

EN MASSE TRANSFER TO CENTRAL PUBLIC SECTOR BODIES

I. PENSION

[G.I., Dept. of Pension & P.W., Notfn. No. 4/61/99-P & PW (D), dated 30-9-2000.]

Payment of pension to absorbees in PSU/AB, consequent upon conversion of a Government Department into a CAB/PSU –

Insertion of Rule 37-A in CCS (Pension) Rules.

S.O. 904(E) – In exercise of the powers conferred by the proviso to Article 309 and Clause (5) of Article 148 of the 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. (30-9-2000)
2. In the Central Civil Services (Pension) Rules, 1972, after Rule 37, the following rule shall be inserted, namely :-

"37-A, 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 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 rules 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 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 in 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

no 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.

5) 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 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 Civil Services (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 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 Departments of Telecom Services 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 purposes 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 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 decisions of the Undertaking or Body shall be subject to review by the Ministry administratively concerned with the Undertaking or Body.

(25) In case the 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, or voluntary retirement benefits on terms applicable to Government employees or employees of the Public Sector Undertaking or Autonomous Body as per option of the employees, assured payment of earned pensionary benefits with relaxation in period of qualifying service, as may be decided by the Government."

Rule 37-A of Pension Rules 1972
Amendments Approved
Vide Ministry of Personnel, Public
Grievances and Pensions
Notification No. 4/61/99-P&PW (D) Dec. 28, 2002

Rule No. 8 :

A permanent government servant who has been absorbed as an employee of a 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 in 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.

Modification

Explanation : The amount of pension/family pension of the absorbed employee on superannuation from public sector undertaking/autonomous body shall be calculated in the same way as would be the case with a Central government servant, retiring on superannuation, on the same day".

Sub Rule 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.

Insertion under Sub Rules 11 :

(11A) A Permanent Government servant absorbed in a public sector undertaking/autonomous body or a temporary/quasi permanent Government servant who has been confirmed in the public sector undertaking/autonomous body subsequent to his absorption therein, shall be eligible to seek voluntary retirement after completing 10 years of qualifying service with the Government and the autonomous body/public sector undertaking taken together, and he/she shall be eligible for pro-rata pensionary benefits on the basis of combined qualifying service".

Sub Rule 24C

Job Security

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.

Amendment

For the word "review" the word "confirmation" shall be substituted.

Bharat Sanchar Nigam Limited
(Corporate Office)
Pension Section

Room No.- B-201, Statesman House, Barakhamba Road, New Delhi-110001

No. 31-94/2004-Pen/BSNL

Dated 8.10.2004

Memorandum

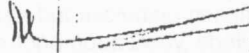
Subject: Voluntary retirement from BSNL Service.

The undersigned is directed to say that consequent upon insertion of sub-rule 37-A (11A) in Central Civil Services (Pension) Rules, 1972 vide Central Civil Services (Pension) Amendment Rules, 2002 notified in the Gazette of India on 28.12.2002, a doubt arose as to whether Rule 48 and Rule 48-A of the same rules would continue to be applicable to the employees permanently absorbed in BSNL. It also required to be clarified as to whether the benefit of Rule 48-B of CCS(Pension) Rules would be available to the Govt. employees absorbed in BSNL covered under Rule 37-A (11A). Accordingly, all Telecom. Circle Offices were advised to withhold further processing of voluntary retirement cases till further orders vide this office letter no 17-29/2004-Pers.II dated 20.7.2004.

2. After examining the matter in consultation with BSNL Finance and Department of Telecom, it is hereby clarified that after notification of CCS(Pension) Amendment Rules, 2002, Rule 48 and Rule 48A of CCS(Pension) rules, 1972 are no more applicable to the Govt. employees absorbed in BSNL and consequently all voluntary retirement requests of such employees are now covered under the provisions of sub-rule 37A(11A) of the same Rules.

3. As regards benefit of additional qualifying service as available under Rule 48-B of CCS(Pension) Rules, 1972, it is clarified that the same is not available to the employees retiring under sub-rule 37A(11A) of CCS(Pension) Rules.

4. Accordingly, Government employees absorbed in BSNL shall be required to submit their application/notice afresh under Rule 37A(11A) of the same Rules for consideration and acceptance by the appointing authority.


(Akhilash Kumar)
Asstt. Director General (Pers-V)

Copy to:

1. PPS to CMD, BSNL, New Delhi.

Contd. .. 2/-

2. PS to Director(HRD)/ Director(Finance)/ Director (Operation) / Director (Plg. & NS)/ Director (C&M) , BSNL, New Delhi.
3. All Heads of Circles/Metro Districts/Maintenance Regions/Projects/Stores/ ITC, Jabalpur/ALTTC, Ghaziabad/ Other Administrative Units
4. Sr. DDG(EFC)/ Sr. DDG(MS)/Sr. DDG(Elect)/SR. DDG(BW)/
5. Sr. DDG(Arch)/ Sr.DDG(CMTS-O&M), BSNL Corporate Office, New Delhi.
6. DDG(Estt.), DoT.
7. DDG(Pers)/ DDG(TF), BSNL Corporate Office.
8. ADG (Pers-I/II/III/IV)/ ADG(CSS), BSNL Corporate Office.
9. SO (OL) for Hindi version.
10. All Recognised Employees Associations/Unions.
11. Guard File/ Order Bundle.

Rabin Sarkar
(Rabin Sarkar)

Section Officer (Pension)