

ALL INDIA BHARAT SANCHAR NIGAM LIMITED EXECUTIVES' ASSOCIATION



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No. AIBSNLEA/CHQ/Secy(T)/2014-15

DATED: 20.11.2014

To,

Shri Rakesh Garg,
Chairman Telecom Commission & Secretary Telecom,
Department of Telecom,
Govt. of India,
New Delhi 110001

Subject: Issue of incorrect / false certificate by Department of Telecommunications under Gazette Notification G.S.R. 138(E) dated 3rd March 2014 to facilitate payment of Pension to MTNL absorbed employees by Government of India at par with BSNL employees by amending Rule 37-A of CCS Pension Rules after circumventing the judgment and order of Hon'ble Delhi High Court dated 25/11/2006 in W.P. Nos.13690-91 of 2006: **Demand for calling of fresh option from EX-DOT Employees to enable them to exercise their option for absorption in BSNL/ MTNL afresh based on informed choice consequent to Gazette Notification G.S.R. 138(E) dated 3rd March 2014-Reg**

Reference: (1) Gazette Notification G.S.R. 138(E) dated 03.03.2014 issued by Deptt. of Pension
(2) DOT O.M. No. 42-4/2012-Pen(T) dated 28th April 2014 regarding Govt. Pension in MTNL

Respected Sir,

The GOM in their meetings on 1/8/2013 and 12/9/2013 had accepted the demand made by MTNL Unions/ Associations and MTNL Management to grant Government Pension to MTNL Employees at par with BSNL Employees by retrospectively revising terms and condition for absorption in MTNL and amend the separate provisions made by Government of India for BSNL under Rule 37-A of CCS (Pension) Rules by circumventing the judgment and order of Hon'ble Delhi High Court dated 25/09/2006 in W.P. Nos.13690-91 of 2006. Consequently Gazette Notification G.S.R. 138(E) dated 3rd March 2014 was issued by Deptt. of Pension to implement the said decision. This was implemented vide DOT O.M.No. 42-4/2012-Pen(T) dated 28/4/2014.

It is brought to your kind notice that the said Gazette Notification dated 3rd March 2014 was based on issue of an incorrect / false statement / certificate by Department of Telecommunications that "no one shall be adversely affected by giving retrospective effect to this notification"

This becomes amply clear from the Explanatory Memorandum under Gazette Notification dated 3rd March 2014, wherein Department of Pension has categorically stated that :-

"This is certified by the Department of Telecommunications that no one shall be adversely affected by giving retrospective effect to this notification"

The above certificate issued by Department of Telecommunications is an incorrect/ false certificate which has just been issued to facilitate payment of Pension to MTNL absorbed employees by Government of India at par with BSNL by amending Rule 37-A of CCS Pension Rules ignoring large number of representations submitted to DOT over a period of last eight months or so.

2. Large number of BSNL Executives and Pensioners have submitted individual representations about adverse effect upon them due to grant of one step lower IDA scale in BSNL as compared to MTNL Executives for the same CDA Scale in DOT. This gross injustice was justified by DOT on the pretext of Government Pension for BSNL employees against pension through a TRUST in MTNL. Large number of DOT employees who would have opted for higher scale in MTNL, chose to opt for BSNL because of pension payment in MTNL through a TRUST to be set up in future

These large number of individual representations clearly establish the incorrect statement made by DOT in Gazette Notification dated 3rd March 2014 that "no one shall be adversely affected by giving retrospective effect to this notification" because most of the Ex-DOT Employees opting for BSNL suffered a loss of pay in BSNL due to one step lower scale in BSNL.

3. It is further pointed out that while inviting options for absorption of DOT Employees in MTNL/ BSNL/ DOT w.e.f. 1/10/2000, the following points were categorically made clear by Deptt. of Telecommunication to all the Ex-DOT/ DTS Employees:

- i. Separate Circulars were issued by Deptt. of Telecom for absorption of Ex-DOT/ DTS Employees in MTNL / BSNL with option to either continue in DOT or else to opt for either BSNL or MTNL as per their choice in accordance with the respective terms and conditions specified in those circulars.
- ii. Ex-DOT/ DTS Employees opting for MTNL were given one level higher IDA scale in MTNL as compared to their counterparts in BSNL as specified in respective circulars.
- iii. Request for grant of parity in IDA scales between MTNL and BSNL for equivalent level officers in DOT/DTS opting for these two CPSUs was not agreed upon by the Ministry of Communications. Further, the offer of one level lower IDA scales for BSNL absorbed employees was justified by DOT on the ground that Pension for BSNL Pensioners was to be paid by the Government with specific Provisions in CCS Pension Rules under Para 21 and 22 of Rule 37-A of CCS Pension Rules, while the Pension for MTNL Retirees was to be paid through a Trust in accordance with Para Nos. 12 to 19 of Rule 37-A of CCS Pension Rules.
- iv. Pension contribution on maximum of IDA scale was to be paid regularly by BSNL to Deptt. Of Telecom, for all the Ex-DOT/ DTS employees opting for BSNL. Pension to all BSNL absorbed employees retiring as BSNL Pensioners was liable to be paid by the Government of India under Para Nos. 21 and 22 of Rule 37-A of CCS Pension Rules.
- v. Pension on IDA scale for MTNL absorbed Employees was to be paid through a Trust. Regular Pension Contribution was to be made by MTNL to the Pension Fund and lump sum grant was to be given by Government of India in the Pension Fund to be managed by a designated Trust as specified under Rule 37-A of CCS Pension Rules.

- vi. Telecom. Executive's Association of MTNL had also moved the Hon'ble High Court of Delhi for payment of Pension at par with BSNL vide W.P. No.13689-91 of 2006, The said writ petition was disposed off vide judgment and order dated 25th September 2006 and the relief sought for parity with BSNL was not granted by the Hon'ble High Court because adequate provision in CCS Pension Rules has already been made by Government of India for payment of Pension to MTNL Retirees.
- vii. It is further submitted that Pension for Govt. Employees absorbed only in two PSUs i.e. Food Corporation of India and BSNL is paid by the Government of India in accordance of terms and conditions of their absorption. In other PSUs like Life Insurance Corporation, Port Trust of India and U.P. Rajya Vidyut Nigam etc. the pension is paid through Trust as per laid down terms & conditions. .
- viii. Now the Govt. of India, based on a false certificate issued by Department of Telecommunications. under Gazette Notification G.S.R. 138(E) dated 3rd March 2014 as shown above, has agreed to grant Government Pension to MTNL Pensioners at par with BSNL by retrospectively revising terms and condition for absorption in MTNL and amend the separate provisions made by Government of India for BSNL and MTNL under Rule 37-A of CCS (Pension) Rules and also by circumventing the judgment and order of Hon'ble Delhi High Court dated 25/11/2006 in W.P. Nos.13690-91 of 2006.

6. The demand for parity in Pension with BSNL, raised by MTNL Management and MTNL Unions has been accepted by the Govt. of India, after fourteen years of their absorption in MTNL, and the terms and conditions for absorption in MTNL have been amended retrospectively and notified afresh vide G.S.R. 138(E) dated 3rd March 2014 followed by DOT O.M.No. 42-4/2012-Pen(T) dated 28/4/2014. It is highly discriminatory towards those EX-DOT Employees who chose to opt for a lower scale in BSNL for sake of Government Pension after absorption in BSNL.

In order to mitigate the injustice done to ex-DOT employees opting for BSNL in a lower scale as compared to MTNL and in view of the newly changed status of pensionary benefits in MTNL due to retrospective revision of terms and conditions for absorption in MTNL, it is requested to call for fresh option from all ex-DOT employees opting for absorption in MTNL/ BSNL w.e.f. 1/10/2000 to enable them to exercise an informed choice in view of the changed status of pensionary benefits on a higher scale in MTNL.

With kind regards,

Yours Sincerely

**Sd/-
(Prahlad Rai)
General Secretary**

Encl: Copy of the Judgment of Delhi High Court dated 25/09/2006 on MTNL Pension Issue

Copy for kind information and necessary action to:-

- (1) Shri Alok Rawat, Secretary (P), DOP& PW, Lok Nayak Bhavan, Khan Market. New Delhi-110003
- (2) Shri Rajiv Mehrishi, Secretary (EA), North Block, Central Secretariat, New Delhi – 110001
- (3) Shri A. N. Rai, CMD, BSNL, New Delhi -110001