

To,  
All Circle Secretaries,  
ITSA, India.

**Sub: The Ground reality to workout way forward.**

Sir,

**I have compiled different aspects on the subject matter. This mail may contain some of the facts already stated. It's a long mail but please go through it to deliberate further.**

1. This time, we fought with intention to resolve the issue, rather than prolonging through crossed option form or legal battle. Prolonging issue is harming us in BSNL as well as DoT. We are being denied legitimate dues being on deemed deputation to BSNL/ MTNL. On the other hand creation of posts and cadre review is held up in DoT. Finance wing continuously increasing its role in DoT at the cost of ITS.
2. In Aug.2011, we called for opinion of all our members about continuing on deemed deputation. Almost all voted to not to continue on deemed deputation. **This clearly meant that officers were against continuing on those terms and conditions. But it never meant that non of the officer wanted to work in BSNL or to take absorption/ recruitment on terms and conditions suitable for them.**
3. In Sep, 2011 Govt brought absorption offer. On 26<sup>th</sup> Sep ITSA CHQ gave an unanimous call to tick 3B. Many officers followed suite and filled form by ticking 3B. On 14<sup>th</sup> Oct this issue came for discussion again at ITSA CHQ. This time there were divergent views. The matter was deliberated nationally and finally ITSA CHQ gave a call to tick 3B and fill farm.
4. **It was a right move to tick 3B and fill farm. We had shown a brave face to Govt. It gave a clear message to Govt that we are not the one who want to have cake and eat it too. It stood all ITS strong in front of BSNL, MTNL management and their unions. In the strike on 15th December, there was a call by all group B/C/D walas to not to allow ITS to enter BSNL offices. But they didn't dare as they did in 2005. Because we have been very bold in our acts on this issue this time therefore they were morally weak to directly act against us.**
5. Legally it has not affected our case adversely as being feared by some. 37A cannot be avoided by non-filling the option form. Likewise it is not attracted by signing on 3B. Meaning thereby that your agreeing or not-agreeing to 37A is immaterial as it is applicable to all who were on the rolls of DoT as on 30.09.2000. This is the correct legal

position as on date. (pl. refer para 9 & concluding 73A penultimate para). You are a senior Govt servant and Govt has informed you by all means including publication in newspaper about its absorption offer. **Even if someone feels that there is some point to be taken legally, then there are 300+ ITS officers, who had not filled any form despite ITSA's call. They can be made plaintiff (applicant) for such a point.**

6. **Even while filling the absorption form to reject it clearly and submitting repatriation letters individually, it was clear that some officers would go to BSNL/ MTNL at appropriate terms and conditions suitable to them. At any time, there was no doubt that ultimately solution would emerge only when respective interest groups go in respective directions.**
7. As on date we have various options in front of us. We have to choose, which way to go. I am combining those in four options. Let us deliberate on those.
8. **OPTION I: Present RR – Advantages:** Today we have an RR under Rule 37 which is even better than the agreement ITSA reached with DoT in 2008 for prospective date absorption under rule 37A, which was considered to be a dream agreement. Pension under 37A always have clouds on account of arrangement of funds, in case of privatization of BSNL. (Details are enclosed at the end of this letter as Annexure A). If we look at recruitment under rule 37 by various PSUs than proposed conditions are amongst the best ones, which include pay protection. The other wishes to add upon SA etc are merely wishes and are beyond the ambit of rules & practices. The advantages of present RR are
  - Most of the officers are going directly in E9 pay scale, which is the highest pay scale below board level in any Schedule A/ Maha Ratna/ Nav Ratna PSU. After working for 1 year in that scale one is eligible for even CMD of any Schedule-A PSU, for which Jt.Secy level officer in GoI may be eligible. For all such appointments E9 & JS level are equivalent.
  - Remaining batches are going to JtDGM & SrDGM and they shall get time-bound promotion to E9 scale within 16 years of their service.
  - You are getting full pension till 1999 batch, which is as intact as CFI and shall be get revised till the time IAS gets pension in that rule. 2000 batch is also eligible for full pension after March, 2012.
  - Pension is paid immediately on acceptance of Technical Resignation. On 1<sup>st</sup> January 2016, the applicable DA at that time shall also be merged and you get pension revision too.
  - You get lump-sum about 28-34 Lakh for GMs, 22-27 Lakh for NFSG, 16-22 Lakh for JAG on account of Gratuity + Leave Encashment + Pension commutation. You get your GPF too.
  - You are again eligible for Gratuity + Leave Encashment on completion of service from BSNL. Moreover you get EPF deposited by BSNL in addition to the amount deposited by you.
  - Only loss is that your pension remains lower as compared to full service pension. But this loss is more than offset by two facts. **First**, your

commutation period is over during service life. So your actual pension on your actual date of retirement at 60 years of age remains the same. **Secondly**, you are getting pension paid during service period.

- One major advantage is that you may get CGHS card, which is life time medical insurance of your family. Non of the medical insurance covers your present ailments but CGHS covers and BSNL MRS shall never cover. **As far as CGHS card is concerned, it's far superior to BSNL MRS in terms of indoor. It has got cashless facility with top medical institute across India (55 in Delhi including Escorts, Sir Ganga Ram & AIIMS). In terms of outdoor, it is similar to P&T dispensary.**
- Mostly seniority issue shall be resolved but fundamentally it is more of an emotional issue. People going to PSU must know that selection to the posts of E9 and above is done on search cum selection basis, as it is done for directors 7 CMD and as it is being done under rule 37. Moreover there are about 30 persons who shall be senior to you but at the same time there may be numerous above you, who shall not opt BSNL/ MTNL. In turn your overall seniority is to improve.
- **Once you start getting assured pension, you can quite easily venture out of BSNL. It all depends what you call creeping and what you call flying.**
- **Even junior batches can take pension & venture out easily (being young). Who can imagine, just 10 years of service, take assured pension for rest of life with unmatched medical insurance?**

**Present RR – Threats:** Condition of BSNL, MTNL are deteriorating. There may be cut in perks, delay in salary and at worst cuts in salaries. People going to these PSU should be aware of these. However they are secured under these RR.

- **Cut in perks:** Already very few perks are left except BSNL MRS. But with CGHS card one is already safe.
- **Delay in Salary:** It is a possibility. One has to weigh individual circumstances.
- **Cut in Salary:** Most unlikely. Again one has to weigh individually. Although he is going with pension.
- We are senior bureaucrats, we should know that as per Indian Companies Act, 1956, in case of insolvency of a company the assets of company are sold and first payments are made to its creditors & than salaries of its employees is paid. Shareholders (Govt in this case) get payment in last. It's a govt company, where is the doubt of salary. Delay in salary and cut in whatever perks left may be there. But we all are well-off enough to absorb salary delays, if any. Anyway, you are getting pension, which shall not be delayed!

**Present RR - Overall:** It's one of the best RR with some modifications suggested.

- Increase the number of seats of GMs to 650 in BSNL and 50 in MTNL.
- CGMs aging more than 58 may continue on deputation to BSNL till their retirement.
- **Selection to GM on seniority cum fitness.**

- Officers of 88 to 94 batches may be allowed to be inducted as Addl GM in E-9 scale, if they don't qualify for GM and if they wish to apply for DGM.
- Clarification from BSNL, whether present BSNL MSRR shall be applicable for this recruitment i.e. 1995 batch to get E9 scale and 1999 batch to get E7 scale on 01.01.2013. 1999 scale to get E9 on 01.01.2017 i.e. within 16 years of service.
- At the least the inter-se-seniority of present applicants may be maintained.
- Addition of SA etc, if possible.
- **Creation of sufficient post in DoT for remaining. This point should be asserted.**
- **Stopping surplus process.**
- Further some more clarifications as suggested by Reddy Sir (**Annexure B & C**)
- Some more deliberations may be made on amendments and clarifications.

**If we don't want to go on these conditions then it seems that we should never go. Recently there was a mail stating that ITSA has a considered view that looking at financial condition of BSNL those who are having 15 to 25 years of service should not go to BSNL. Do we have an assurance of creation of 1046 posts in DoT? If not, then we are taking them to surplus cell. If so then what is our role. That will happen otherwise too. Why should we decide & tell them to go to surplus & not opt for BSNL? If we don't have plan then let us tell them possible threats & advantages of either options and let them decide.**

- 9. OPTION II: Absorption on prospective date under rule 37A:** First question, who has offered 37A? From where it has come to discussion. **Somewhere in May, 2010, when our agreement (ITSA with DoT for prospective date of absorption under rule 37A) was going for inter-ministerial consultation, myself & our GS, Sh A S Meena held four round of discussions at ITSA CHQ. We requested that if ITSA agrees then we shall make personal efforts & shall use our political & administrative clout to get positive comments from different ministries. Our senior colleagues in ITSA refused and told us that it was not a good agreement. At that time the environment in Ministry was supportive as the then Minister and Secretary were quite positive towards ITS. For any solution under 37A, that could be right time. Today we have received negative comments from Ministry of Finance and DoPT. Change in their comments is seriously doubtful.**

**Advantages of prospective date absorption under 37A**

- **Seniority is intact** – Under this, seniority with present absorbees shall remain intact. But there shall be two different dates of absorption. It shall cause seniority issues, giving a valid point to present absorbees to approach court of law.

**Dis-advantages of prospective date absorption under 37A**

- **Pension under 37A is pro-rata pension.** Since that time pro-rata was paid for less than 28 years of service, so it was negotiated. As on date in that agreement pro-rata pension is mentioned. Any change in pension pay structure under any rule rule/ sub-rule, a specific order from DoPT is required. Those, who have dealt with inter-ministerial cases, know very well, that it is very-very tough task.
- The rule position for absorption under rule 37A with prospective date is similar to the one with retrospective date.
- There is **no CGHS card**, which is a very important lifetime safeguard for those who are going to take absorption in BSNL.
- **Payment of 300 days of EL and payment of gratuity** twice (i.e. both at the time of absorption and at the time of retirement) **is also not there.**
- This is a pension under rule 37A. Its payment remains under clouds in case of privatization of BSNL (See annexure A for details).

**Overall – In all, prospective date absorption under 37A is far inferior to present RR under 37 except for seniority. The biggest advantage of present RR over 37A is proper safety-net, ONE-there is not even an iota of doubt about pension TWO CGHS Card (A lifetime medical insurance of you and your family).**

**Even if we desire say remotely, DoT is not in a position to implement it.**

10. **OPTION III: Continuance of Deemed/ Perpetual/ Regular deputation** – Now the latest option, of which, we are hearing is continuance of Deemed/ Perpetual/ Regular deputation. Option is being asked formally/ informally from each ITS, whether he wants to continue on deputation. Officers are agreeing and disagreeing. Again the question is who in the Govt has offered it? From where it has come to discussion.

**Let us ask for one more option, whether you want ITS is merged with IAS. I think most would happily agree but I doubt of 100% unity even on it. Some of my friends will demand SA, others shall ask for inter-se-seniority based on UPSC Exam Ranks, some other would say that we should be allowed to continue on deemed deputation to BSNL even after this.**

**The moot question is this, whether we are in that position to force Govt. Even then let-us talk of its advantages/ dis-advantages.**

**Advantage –**

- We are habitual of it. So, no change in our HALAAT.
- We may get promotions – What is the harm of having a wishful thinking.
- We may demand Govt terms and conditions in BSNL – think good, it keeps moral high.

**Disadvantages -**

- Would you like to work under an 87 batch absorbees CGM (for 78 to 86 batches)?
- Would you like to work under a 94 batch absorbees GM (for 88 to 93 batches)?
- If yes then why not under present RR.
- What will happen to present repatriated officers?
- What if you are not promoted at all?
- What if you are discriminated in BSNL by denying DoT and BSNL benefits?
- What will happen to humiliation by Group B/ C/ D.?
- What shall be ultimate solution?

11. **OPTION IV: Court Case against present RR.** The advantages and disadvantages are the same as mentioned above. The biggest sufferers shall be present repatriated officers. Moreover getting stay and period of stay are uncertain. What shall we achieve by stay? What shall be our strategy in case of termination of stay?

12. Today, the environment is that those, ‘who say that they will opt for Govt come whatever’, are sons of God. Still they want to stop others to opt for BSNL, MTNL for their own cause. And those who say that they may opt for MTNL, BSNL if suitable conditions come for them, are called traitors. Even, if they are with us for the sake of unity. Unity without purpose! Talking about BSNL, MTNL is sin!

13. **In the meeting of ITSA CHQ on 27<sup>th</sup> Dec, 2011, BSNL RR under rue 37 was discussed. Our senior colleague said that it is unfair on part to have only 450 seats of GM while 1200 are eligible for it. Some of my friends opined that who shall be 413<sup>th</sup> (450 GM+CGM minus 38 CGM posts), who would be rejected. Some senior friends commented that people shall try all tricks to get into the list of 412 posts of GM in BSNL. (THELIYA CHALEGI). That means we were aware that officers are keen to go on these RR. Then we should try to reach a solution. Officers are already keen to go. And if certain misgivings are removed than officers may prefer to go in large number. These are undoubtedly good conditions for those who ever wanted to go to BSNL/ MTNL, as one is going with sufficient safe guards (Assured pension & CGHS card). It is his call to decide as to what risks he wants to take.**

14. So far we were not making strong initiatives to meet govt coz we didn't have composite solution. If minister had asked that on what conditions you shall go to BSNL/ MTNL, we couldn't answer. Today people want to go so it may be a solution for both sides Govt & ITSA. This way about 900 to 1000 officers may go to BSNL/ MTNL. Remaining about 700 may remain with Govt including about 200 on deputation to various deptt.

15. **The best recourse is that ITSA may speak to highest in Govt to meet its legitimate demands (mainly increasing number of seats in GM, selection to GM posts of seniority cum fitness, maintaining inter-se-seniority and**

**application of BSNL MSRR on all appointees) and take some tactical assurance from Minister for those who are going to remain in DoT.**

16. **Thereafter we may issue a white paper giving advantages/ disadvantages and threats/ opportunities of opting BSNL, MTNL as well as for remaining in Government.** A batch-wise analysis may also be given for say 78, 82, 87 batches among SAG/ 88, 91, 94 batches among Addl GMs/ 95, 98 batch among NFSG and 2000 batch. **Then leave it to individual officer to decide as per his choice.**

17. There are certain questions before making any decision

- What if despite ITSA's call to reject RR, some 200 to 500 officers opt for BSNL. **Can we stop it?**
- Even after recruiting some, they may repatriate some more and ask remaining to continue in BSNL. **Can we stop it?**
- The way Govt is going, they will bring another recruitment offer immediately thereafter, creating competition between ITS and executives from other PSUs. **Can we stop it?**
- Some more officers joining BSNL then. **Shall we have any moral authority to stop them?**
- Even after declaring surplus, they ask you to continue in BSNL under your batch-mates & juniors, **can we stop it?**
- Then why are we stopping them. **What is our strategy?**

**These questions must be answered by us in a transparent manner otherwise really it's unity without purpose.**

18 **As far as legal process is concerned, we should fight tooth and nail against the surplus process.**

With kind regards,

.....  
.....  
.....  
.....

## Annexure A

### A note on pension under rule 37-A

Para 5 of the IDA pension revision letter dated 15/03/2011: “**The Annual pension liability of Government in respect of employees retired from DoT prior to 01.10.2000 and those who are working in BSNL on deemed deputation basis or on absorption shall continue to remain within 60% of annual receipts to government from (i) dividend income from MTNL/BSNL (ii) License fee from MTNL/BSNL and (iii) Corporate tax/Excise duty /Service tax paid by BSNL after their revision. In case it exceeds 60%, excess liability will be borne by BSNL.**” (Source: [http://dot.gov.in/pension/2011/40-17%202008-Pen\(T\)-Vol.III%20\(15-03-2011\).pdf](http://dot.gov.in/pension/2011/40-17%202008-Pen(T)-Vol.III%20(15-03-2011).pdf)) The above has been issued by DOT in 2005 itself. Please be assured that the words in the rules are put cleverly with utmost care by Government.

After 5-7 years the aforesaid pension fund will also start shrinking below threshold. What will happen to pension then? **If there is no fund what courts may do.** Govt will argue that rules are clear. If there is no fund on this head or funds are less than proportional cut in pension shall be applicable. Absorbees under rule 37A shall have to bear that certainly.

In its presentation to Minister regarding ITS absorption on 12/09/2011, Secretary, DoT pointed out that if ITS take absorption in large scale then *‘Impact on pension liability for the Government will be far lesser than what it would be if the officers do not opt for absorption or opt for pension on combined service.’* Please see copy of said presentation. Such presentations at the highest level carry deep routed meanings.

That means Government knows that even after guaranteeing pension under rule 37-A, it doesn’t have a financial liability towards that. It can withdraw hands when there is no fund to pay pension or start paying reduced pension. Govt also knows that it has financial liability for pension of those who do not take absorption. **Government is playing with words on the issue of pension under rule 37-A.**

Even BSNL Employees Union and JAC have also raised doubt about pension in future. Please see para 8(C) of their reply dated 20.09.2011 to BSNL management regarding VRS proposal. It reads, *‘Once BSNL is privatized there will be no MRS scheme for the retired officials and the private company will not fund the pension expenditure. Even though the government has given guaranty that pension will be paid by it even in such a circumstance, it cannot be believed. It is to be noted that government assured BSNL to compensate for the losses incurred on rural landlines, but stopped such compensation after a few years, violating the assurance. Therefore VRS will lead to insecurity in the matter of pension.’* Source: <http://bsnleuchq.com/DRAFT%20ON%20VRS.pdf>.

SNEA has also posted on its website (<http://www.sneachq.net/>) on 22/10/2011, *“By taking loan, those who go home may not have problems (even though in their case too pension is going to be a serious issue because of 60:40 % sharing orders of DOT) but those who stay back shall be in terrible mess. Getting salaries become huge issue once liability is created in a company which is already reeling under the impact of heavy losses.”*



## **Annexure B**

### **Clarification to be sought under present RR, as suggested by Reddy Sir.**

#### **If we opt for Prorata pension benefits:**

- a. Will Actual Payment of Pension be with effect from the date of Technical resignation without any lock in period?
- b. Is commutation of pension to the tune of 40% and restoration after 15 years allowed like a normal pensioner?
- c. Is Dearness Relief admissible with effect from the date of Technical resignation?
- d. Leave Encashment to the tune of 300 days and Gratuity be paid now without any lock in period?
- e. **As a Central Govt Pensioner, are we eligible to get CGHS card with effect from the date of Technical resignation?**
- f. **Does the salary in BSNL be affected in any way due to the receipt of pension & Dearness Relief from Govt?**
- g. **Are we eligible to get Leave encashment to the tune of Maximum 300 days at the time of retirement /resignation from BSNL?**
- h. **Are we eligible to get gratuity for the service rendered in BSNL at the time of retirement /resignation from BSNL?**
- i. Will BSNL contribute 12% EPF on Basic + IDA till the time of retirement /resignation?
- j. As BSNL has no pension scheme, will the Family pension be paid by Govt?

#### **Other Issues**

- a. **The Loans like HBA, Car Loan, Computer loan etc pending be transferred to BSNL on the existing terms and conditions in case of both the loans taken from BSNL and DOT, prior to formation of BSNL?**
- b. Does the GPF amount in my account be paid now?
- c. CGEGIS amount be paid as we cease to be in that scheme from the date of technical resignation?
- d. **Like other absorbed officers, am I eligible for selection for the post of Members of Telecom Commission, TRAI, TDSAT and other telecom related bodies; for deputation to the Govt / PSUs and foreign assignments such as ITU, APT etc?**

## Annexure C

### Analysis of Raja Reddy Sir

Before discussing the RRs finalized by BSNL / MTNL, let us discuss why we rejected in 2005, 2008 & 2011 offers and what we want.

3 major Reasons for rejection (as I understood):

1. DOT stand of Pension revision is linked with company profitability.
2. Financial benefits are not enough to join BSNL/MTNL
3. Govt post is always superior to PSU post in hierarchy

What we want (As per agreement signed by ITSA):

1. Pro rata pension from prospective date
2. SA
3. Seniority as on 01/10/2000

While the above agreement takes care of 1& 2 reasons directly, it takes care adequately reason 3 also indirectly, as good no. of officers joining BSNL/MTNL is not only in their interest, but, also in the interest of those who want to remain in Govt. Unfortunately, that agreement fell flat and hence this exercise of Rule -37 based RR.

Now, let us see this offer:

Some of the officers have expressed some apprehensions on pension payment etc. Pl go through the following links clearly indicating the official position (see page 5 to 8 of second link). We are governed by 28016-5-85-ESTT(C) dated 31/01/1986 order DOPT on “Appointment of Central Government servants in the Central Public Enterprises on Immediate Absorption basis, terms and conditions of”.

<http://circulars.nic.in/WriteReadData/CircularPortal/D3/D03ppw/28016-5-85-ESTT%28C%29-310186.pdf>

[http://circulars.nic.in/WriteReadData/CircularPortal/D3/D03ppw/paymen\\_pro-rata\\_retirement\\_300390.pdf](http://circulars.nic.in/WriteReadData/CircularPortal/D3/D03ppw/paymen_pro-rata_retirement_300390.pdf)

The DOPT No.4/18/87-P&PW (D) dated 5/07/1989 on “Settlement of pensionary terms etc., in respect of Government employees transferred en masse to Central Public Sector Undertakings/Central Autonomous bodies” is not applicable to us, as we are not being enmass transferred to BSNL/MTNL and hence no question of 7 years lock-in period etc.

The benefits:

- \* Tax free lump sum of Gratuity, Leave Salary, CGEIS, GPF & Commutation of 40% pension (Though, it may be beneficial to go for commutation after 2016 due to 7th CPC-Rules provide Commutation after 1 year with medical certificate) – for 1987 batch, it may work out to be Rs 32 Lakhs.
- \* EPF of 12% on IDA basic + DA as BSNL contribution.

\*Accumulation of EL again to the tune of 300 days (if less, HPL with half salary can be added. i.e., if one has 250 days EL and 100 days HPL, then effectively 275 Days Salary can be encashed)

\*Gratuity in BSNL/MTNL (though it may be restricted with the total amount due at the time of retirement ).

\*Assured pension. In 6th CPC, Pl go through the following link. <http://www.pensionersportal.gov.in/PensionCalculators/RevisedPensionCalculator/RevisedPensionCalculator.asp> The 6th CPC has treated a pensioner as if he is in service (except for the increments) and fixed the pension in new scale. Hence pension revision will be quite attractive and we will be only losing increments.

#### The Major Problem

The seniority is a major problem as 1975 to 1994 batches are eligible for E9 scale recruitment, the zone of consideration is 20 Batches! 35 Marks for Interview is too high and giving scope for change/manipulation. It is deplorable to have such a possibility that 1975 batch officer becoming junior to 1994 batch (though, I understand that in Stage 1 if adequate people apply, juniors will get eliminated). If this issue is taken care and we can get clarification from DOPT on inter se seniority, then this proposal is worth considering.

It is better to address the shortcomings, rather than discarding the total proposal. We should also remember that Govt post will always be better to join than BSNL/MTNL, if there is any scope to get Govt post. But, If wishes were horses, beggars would ride!!

With Regards,  
J V Raja Reddy