

United Forum of Unions & Associations of MTNL, Mumbai
•Affiliated Unions & Associations •

Telecom Executives Association of MTNL, Mumbai	#	MTNL Executives Association, Mumbai
MTNL Karmachari Front, Mumbai	#	MTNL Workers Union, Mumbai
Retired Telecom Officers Welfare Association, MTNL, Mumbai	#	MTNL Pensioners' Welfare Association, Mumbai
Sanchar Union of Non Executives of MTNL	#	Bharatiya Mahanagar Telephone Nigam Employees Union
All India SC/ST Employees Welfare Association	#	MTNLSC/ST Executives Association, Mumbai
MTNL Republic Employees Union, Mumbai	#	MTNL Karmachari Union, Mumbai
MTNL SC/ST Employees Welfare Association, Mumbai	#	MTNL Staff Union, Mumbai

9-A, Shree Sandesh Rajashri Shahu Maharaj Marg, Andheri (E), Mumbai - 400069

No: UFUA/MTNL/MBI/S.DoT-CMD-Notice/2012-13

Date: 27.2.2013

To:

- | | |
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| 1. Shri. R. Chandrasekar,
Secretary, Dept of Telecom,
Sanchar Bhavan
20, Ashoka Road,
New Delhi - 110001 | 2. Shri. A.K.Garg,
Chairman and Managing Director,
Mahanagar Telephone Nigam Limited,
CGO Complex,
New Delhi - 110003 |
|---|--|

Respected Sir,

Sub: Protest against the move to form Pension Fund in the form of a single Trust for payment of pensionary benefits including Pension/Family Pension to all categories of MTNL absorbees by bringing suitable amendment in Rule 37-A

Ref: 1) Our letter No UFUA/MTNL/MBI/DoT-RLC/2012-13 dated 1.1.2013 addressed to Secretary DoT
2) Our letter No UFUA/MTNL/MBI/CMD/2012-13 dated 1.1.2013 addressed to CMD, MTNL

This is in continuation to our letters referred on the above subject. It is unfortunate that none of your representatives attended the conciliation proceedings held on 21.2.2013 before the Conciliation Officer and Assistant Labour Commissioner (C) III, Mumbai. This shows scant regards of DoT / MTNL towards the Government mechanism for settling the disputes. It also exposes the management going back from its own words and violating assurances given earlier.

Your kindself is fully aware that we are opposed to the payment of pension through Trust as neither the formation of Trust nor the payment of Pension from the Trust was indicated in the Terms and Conditions under which we erstwhile DoT employees exercised the option for absorption in MTNL. Both DoPT OM No. 4/18/87-P&PW (D) dated 5.7.1989 and DoPT OM No:4/42/91-P&PW(D) dated 31.3.95 in accordance to which the pension is supposed to be regulated, have no mention about the provision of Trust. The mention of FUND not Trust was made for the first time in June, 2000 vide OM No. 4/14/2000-P&PW(I) dated 1.6.2000 i.e., quite after exercising the option for absorption in MTNL by Group C&D employees which was just

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three months prior to the promulgation of Rule 37-A of CCS(Pension) Rules, 1972 on 30.9.2000 and followed by formation of BSNL on the next day, i.e., 1.10.2000.

The plain reading of OM dated 5.7.89 and 31.3.95 gives unmistakable impression that it would be Government's responsibility to make the payment of pension to the employees who opt to be governed by the pensionary benefits available under the Government scheme of pension.

This fact was accepted and acknowledged by Addl. Secretary (P) of DoP&PW on 11.6.2004 in file noting regarding inadequacy of security of Pension provided pre-30.9.2000 absorbees in MTNL (Page 49). The file noting reads inter-alia as follows :-

"It is even feasible to take a view that under OM of 5.7.89, it would be Government's responsibility to make actual payment to such employees who opt to be governed by pensionary benefits available under the Government scheme of pension."

The said file noting further underlines the reason and basis of the doubt of MTNL absorbees about the actual intention of the Government behind the move of formation of FUND and not Trust as follows:-

"4. As has been pointed out in the note, the basic reason for the MTNL agitation appears to be the issue of OM dated 1st June, 2000, which for the first time, indicated the requirement of a creation of a pension fund with the ultimate responsibility of payment of pension to the transferred employees. This gives rise to a doubt that the Government is passing on its responsibility (under OM of 1989) to a pension fund."

The MTNL came into existence on 1.4.1986 along with Videsh Sanchar Nigam Limited (VSNL) and National Airport Authority of India (NAAI). But while the Government employees were absorbed promptly in NAAI and VSNL in 1990 and they got pensionary benefits as per OM No.4/18/87-P&PW(D) dated 5.7.89 prevalent at that stage i.e., they could avail an important option of 100% commutation. Most of these employees availed this option at that stage. On completion of 15 years i.e., in 2005 their commuted pension have been restored and is being paid by the Government. But the Government employees of DoT absorbed in MTNL were deprived of this benefit. Because even though MTNL was formed on 1.4.1986, the absorption took place w.e.f.1.11.1998. The MTNL absorbees were deprived of 100% commutation as by that time this benefit was taken away in 1995 by amending the rules. The delay in absorption which is the cause of the denial of benefit of 100% commutation can not be attributed to the MTNL absorbees. It is due to the Government for its own reason.

Thus, the MTNL absorbees are discriminated on both accounts. One in respect of 100% commutation, MTNL absorbees are discriminated against the similarly placed absorbees in VSNL and NAAI and two, in respect of the benefit of pension payable by DOT, they are discriminated against their brethren in BSNL. How could Government be blind at such gross discrimination ?

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The MTNL employees have been fighting for last 12 years with DoT/Govt. against the discrimination in the matter of pension vis-à-vis their counterparts in BSNL. The MTNL employees want that the assurances given by the then Minister of Communications to them on the issue of pension conveyed in the form of a letter dated 29.8.2002 to CMD, MTNL as well as on the floor of Parliament on 11.8.2003 in the form of a answer to a question are implemented in letter and spirit. These are all matter of records and no amount of bureaucratic jugglery can alter these facts.

- a) The assurance of MoC communicated by the Director (Estt) to CMD, MTNL vide letter No. 40-29/2002-Pen (T) dated 29/08/2002 which states:

"The matter was taken up with Department of Personnel and Training and Ministry of Finance. This is to inform you that it has been agreed in principle that the payment of pensionary benefits including the family pension to the Government employees absorbed in MTNL and who have opted for Govt. Scheme of Pension shall be paid by the Govt. The exact modalities in this regard are being worked out by Department of Pension and Pensioner's Welfare".

- b) The assurance of MoC during 197th session of Rajya Sabha to Un-Starred Question No. 241 communicated by the Under Secretary (STP) vide No.38-6/2002-Pen (T) dated : 11/08/2003 which reads as follows:

"The latest position is that it has been agreed in principle that there should not be any distinction in regard to payment of pensionary benefits between the two sets of erstwhile DoT employees, one seeking absorption in MTNL and other in BSNL. It has also been decided that employees of MTNL be given the same treatment as available to the employees of the BSNL. The exact modalities for implementing the above decision are being worked out by Deptt. of Pension and PW".

Your kind attention is also invited to the original prayer in the petition dated 15.4.2011 filed by GS, MTNKS and countersigned by Shri. Anand Prakash Paranjpe, M.P., pending before the Committee of Petition headed by Shri. Anand G. Geette, M.P. & Leader of Shiva Sena Parliamentary party, which reads as follows.

"Your petitioner pray that please intervene in this subject and please direct to the Govt. to issue the necessary notification with the inclusion of the name of "Mahanagar Telephone Nigam Limited" in the sub-rule (21) of Rule 37-A of the CCS(Pension)Rule, 1972 along with the name of Bharat Sanchar Nigam Limited to remove the discrimination and to further issue necessary financial notification to fulfil assurance given vide OM No. 40-29/2002-Pen(T) dated 29th August, 2002."

It is the question of credibility of Government to honor its own assurances given by the then Minister of Communications in Parliament. In continuation to the above mentioned prayer in the petition pending before the Committee on Petition and also as the DoT/Govt is presently proposing to bring suitable amendments in Rule 37-A of CCS(Pension), Rules, 1972, the

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following words/sentences written in **underlined bold letters** may be inserted in sub-rules (22), (23) and (24) of Rule 37-A of CCS(Pension) Amendment Rules, 2012.

*(22) Nothing contained in sub-rules (13 to 21) shall apply in the case of conversion of the Departments of Telecom Services and Telecom Operations into Bharat Sanchar Nigam Limited **and the Telecom Operations in Delhi Telephones and Bombay Telephones of DoT into Mahanagar Telephone Nigam Limited**, in which case the pensionary benefits including family pension be paid by the Government.*

*(23) For the purposes of payment of pensionary benefits including family pension referred to in sub-rule (22), 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.*

*(24) The arrangements under sub-rule (23) shall be applicable to the existing pensioners of BSNL **and MTNL** and to the employees who are deemed to have retired from the Government and absorbed in BSNL **or MTNL from the date of their absorption**.*

Therefore, you are once again requested:

1. To stop the process of creation of Pension Fund in the form of a single trust for payment of pensionary benefits including pension/family pension to all categories of MTNL absorbees by suitable amendments in Rule 37-A for the reasons given below;
 - a. the formation of pension fund in the form of pension trust was not mentioned in the Terms and Conditions for absorption in MTNL.
 - b. In actualities there is no sovereign guarantee for the security of payment of pension/family pension through trust formed under Rule 37-A as prescribed for MTNL. What is there is pseudo guarantee.
 - c. The corpus and the value of the investments of the Trust, if it has to be sound enough to meet the future pension liabilities, should be equal to the amount of valuation of the liability every year by an independent valuer on ACTUARIAL BASIS. This according to MTNL's own calculations as mentioned in the MTNL's Annual Accounts for the year 2011-2012 is more than Rs. 9,000 Cr (Rupees Nine Thousand Crores) as at 31/03/2012. How MTNL is going to meet this huge burden ?
 - d. Rule 37-A is so drafted that this, if implemented will load perpetual pension burden on the shoulder of MTNL while relieving the Govt. of this liability by paying one time limited contribution in a very unfair manner. The rest of the liability, a huge burden, will have to be born by MTNL which is already in red.
 - e. The provisions of Rule 37-A compel MTNL, till its last breath, to bear the responsibility of the financial sustainability of Pension Trust. The Government is supposed to come to rescue the pensioners' interests only when MTNL will be financially ruined. But what would be the fate of the working employees, both absorbees as well as those recruited by MTNL itself ? The fate of MTNL may go the same way as that of Hindustan Cables Limited.

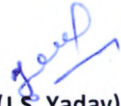
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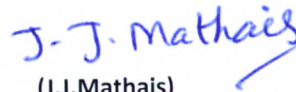
2. To make all out sincere and time bound effort for bringing suitable amendments as suggested above in sub-rule(22),(23)&(24)of Rule 37-A of CCS(Pension) Amendment Rules, 2012.


If DoT/MTNL continues to go ahead with the formation of pension trust during conciliation proceedings, the United Forum of Unions and Associations in MTNL Mumbai will resort to trade union action as deemed fit for which the sole responsibility will lie solely on DoT/MTNL. This letter may be treated as notice for the same.

With Kind regards,

Sincerely Yours,

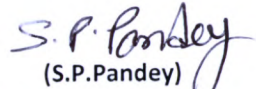

(J.S. Yadav)
CS, TEAM, Mumbai


(J.J.Mathais)
CS, MEA, Mumbai



(Predeep Salvè)
GS, MTNL Karmachari Front,


(Badri R Patak)
GS, RTOWA, Mumbai



(S.G.Pawar)
G.S, MTNL PWA



(S.P.Pandey)
GS, MTNL Workers Union


(Dina R.Naik)
GS, Sanchar Union of MTNL

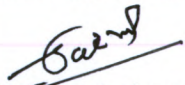

(S.J.Shetty)
Pres, MTNL Karmachari Union

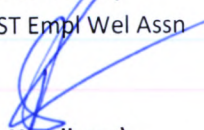

(Dilip Ghaiwat)
GS MTNL Republic Empl. Union

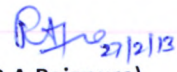

(T.L.Gaikwad)
GS, MTNL SC/ST Exec Assn


(S.D. Kalbende)
GS, AI SC/ST Empl Wel Assn


(Santhosh Kilanje)
CS, Bharatya MTN Empl Union


(Sanjay S Gaikwad)
Prs MTNLMbi SC/ST E. W. Assn


(B.K. Upadhyay)
GS, MTNL Staff Union Mumbai


(R.A.Rajapure)
Convenor, Joint Forum of
BSNL & MTNL Unions & Assns

Copy for kind information and n/a pl.

- 1.Hon'ble MO(C&IT),
- 2.Hon'ble MOS(C&IT)
- 3.Cabinet Secy, GOI
4. Member (S), DoT
5. CLC (C), Delhi
6. Dy. CLC(C), HQ
7. Dir (HR), MTNL
8. Dir(Fin), MTNL
9. Dir(Tech), MTNL
10. ED,MTNL, MBI
11. CO&ALC(C)III
12. Chairman, UFOM Delhi
13. Convenor, UF Delhi & Chairman, JFBMUA