

No: BSNLCO-RSTG/22/11/1/2024-WS & I

Dated: 01.07.2025

To,

1. All Head of Circles, BSNL.
2. Cadre Controlling Units, BSNL Corporate Office,
CGM(BW)/ CGM(EW)/ CGM(Arch)/ PGM(Pers.)/ PGM(Estt.)/ PGM(EF).

Subject : Disposal of representations/legal notices from BSNL employees seeking GPF/Pension benefits on the basis of Hon'ble Tribunal Order dated 22.01.2010 in TA Nos. 35-PB/2009, 37- PB/2009 & 38-PB/2009 – reg.

References : 1. BSNLCO-RSTG/22(11)/1/2024 -WS&I dated 24.04.2024.
2. BSNLCO-SR/13(12)/3/2024 -WS&I dated 21.05.2025 & 12.06.2025.
3. DOT letter No. 03-23/2025-SNG dated 04.06.2025

This is in continuation to this office letters cited under reference above. In this regard, please find enclosed herewith the DoT letter dated 04.06.2025, regarding the disposal of legal notices / representations of BSNL employees seeking pension / GPF benefits in the light of the order dated 22.01.2010 in TA No. 35-PB/2009, TA No. 37-PB/2009 & TA No. 38-PB/2009, against which the Writ Petition / Review Petition / SLP were dismissed for necessary action, please.

2) As directed by DoT :

- a) Upon examination of the issue in holistic manner, comments have been prepared by DoT, which may be suitably incorporated by BSNL, while disposing of the pending legal notices or any representation in compliance with judicial order passed at the admission stage. Comments are annexed 'B'. The comments may be given wide publicity amongst Circles / SSAs of BSNL.
- b) The concerned units in BSNL are requested to go through the comments prepared by DoT and pass appropriate reasonable order at their level. All other pending matters on the afore-said cause of action, which are received in Circles / units directly or otherwise, may be dealt and disposed of accordingly.

This is issued with the approval of competent authority.

Encl : As above

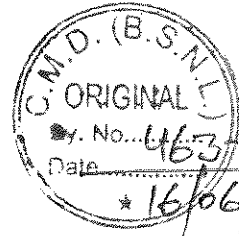

DGM (WS&I) 1/7/2025
O/o PGM (WS&I/SR/Restg.)

Copy To :

- 1) PPS to DIR (HR), BSNL Board, New Delhi for kind information please.
- 2) CS & GM (Legal), BSNL CO, New Delhi for kind information please.

No.03-23/2025-SNG
Government of India
Ministry of Communications
Department of Telecommunications
(SNG Section)

419, Sanchar Bhawan, 20, Ashoka Road
New Delhi-01, Dated: 04-06-2025



To

The CMD
BSNL
Bharat Sanchar Bhawan
Janpath, New Delhi -110 001

GM (Legal)

Pay
17/06/2025
PLM (Restg)

Subject: Disposal of legal notices/representations of BSNL employees seeking pension/GPF in the light of order dated 22.01.2010 in TA No. 35-PB/2009, TA No. 37-PB/2009 & TA No. 38-PB/2009, against which WP/SLP/Review Petition were dismissed- regarding

Sir,

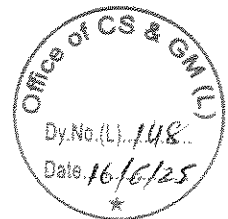
I am directed to refer to subject noted above and to say that upon dismissal of Civil Appeal No. 1971-1973/2012 by the Hon'ble Supreme Court in the case of BSNL versus Raj Kumar and Ors, which upheld the order dated 22.01.2010 in TA No. 35- PB/2009, TA No. 37-PB/2009 & TA No. 38-PB/2009 for restoring benefits of GPF in r/o applicants only in peculiar facts and circumstances, while keeping the questions of law open, hundreds of legal notices through Counsels of the aggrieved persons (who were not parties to the above-mentioned TAs) on the *subject matter* have been received, wherein the employees have claimed similar treatment by referring to the afore-said orders. A list of legal notices received in this Department through various means are enclosed Annexure "A".

2. In addition to that, some BSNL employees have got orders from Ld. CAT (at Admission stage) for disposal of their pending representations, wherein the applicants through pending representations have tried to revive a dead/stale claim of GPF.

3. Accordingly, upon examination of the issue in holistic manner, comments have been prepared by this Department, which may be suitably incorporated by the BSNL, while disposing of the pending legal notices or any representation in compliance of judicial order passed at admission stage. Comments are annexed "B". The comments may be given wide publicity amongst Circles/SSAs of BSNL.

4. The concerned Units in BSNL may be requested to go through the comments prepared by this Department and pass appropriate reasonable order at their level. All other pending matters on the afore-said cause of action, which are received in BSNL directly or otherwise, may be dealt and disposed of accordingly.

This issues with the approval of the competent authority.



Yours faithfully,

Digitally signed by

Sunil Kumar

(Sunil Kumar)

Date: 04-06-2025

Under Secretary to the Govt. of India

Tele. No. 011-23036226

Copy to:

1. DDG(Estt.), DoT Hq.
2. SEA Wing, DoT Hq.

Annexure-B

Letter No.03-23/2025-SNG dated 04.06.2025

Annexure-A

Sl.No.	Name of Official (Shri/Smt.)	HRMS No.	Date of Legal Notice
1	Prashant Yashwantrao Mahalle	200001666	05.02.2025
2	Paramjit	200011970	11.02.2025
3	Guddan Singh and 02 Ors	--	25.01.2025
4	Guarav S Ganjare	2000100466	05.02.2025
5	Anil Shankar Pund	200101143	05.02.2025
6	Prakashchandra J Patel	200305900	05.03.2025
7	Vijaybahadur S Pal	200103990	05.03.2025
8	Kaushalyaben Gareri	200305899	05.03.2025
9	Mohd Hanif Kuresh	--	31.03.2025
10	Annasaheb Tukaram Kagde	200302332	31.03.2025
11	Satish Chandra Paliwal	200102187	25.03.2025
12	Radhma B Gujari	200100212	25.03.2025
13	V R Bansode	200003160	31.03.2025
14	Philomina J Jerome	200003293	21.04.2025
15	K A Pawar	200100595	21.04.2025
16	V S Sangle	200201777	21.04.2025
17	Sudipta Ghosh	200101786	21.04.2025
18	Kulvinder Singh	200102254	10.04.2025
19	R S Jagtap	200702120	21.04.2025
20	M B Patel	200305932	28.04.2025
21	M S A Ansari	200305939	28.04.2025
22	N H Saiyad	200500844	28.04.2025
23	Rajesh Kumar A Patel	200306340	28.04.2025
24	Kailashkumar I Kokani	200305934	28.04.2025
25	P G Prajapati	200104347	28.04.2025
26	Anit Kumar P Joshi	200103772	28.04.2025
27	Kapildev K Patel	200306338	28.04.2025
28	V H Limbhachiya	200305924	22.04.2025
29	Md S Shaikh	200103781	22.04.2025
30	G Manjula	200000170	07.04.2025
31	G H Parmar	200306011	07.04.2025
32	S Vijaya Lakshmi	200100138	07.04.2025
33	T Subbasankara	200500285	07.04.2025
34	J M Vaghela	200306005	07.04.2025
35	P J Chavda	200306012	07.04.2025
36	K Hari Pratap	200104212	02.04.2025

37	M J Saheb	200101918	02.04.2025
38	B Manohar Lal	200005556	02.04.2025
39	M C Patel	200305938	28.04.2025
40	M M Ansari	200901273	28.04.2025
41	A R Patel	200305845	28.04.2025
42	Y K B Patel	200104348	28.04.2025
43	H N J Kumar	200103972	28.04.2025
44	N G Dhimer	200305936	28.04.2025
45	M M Shaikh	200306335	28.04.2025
46	H K D Rana	200305884	28.04.2025
47	A K Pal	200402710	28.04.2025
48	S L Ansari	200103911	28.04.2025
49	N H Gwalani	200005422	19.03.2025
50	Z Basha	200101710	10.03.2025
51	Md Ismail	200101864	10.03.2025
52	Isar Singh and 05 Ors	--	18.03.2025
53	G Y Naitam	200101310	10.03.2025
54	P P Ramteke	200005021	10.03.2025
55	M C Shingade	200001806	06.03.2025
56	M S Patil	200000042	06.03.2025
56	S Shinde	200002621	27.02.2025
57	Hiren Patel	200103782	22.04.2025
58	M J Barot	200103775	22.04.2025
59	A M Manauwarhusain	200305937	22.04.2025
60	S K B Patel	200305942	22.04.2025
61	N G Sakhia	200103929	22.04.2025
62	H N J Kumar	200103972	22.04.2025
63	Khan Sarfarazahmed	200305986	22.04.2025
64	N D Parikh	200305921	22.04.2025
65	J R Chudasama	200305910	22.04.2025
66	A B Roy	200306347	22.04.2025
67	S M Rathod	200104336	22.04.2025
68	N K R Yadav	200305933	22.04.2025

Comments/Inputs for disposal of legal notices/representations of BSNL employees seeking pension/GPF in the light of order dated 22.01.2010 in TA No. 35- PB/2009, TA No. 37-PB/2009 & TA No. 38-PB/2009, against which WP/SLP/Review Petition were dismissed- regarding

(i) GPF Rules, 1960 do not apply to any appointment made by the PSU. The power to relax the GPF rules is vested with the President/Central Government. There is no provision in GPF Rules, 1960, which allow GPF subscription in case of any appointment made by CPSE.

(ii) CCS (Pension) Rules, 1972 including Rule 37A incorporated vide notification dated 30.09.2000 for permanent absorption of Government employees upon corporatization of Central Govt. Department, are applicable to the Permanent/temporary Government employees holding pensionable post in the Government before corporatization. Under such circumstances, the applicant could not cite any rules/provisions, which allow pension under the above-mentioned rules to the appointment made by CPSE.

(iii) Order of BSNL issued during 2003, was *ab initio void* as wards of deceased of DTS/DTO employees were formally appointed in BSNL (which incepted upon corporatization of DTS/DTO) and not in Central Govt Department. BSNL being CPSE lacked legal authority to extend the benefits of GPF to appointments made by them or opening of GPF Accounts under GPF Rules, 1960 in the absence of any delegation of the power by the President. Since the GPF Rules, 1960 and CCS (Pension) Rules which have been formulated under Art. 309 of the Constitution of India, hold the field, any claim for pension/GPF could be made if the employees satisfy the criterion prescribed in the Rules/Scheme. It is undisputed fact that no order giving coverage of CCS (Pension) Rules to wards of DoT employees, who were formally appointed in BSNL, have been passed by the Government of India/DoT.

(iv) BSNL appointees are governed by the provisions of EPF Act, 1952 along with provisions of EPS 1995 since their appointment in BSNL.

(vi) Besides above, Shri Raj Kumar and Ors, got the benefits of GPF at the first instance during 2003, which continued till 2007. When they were brought under EPF Scheme without giving any reasons, they approached the Tribunal immediately and got favourable orders. Unlike case of Shri Raj Kumar, the aggrieved employee did not raise any dispute before Ld. Tribunal within reasonable time (One year from the date of cause of action, when the applicant was brought to the EPF Scheme). Therefore, the facts and circumstances of the Raj Kumar case are entirely different from the instant case. The decision in case of Raj Kumar may not be applied in the case of the applicant as the unlike could not be treated alike.

(vii) **Delay and latches:** By placing reliance upon the orders of Ld. Tribunal in Raj Kumar case, various similarly situated wards of DoT employees approached the Courts/Tribunal for extension of the similar relief in their favour, which are otherwise barred by Section 21 of the Administrative Tribunals Act, 1985 or suffers from undue delay and latches and consequently

not maintainable in the eyes of law. However, declining their prayer in following cases, the Ld. CAT/Hon'ble High Court have held as under.

(a) **In Diary No. 2184/2021 in the matter of Arif Saeed S/o M. Mohd. Shareef & 68 Ors. Vs UOI & Ors., the Hon'ble CAT Allahabad in its order dated 01.12.2021 observed that**

"the applicants were appointed in the year 2003 in BSNL. It is beyond our understanding as to how when the applicants were appointed in BSNL can now claim that they should be appointed in DOT from the date of their initial appointment. The relief sought is itself without any sound basis and in our view does not deserve even a preliminary consideration. Moreover, if at all a cause of action is presumed, it would have arisen in 2003 at the time of applicants' initial appointment. It is after having served for eight years that they have approached the Tribunal with a prayer which is more than unreasonable. Therefore, there is no justification for condoning the delay also in this matter. Accordingly, delay condonation application No.1560/2021 is dismissed and the Diary Number is also obviously stands dismissed."

(b) **In another similar matter titled Vikas Kumar & 27 Ors. Vs. Uoi & Ors. in WP(S) No. 2330/2022 order dated 07/16.11.2022**, the Hon'ble High Court of Jharkhand at Ranchi while deciding the status of employees who were formally appointed by BSNL on the basis of the advertisement notified by Govt. of India (DoT) has passed the following order in favour of the department :

"We have considered the submission of learned counsel for the parties and taken note of the pleadings borne from the records. The claim of the petitioners for being treated as DoT employees stems from the only fact that the advertisement for recruitment was undertaken by the DoT. However, the entire exercise of recruitment was undertaken by the BSNL and the applicants also joined the services of BSNL on or around 16.09.2002/30.09.2002 after formation of the BSNL on 01.10.2000. Merely because of the fact that initially some GPF deductions were made from their salary, which was discontinued also, applicants cannot claim a legal rights to be treated as employees of DoT. On the formation of the BSNL by a gazette notification dated 30.09.2000 (Annexure-R-1) to the counter affidavit dated 26.07.2022, the assets and liabilities of the DoT was transferred to the BSNL, which came into existence on 01.10.2000. Petitioners' cause of action, if any, related to the time when they had joined BSNL. Having accepted the offer of appointment and remained under BSNL for 19/20 years, only on account of rejection representation dated 21.09.2021, they cannot revive a state claim of cause of action. No legitimate expectations can either accrue as their recruitment, appointment and joining and all subsequent events having been taken place under BSNL organization. In view of the aforesaid reason and facts and circumstances noted herein, we do not find any error the impugned order of the Ld. CAT. The Writ petition is accordingly disposed of."

(c) **Order dated 07.03.2024 passed by the Hon'ble CAT Jabalpur in OA No. 200/00847 & 864/2017 in matter of Naval Singh Kushwaha & ors. wherein the Hon'ble CAT has held as follows:**

" In these cases, we find that applicants were appointed by BSNL on

10.10.2001 and 21.11.2000 i.e. after the formation of BSNL on 01.10.2000. The applicants had wrongly exercised the option for absorption in BSNL. The DoT/DTS & DTO the employees who had been absorbed in BSNL en masse the effective date of their Presidential Order was 01.10.2000 the same was rewritten as 11.10.2001 in OA No. 847/2017. Being the employees of Central Public Enterprise the Applicants were eligible for EPF patronage and when mistake was noticed it was rectified by the respondents. Therefore, applicants have no right to retain their option which they had wrongly exercised as he was appointed by BSNL after due recruitment process on 10.10.2001 & 21.11.2000. There is no question of absorption of the applicants with BSNL as they were directly recruited employees of BSNL. Hence, we do not find any merit in both the cases. Accordingly, both Original Applications are dismissed being devoid of merits. No order as to costs."

(vii) CCS (Pension) Rules, 1972 (the then Rules in force), were applicable when pre-appointment formalities and actual appointment is made in Central Government. In present case, the Employer's legal authority has changed from Government (DoT) to PSU (BSNL). Therefore, any person, who was not having pensionable post in Central Government (in present matter erstwhile DTS/DTO/DOT) and got appointment in BSNL after completion of formalities, do not have any legal right to claim pension under CCS (Pension) Rules.

Reliance is placed upon following judgements of the Hon'ble Supreme Court which has categorically declared the law for receiving pension from the Consolidate fund of India:-

In Prabhu Narain vs. State of U.P.19, (2004) 13 SCC 662, the Hon'ble Supreme Court held that to receive pension the employees must establish that they are entitled to pension under a particular rule or scheme. The following has been held in para 5:

"5. No doubt pension is not a bounty, it is a valuable right given to an employee, but, in the first place it must be shown that the employee is entitled to pension under a particular rule or the scheme, as the case may be."

In UP Roadways Retired Officials and officers Association versus State of UP and Anr (Civil Appeal No. 894/2020 decided on 26.07.2024), while dealing with akin issue of conversion of Government Department into Corporation, observed as under.

35. The common thread in the above referred judgments of this Court is that pension is a right and not a bounty. It is a constitutional right for which an employee is entitled on his superannuation. However, pension can be claimed only when it is permissible under the relevant rules or a scheme. If an employee is covered under the Provident Fund Scheme and is not holding a

pensionable post, he cannot claim pension, nor the writ court can issue mandamus directing the employer to provide pension to an employee who is not covered under the rules.

(viii) The aggrieved employee was neither working as permanent nor temporary Government employee in erstwhile DTS/DTO (on or before 30.09.2000 i.e before corporatization). Therefore, he was not covered by the CCS (Pension) Rules, which apply to the appointments made in the Central Govt. Department and not to the appointments made in PSU.

(ix) Even if the erroneous PO for permanent absorption in BSNL of any employee has been issued, he may not claim pension/GPF as matter of right as the erroneous PO does not have any legal effect being *ab initio void* and did not create any vested right in favour of any employee in the absence of any provisions in Rules.

In the matter of BSNL versus Renuka P Garag (WP No. 28602/2011 decided on 17.09.2012), claim of family pension was raised before the Hon'ble High Court of Karnataka on the grounds that the PO of the employee (casual worker engaged in DoT and regularized in BSNL after rendering long services in DoT) was issued by the Department of Telecom. However, the contention was rejected by the Hon'ble High Court by citing that the deceased was not holding any post in the DOT and he was regularized in BSNL on or after 01.10.2000. The SLP against the above-mentioned judgement was dismissed by the Hon'ble Supreme Court on 22.04.2014 vide SLP (Civil) No. 9197/2013.

(x) Besides above, if any employee did not have any subscription towards GPF in erstwhile DTS/DTO under GPF Rules, 1960 on or before 30.09.2000, his claim for opening of GPF account in BSNL is not maintainable in the eyes of law as his appointment in BSNL was made from prospective effect and not having any retrospective effect. The GPF account if opened by BSNL in the absence of any statutory provision lacks legal authority.

(xi) Letter dated 16.01.2003 of BSNL for opening GPF accounts of wards of deceased DoT employees upon their appointment in BSNL has been withdrawn by BSNL itself vide letter dated 10.05.2007 r/w letter dated 25.05.2007 as the earlier letter lacked any legal authority under GPF Rules, 1960. In the absence any provisions in Rules and withdrawal of letter dated 16.01.2003, any employee who did not have any subscription towards GPF in erstwhile DTS/DTO, does not have any right to claim pension or GPF, which are governed by the statutory rules formulated under Art. 309 of the Constitution of India.

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