall be re-deployed through the surplus cell of the Government.
- (7)** The employees including quasi-permanent and temporary employees but excluding casual labourers, who opt for permanent absorption in the public sector undertaking or autonomous body, shall on and from the date of absorption, be governed by the rule and regulations or bye-laws of the public sector undertaking or autonomous body, as the case may be.
- (8)** A permanent Government servant who has been absorbed as an employee of a the public sector undertaking or autonomous body shall be eligible for pensionary benefits on the basis of combined service rendered by him in the Government and the public sector undertaking or autonomous body 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 public sector undertaking or autonomous body, as the case may be.
- (9)** The pension of an employee under sub-rule (8) shall be calculated on the basis of his last ten months' average pay.
- (10)** In addition to pension or family pension, as the case may be, the employees shall also be eligible to Dearness relief as per industrial dearness allowance pattern.
- (11)** The benefits of pension and family pension shall be available to quasi-permanent and temporary Transferred Government servants after they have been confirmed in the public sector undertaking or autonomous body.
- (12)** The Central Government shall create a Pension Fund in the form of a trust and the pensionary benefits of Absorbed employees shall be paid out of such Pension Fund.
- (13)** The Secretary of the administrative Ministry of the public sector undertaking or autonomous body shall be the Chairperson of the Board of Trustees which shall include representatives of the Ministries of Finance, Personnel, Public Grievances and Pensions, Labour, concerned the public sector undertaking or autonomous body and their employees and experts in the relevant field to be nominated by the Central Government.

- (14)** The procedure and the manner in which pensionary benefits are to be sanctioned and disbursed from the Pension Fund shall be determined by the Government on the recommendation of the Board of Trustees.
- (15)** The Government shall discharge its pensionary liability by paying in lump sum as a one time payment to the Pension Fund the pro rata pension or service gratuity and retirement gratuity for the service rendered till the date of absorption of the Government servant in the public sector undertaking or autonomous body.
- (16)** The manner of sharing the financial liability on account of payment of pensionary benefits by the public sector undertaking or autonomous body shall be determined by the Government.
- (17)** Lump sum amount of the pro rata pension shall be determined with reference to Commutation Table laid down in Central Service (Commutation of Pension) Rules, 1981.
- (18)** The public sector undertaking or autonomous body shall make pensionary contribution to the Pension Fund for the period of service to be rendered by the concerned employees under that undertaking or body at the rates as may be determined by the Board of Trustees so that the Pension Fund shall be self-supporting.
- (19)** If, for any financial or operational reason, the Trust is unable to discharge its liabilities fully from the Pension Fund and the public sector undertaking or autonomous body is also not in a position to meet the shortfall, the Government shall be liable to meet such expenditure and such expenditure shall be debited to either the Fund or to the public sector undertaking or autonomous body, as the case may be.
- (20)** Payments of Pensionary benefits of the Pensioners of a Government Department on the date of conversion of it into a the public sector undertaking or autonomous body shall continue to be the responsibility of the Government and the mechanism for sharing its liabilities on this account shall be determined by the Government.
- (21)** Nothing contained in sub-rules (12) to (20) shall apply in the case of conversion of the Department of Telecom Service and Telecom Operations into Bharat Sanchar Nigam Limited, in which case the pensionary benefits including family pension shall be paid by the Government.
- (22)** For the purpose of payment of pensionary benefits including family pension referred to in sub-rule (21), the Government shall specify the arrangements and manner including the rate of pensionary contributions to be made by Bharat Sanchar Nigam Limited to the Government and the manner in which financial liabilities on this account shall be met.
- (23)** The arrangements under sub-rule (22) shall be applicable to the existing pensioners and to the employees who are deemed to have retired from the Government service for absorption in Bharat Sanchar Nigam Limited and shall not apply to the employees directly recruited by the Bharat Sanchar Nigam Limited for whom it shall devise its own pension scheme and make arrangements for funding and disbursing the pensionary benefits.
- (24)** Upon conversion of a Government department into a the public sector undertaking or autonomous body—
- (a)** the balance of provident fund standing at the credit of the absorbed employees on the date of their absorption in the public sector undertaking or autonomous body shall, with the consent of such undertaking or

body, be transferred to the new Provident Fund Account of the employees in such undertaking or body, as the case may be;

**(b)** earned leave and half pay leave at the credit of the employees on the date of absorption shall stand transferred to such undertaking or body, as the case may be;

**(c)** the dismissal or removal from service of the public sector undertaking or autonomous body of any employee after his absorption in such undertaking or body 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 or removal or retrenchment the decision of the undertaking or body shall be subject to review by the Ministry administratively concerned with the undertaking or body.

**(25)** In case of Government disinvests its equity in any public sector undertaking or autonomous body to the extent of fifty-one per cent or more, it shall specify adequate safeguards for protecting the interests of the absorbed employees of such public sector undertaking or autonomous body.

**(26)** The safeguards specified under sub-rule (25) shall include option for voluntary retirement or continued service in the undertaking or body, as the case may be, voluntary retirement benefits on terms applicable to Government employees, employees of the public sector undertaking or autonomous body as per option of employees, assured payment of earned pensionary benefits with relaxation in pension of qualifying service, as may be decided by the Government.”

**DOT No. 40-13/2002/Pen (T) dated 15.01.2003**

**Subject: Payment of Pension/ Family pension to the Employees Absorbed from DoT/ DTS/ DTO in Bharat Sanchar Nigam Limited with effect from 1.10.2000 – reg.**

On introduction of the IDA pay scale by the BSNL by the Office Order no. BSNL/26/SR/2002 dated 07.08.2002 with effect from 1.10.2000 in replacement of existing CDA pay scale for non executive staff (Gr. 'C' and 'D') absorbed from DoT/ DTS/ DTO in Bharat Sanchar Nigam Limited with effect from 1.10.2000, references have been received from various DoT units seeking clarifications for the payment of Pension and Family pension either on CDA pay scale or IDA pay scale. As such doubts raised by various DoT units are clarified as under:

<b>Doubts</b>	<b>Clarifications</b>
<b>1.</b> When pay during last 10 months falls partly in CDA pay scales and partly in IDA pay scales how average emoluments are to be taken for calculating the pension. Nothing is mentioned whether non- practice allowance granted to medical officer in lieu of private practice will also be treated as pay. In addition nothing is mentioned about the stagnation increment whether the same will be treated as pay for the calculation of retirement benefits.	Sub rule 9 of Rule 37 A of CCS (Pension) rules provides that pension of an employee shall be calculated on the basis of his last 10 months average pay. It is implied that for the purpose of calculation of pension, average of last 10 months pay is to be taken irrespective of whether the pay in all 10 months or part thereof is in IDA/ CDA pay scale. Non practicing allowance and the stagnation increment are to be treated as emoluments for calculation of retirement benefits as per Rule 33 of CCS (Pension) Rules and the explanation below Rule 33.

<p><b>2.</b> In case of absorbed employee retired between 01.10.2000 to 30.6.2001 the pay falls in both the CDA and IDA within 10 months. What will be the relief admissible whether part of CDA and part IDA or industrial relief on the pension calculated?</p>	<p>Once pension/ family pension is determined in accordance with Sub rule 9 of Rule 37 A of CCS (Pension) rules, the employee shall also be eligible to Dearness Relief as per Industrial Dearness Allowance pattern as provided in Sub rule 10 of Rule 37 A.</p>
<p><b>3.</b> What will be the emoluments for determining the retirement gratuity/ death gratuity on IDA pay- scale?</p>	<p>As per Rule 50 (5) of CCS (Pension) Rules, the emoluments for the purpose of Gratuity admissible shall be reckoned in accordance with Rule 33 provided that if the emoluments of the Government servant have been reduced during the last 10 months of his service otherwise than as a penalty, average emoluments as referred to in Rule 34 shall be treated as emolument.</p>
<p><b>4.</b> Whether the minimum pension of Rs.1275/- p.m. as well as maximum pension of Rs.15000/- p.m. (i.e., 50% of average emoluments in all cases) as applicable in the CDA pay scale is also to be applied in the IDA pay scales.</p>	<p>The ceiling of minimum and maximum pension as existing in CCS (Pension) Rules shall continue unless specifically approved otherwise by the Government.</p>
<p><b>5.</b> Whether commutation of pension as applicable at 40% (maximum) on CDA pay scale is also to be applied in IDA pay scale?</p>	<p>Yes</p>
<p><b>6.</b> There may be cases where the employee(s) expired on or after 1.10.2000 but before the issue of instructions for opting for BSNL and could not exercise his/her option. How these cases are to be settled?</p>	<p>This is not a pension related issue. BSNL management with the approval of the competent authority has to decide about the admissibility of IDA pay scales to such employees. Calculation of pension follows accordingly.</p>

While determining the pensionary benefits and retirement benefits on IDA pay scales, CCS (Pension) Rules, 1972 (as amended from time to time) should invariably be consulted and if still there is any doubt, only then the reference may be made by quoting the problem and correct rule number of the CCS (Pension) Rules and the need for clarification.

This issues with the approval of Member (Services) & Member (Finance), Telecom Commission.

**DOT No. 6-138/90-TA-I/Vol. VI dated 21.02.2003**

**Subject: Authorisation of Pension Payment on IDA Payscale of BSNL**

**1.** As per clarification given by DoT (Hq) vide O.M. No. 40-13/2002-Pen(T) dated 15.01.2003, PPOs of the absorbed Group 'C' and 'D' employees are to be issued on IDA pay scales. It has thus been decided that to distinguish the PPO on the IDA pay scale of BSNL from the PPO on the CDA pay scale of DoT, the following rubber stamp may be arranged for affixing on the PPO on the IDA pay scale clearly (both Disburser's portion and Pensioner's portion), on first page at the right hand corner, and on the page for "Section 2 - Detail of pension" (Right hand corner):

***"PENSION PAYMENT ON IDA PAY SCALE-BSNL"***

**2.** In addition to this, while forwarding the PPO to the concerned CCA/ Jt.CCA/ Dy. CCA or Director/ Dy. Director of Postal Accounts for countersignature and embossing the special seal, the same stamp may be

affixed on the face of the right hand corner, of the forwarding letter, so that identification may be done, right at the initial stages:

**3.** These instructions may kindly be given effect to on all PPOs (Disburser's & Pensioner's portion) immediately.

**DOT No. 7-1/2000-TA-I/21 dated 27.08.2003**

**Subject: Verification of Qualifying Service**

Reference is invited to Rule 32 of the CCS Pension Rules which lays-down that on completion of 25 years of service of a Government servant or on his being left with five years of service before the date of retirement, the service rendered by him should be verified and the qualifying service communicated to him in Form 24.

**2.** For a beginning, you are requested to take up all the cases where five years or less is left for retirement and verify the qualifying service, forwarding the service books of such officers to the Controllers of Communication Accounts for authentication of the verification done. The CCA office after such authentication and proper stamping etc. will communicate the qualifying service to the officer concerned and return the service book to the SSA for custody.

**3.** This work will have to be undertaken in the cases of all staff and officers for whom the Government is liable to pay pension.

**4.** The work may kindly be undertaken immediately, with a report on all the backlog being cleared given to the Telecom Directorate by 28.2.04.

Receipt of this letter may be acknowledged.

**Deptt. of Pension & Pensioners' Welfare OM No. 4/3/2003-P&PW(D) dated 02.12.2003**

*(Circulated vide DOT No. 38-19/2005-Pen(T)-1 dated 20.12.2005)*

**Subject: Implementation of order dated 12th April, 2005 of the High Court of Judicature of Andhra Pradesh of Hyderabad in Review WWP MP SR No.78433 of 2004 in WP No.8532 – regarding Restoration of One Third Portion of Commuted Pension after 15 years from the date of Commutation**

The undersigned is directed to invite reference to this Department's Office Memoranda, of even number dated the 23rd June, 2005, and 15th September, 2005, on the above subject and to state that the SLP filed in the Hon'ble Supreme Court of India against the order dated 24th December, 2003, of the High Court of Andhra Pradesh at Hyderabad in WP No. 8532 of 2003 in R. Ramamurthy & Ors Vs. Union of India Ors, and to state that the SLP filed in the Hon'ble Supreme Court has already been taken up for hearing. In the meantime the High Court of Andhra Pradesh in its order dated 28th September, 2005, in Contempt Case No. 760 of 2005 and CC SR No. 3981 of 2005 (filed by the Society for the Welfare of Former Central Government Employees Absorbed in Public Sector Undertakings, Hyderabad against Secretary, Ministry of Personnel, Public Grievances & Pensions, New Delhi and others) stated as below:

*"In view of the submission made by the Learned Standing Counsel and in the facts and circumstances of the*

*case as to the pension of the members of the petitioner association, without expressing any opinion on the merits of the contempt cases, in order to put a quitus to the lis, we feel it just and proper to modify the mode of calculation of the pension to the effect that the pension has to be calculated in respect of the persons whose representations had been forwarded by the petitioner Association to the respondents, as per the existing rules without reference to the mode of calculation as adopted by the earlier Division Bench of this Court in WP No. 8532 of 2003, within a period of three months from the date of receipt of copy of this order.*

*Subject to the above modifications, those contempt cases are closed. However, in view of the fact that the matter pertains to the retired employees, it is made clear that if any representations by the retired employees are received subsequently, their cases should also be considered on par with the members of the petitioner association.”*

**2.** In view of the above order of the High Court of Andhra Pradesh, all Ministries/ Departments are requested to take appropriate action for finalising the restoration of the 1/3rd portion of the pension to PSU absorbees in terms of the existing rules and regulations in the is latter.

**3.** It has been brought to the notice of this Department by a few pensioners that consequent upon this Department's O.M. 23<sup>rd</sup> June, 2005, many Ministries/ Departments had stopped even the normal procedure of restoration of commuted portion of pension of eon petitioners PSU absorbees also. The Office Memorandum of 23<sup>rd</sup> June, 2005, was not meant to put to an end the existing provision of restoration of 1/3rd pension of those PSU absorbees who had commuted 100% of their pension on their absorption in PSUs. The intention was only to bring to the notices all Ministries / Departments about the order of the High Court of Andhra Pradesh and the SLP filed in the Hon'ble Supreme Court of India. In any case, with the order dated the 28<sup>th</sup> September, 2005, of the High Court of Andhra Pradesh at Hyderabad, referred to above, the position stands cleared.

**4.** All Ministries/ Departments are therefore requested to initiate necessary action to restore one-third portion of those PSU absorbees who had commuted 100% of their pension when they got absorbed in PSUs as per the existing rules and regulations.