



No: BSNLCO-SR/13(12)/1/2021-SR

Dated: 24.09.2026

To

All CGMs,
Bharat Sanchar Nigam Ltd,

Subject : Preparation of Draft Written Statement in OAs relating to GPF / Pension Coverage in respects of CGA employees appointed in BSNL on or after 01.10.2000 as nominees of the employees of DOT/DTS/DTO died in harness up to 30.09.2000— regarding.

With reference to the subject cited above, this office is issuing instructions time to time w.r.t cases of CGA employees appointed in BSNL on or after 01.10.2000 as nominees of the employees of DOT/DTS/DTO died in harness up to 30.09.2000. It is observed that this office is receiving numerous similar Original Applications (OA's)/ Legal notices/ Representations from circles seeking identical reliefs i.e Claiming GPF/ Pension /Restoration of Presidential Order etc. in respect of compassionate appointees (CGA) appointed in BSNL i.e after 30.09.2000.

2. In order to ensure effective and timely handling of such cases and to maintain uniformity in the pleadings /replies filed in similar matters, draft comments for preparing the reply of OAs prepared in consultation with DOT, Legal Cell, BSNLCO, is enclosed for a reference (Annexure-I), which may enable to expeditiously dispose of pending OA's/Legal notices etc. in a consistent manner and may also facilitate the adoption of a uniform stand by BSNL.
3. While preparing the Draft reply of OA's (dealing with above type cases), the following points to be considered :
 - i) All the officers dealing with court cases at Circle and BA levels shall ensure that draft counter affidavits prepared by the empanelled counsel are complete in all respects, factually verified from official records, duly supported by relevant documents and prepared strictly in accordance with the approved legal position, before the same are submitted for vetting/approval. The concerned Circle administrative wing shall also ensure that the draft pleadings have been duly scrutinised for factual accuracy and conformity with the approved comments of BSNL.
 - ii) While preparing the draft reply, the Circle shall ensure that the factual position regarding the following aspects, is correctly incorporated and supported by the available official records/documents :
 - a) Date of joining / Appointment in BSNL as CGA appointee;
 - b) Details and status of the deceased DoT employee;
 - c) Issuance and status of Presidential order / Option form;
 - d) Cancellation /withdrawal of PO, wherever applicable;
 - e) Conversion from GPF scheme to EPF scheme (Date)
 - f) Representations submitted by the applicant and
 - g) Any other relevant facts and documents pertaining to the individual case.

- iii) The draft reply should also contain a proper para-wise response to the Original Application, suitably incorporating the relevant facts, applicable rules/instructions and judicial pronouncements.
- 4) Thereafter, the same may be forwarded to WS&I Cell, BSNL Corporate Office for vetting, along with a complete copy of the Original Application (OA) with all relevant records/documents certifying that it has been prepared and verified by Empanelled Advocate / Legal cell of Circle.
- 5) The complete set of documents/draft pleading is to be forwarded sufficiently in advance of the date fixed by the Hon'ble Court / Tribunal so as to provide adequate time for examination, vetting and necessary action.

It has been observed that, despite repeated discussions, communications and clear instructions issued from time to time regarding preparation of the draft reply, the Circles are not taking it seriously. The matter requires close and careful examination, and any casual approach at this stage may adversely affect.

All Circles are advised to treat the matter as **MOST URGENT** and ensure strict compliance with the instructions issued, so as to facilitate timely disposal of pending and future cases and to maintain uniformity in the legal position adopted by BSNL in matters relating to GPF/Pension coverage of compassionate appointees.

This is issued with the approval of the competent authority.

Encl: Annexure-I


24/9/2026
DGM(WS&I)
O/o PGM(SR/Restg/WS&I)

Annexure-1

Comments for preparing the reply against the OAs filed by the wards of DOT employees, who have been appointed in BSNL and seeking coverage of GPF/Pension

Preliminary objections:-

(a) **Inordinate delay and latches-** The applicants are claiming benefits of Pension/GPF extended to the similarly situated employees upon dismissal of Civil Appeal No. 1971-1973/2012 decided on 26.07.2023 by the Hon'ble Apex Court. They have relied upon dated 16.01.2003 of BSNL, vide which it was communicated that the wards of DoT employees upon their appointment in BSNL would be covered by GPF.

In this connection, it is submitted that the letter dated 16.01.2003 was withdrawn by the BSNL vide letter dated 25.05.2007 read with letter dated 10.05.2007 as it did not have authority to open the GPF Accounts under GPF Rules, 1960. Rule 4 of GPF Rules, 1960 covers permanent/temporary Government servants and PSU appointments do not fall under the ambit of GPF Rules, 1960. GPF Rules, 1960 are not applicable to PSUs. The Department of Telecommunications vide clarification No. 27-01/2001-SNG (Pt.II) dated 30.01.2002 has clarified that any employee formally appointed by BSNL is PSU appointee and not entitled for Presidential order, which is issued in respect of Government employee holding pensionable post in Government upon his transfer on deemed deputation basis for his permanent absorption in BSNL under Rule 37A of CCS (Pension) Rules.

In the present case, OAs filed by the applicant is for the cause of action which arose during 2007, when BSNL withdrew its letter dated 16.01.2003 and brought the afore-said category of employees under EPF instead of GPF. Therefore, present OA is hit by limitation prescribed under Sec. 21 of the Administrative Tribunals Act, 1985.

The Applicants have relied upon order dated 26.07.2023 of Hon'ble Supreme Court of India in Civil appeal No. 1971-1973/2012 and order dated 12.02.2026 in Civil Appeal No. 51/2026 and tagged matters to satisfy the Ld. Tribunal that the cause of action is continuing in nature and their application does not suffer from delay and latches and they have preferred legal notice before approaching the Court/Ld. Tribunal. However, it is pertinent to mention that subsequent order of the Hon'ble Apex Court (*in personam in nature*) does not extend the limitation period.

Had the applicants being aggrieved by letter dated 25.05.2007, they ought to have raised the claim within the limitation prescribed under Sec. 21 of the

above-mentioned act. Reliance is placed upon State of Orissa versus Mamata Mohanty [(2011) 3 SCC 436], wherein the Hon'ble Apex Court has held as under-

“ This Court has consistently rejected the contention that a petition should be considered ignoring the delay and laches in case the petitioner approaches the Court after coming to know of the relief granted by the Court in a similar case as the same cannot furnish a proper explanation for delay and laches. A litigant cannot wake up from deep slumber and claim impetus from the judgment in cases where some diligent person had approached the Court within a reasonable time. (See: M/s Rup Diamonds & Ors., v. Union of India & Ors., AIR 1989 SC 674; State of Karnataka & Ors. v. S.M. Kotrayya & Ors., (1996) 6 SCC 267; and Jagdish Lal & Ors. v. State of Haryana & Ors., AIR 1997 SC 2366).

Reliance is also placed upon **In D.C.S. Negi Vs. Union of India and Others (SLP (C) No. 7956/2011 decided on 7.3.2011 on the point of limitation.** The Court held that a reading of the plain language of the above reproduced section makes it clear that the Tribunal cannot admit an application unless the same is made within the time specified in clauses (a) and (b) of Section 21 (1) or Section 21 (2) or an order is passed in terms of sub-section (3) for entertaining the application after the prescribed period. Since Section 21 (1) is couched in negative form, it is the duty of the Tribunal to first consider whether the application is within limitation. An application can be admitted only if the same is found to have been made within the prescribed period or sufficient cause is shown for not doing so within the prescribed period and an order is passed under Section 21 (3).

In Ratan Chandra Sammanta and Ors vs. Union of India and Ors (JT 1993 (3) SC 418) wherein it was held that delay deprives the person of the remedy available in law. A person, who has lost his remedy by lapse of time, loses his right as well.

Therefore, the instant petition(s) are liable to be dismissed at the threshold without entering into merits of the case.

(b) **Principle of estoppel:-** The applicants after their subscription to EPF under EPF Act, 1952, which also required matching contributions from the Employer-BSNL for last 25 years along with Pension contribution under EPS 1995, may not be allowed to turn back as certain rights and liabilities of both employee and employer-BSNL have been settled in the meanwhile. After acceptance of appointment in BSNL, they may not assert that they may be treated as Govt. employee especially when the appointment was having prospective effect from the date of issuance of formal orders of appointment by BSNL. Therefore, claim for GPF instead of EPF is barred by principle of

estoppel also and present petition(s) are liable to be dismissed at the threshold.

(c) **OA lacks cause of action:-** Applicants have not cited any policy or rules of the Government of India, which allow payment of pension or GPF to the appointments made in PSU. BSNL, being incompetent to open GPF Accounts in r/o appointments made by them on or after 01.10.2000 has withdrawn their instructions dated 16.01.2003 vide subsequent letter dated 25.05.2007 read with letter dated 10.05.2007. There is no change in the position after issuance of letter dated 25.05.2007. Thus, the present OA lacks cause of action as the claim of the applicants is not supported by the CCS (Pension) Rules, 1972 and GPF Rules, 1960. It is settled position of law that one can claim benefits of Pension from Central Civil estimates under Rules or Scheme of Govt. only. In the absence of any provision for extending benefits of Pension by the Govt. to the employees of PSU, there is no cause of action. Accordingly, in the absence of cause of action, OA is not maintainable in the eyes of law.

It is also pertinent to mention that instructions dated 16.01.2003 issued by the BSNL cannot prevail over the statutory rules and cannot supplant the statutory rules and in case of inconsistency, the statutory rules would be given effect.

Reliance is placed upon UoI Vs Ashok Kumar Aggarwal (2013) 16SCC147 wherein Hon'ble Supreme Court has held as under: -

38. The law laid down above has consistently been followed and it is a settled proposition of law that an authority cannot issue orders/office memorandum/ executive instructions in contravention of the statutory Rules. However, instructions can be issued only to supplement the statutory rules but not to supplant it. Such instructions should be subservient to the statutory provisions. (Vide: Union of India & Ors. v. Majji Jangammayya & Ors., AIR 1977 SC 757; P.D. Aggarwal & Ors. v. State of U.P. & Ors., AIR 1987 SC 1676; Paluru Ramkrishnaiah & Ors. v. Union of India & Anr., AIR 1990 SC 166; C. Rangaswamaiah & Ors. v. Karnataka Lokayukta & Ors., AIR 1998 SC 2496; and JAC of Airlines Pilots Association of India & Ors. v. The Director General of Civil Aviation & Ors., AIR 2011 SC 2220).

Reliance is further placed upon PD Aggarwal Vs State of UP (1987) 3SCC622 wherein Hon'ble Supreme Court has held as under: -

5. The Office Memorandum dated December 7, 1961 which purports to amend the U.P. Service of Engineers (Buildings and Roads Branch) Class II Rules, 1936 cannot override, amend or supersede statutory rules as it is nothing but an administrative order or instruction. The temporary Assistant Engineers who have become members of the service after being selected by the Public Service Commission in accordance with the service rules are entitled to have their seniority reckoned in accordance with the provisions of r. 23 as it was then, from the date of their becoming members of the service, and this cannot be

taken away by giving retrospective effect to the Amendment Rules of 1969 and 1971 as it is arbitrary, irrational and not reasonable. [448B-D] Sant Ram Sharma v. State of Rajasthan & Anr., [1968] 1 S.C.R. 111, referred to.

(d) Case of Raj Kumar and Ors (Civil Appeal No. 1971-10972 decided on 26.07.2023)- not a binding precedent- The Hon'ble Supreme Court in BSNL versus Raj Kumar dismissed the SLP filed by BSNL in the peculiar facts and circumstances of the case, whereas questions of law were kept open. The impugned order of Ld. CAT/High Court, which was assailed before the Hon'ble Supreme Court by BSNL, also did not mention the relevant rules i.e CCS (Pension) Rules, 1972 along with Rule 37A and GPF Rules, 1960. The letter dated 16.01.2003 relied upon by the Ld. Tribunal was issued by the BSNL for opening GPF Accounts. However, the said letter did not have any legal effect as BSNL was not competent to issue instructions for opening GPF accounts of appointments made in BSNL especially when the GPF accounts of the applicants were not opened in erstwhile DTS/DTO (i.e before 01.10.2000). The letter dated 16.01.2003 has since been withdrawn vide letter dated 25.05.2007 read with letter dated 10.05.2007 by BSNL itself. Under such circumstances, dismissal of afore-said SLP/Civil Appeal **in the peculiar facts and circumstances of the case, neither attracted doctrine of merger nor a binding precedent under Art. 141 of the Constitution.**

In the case of Raj Kumar and Ors, the CCS (Pension) Rules and GPF Rules, 1960 were not noticed. Therefore, the order of Ld. Tribunal in Raj Kumar case though operates as res judicata in peculiar facts and circumstances of the case, did not have binding force for deciding other cases as statutory rules were not noticed. Reliance is also placed upon Mamleshwar Prasad & Anr. v. Kanahaiya Lal (Dead) by Lrs., AIR 1975 SC 907, this Court held :

".....where by obvious inadvertence or oversight a judgment fails to notice a plain statutory provision or obligatory authority running counter to the reasoning and result reached, it may not have the sway of binding precedents. It should be a glaring case, an obtrusive omission."

It is pertinent to mention that the applicants have relied upon order dated 26.07.2023 of the Hon'ble Apex Court in BSNL versus Raj Kumar (Civil Appeal No. 1971-1973/2012), which was decided by citing peculiar facts/circumstances and without giving any legal reasons. In this connection, it is pertinent to mention that unreasoned order either passed in Civil Appeal/Appellate jurisdiction or SLP does not amount to declaration of law

within Art. 141 of the Constitution of India. Reliance is placed upon **Arnit Das versus State of Bihar (2000) 5 SCC 488**, wherein the Hon'ble Apex Court has held as under.

"A decision not expressed, not accompanied by reasons and not proceeding on conscious consideration of an issue cannot be deemed to be a law declared to have a binding effect as is contemplated by Article 141. That which has escaped in the judgment is not ratio decidendi. This is the rule of sub-silentio, in the technical sense when a particular point of law was not consciously determined. (See State of U.P. Vs. Synthetics & Chemicals Ltd. 1991 (4) SCC 138, para 41).

In Raj kumar case (Civil Appeal No. 1971-1973/2012) and Bharat Kumar Kumawat case (Civil Appeal No. 51/2016), the SLPs/Civil Appeals were dismissed by citing peculiar facts and circumstances of the case, whereas the questions of law were kept open (Kindly see disposal dated 26.07.2023 of Civil Appeal No. 1971-73/2012). Therefore, the questions of law were never decided in the cited cases.

In Union of India versus Harbans Lal Verma [2026 INSC 739], the Hon'ble Apex Court has categorically held that where the cases (SLP/Civil Appeal) has been dismissed by non-speaking order and questions of law were kept open, such dismissal does not constitute binding precedent under Art. 141 of the Constitution of India and therefore in appropriate or future case, questions of law could be decided on merits by considering relevant rules/instructions in the service matters, without being influenced by earlier dismissal.

(e) **Non accrual of vested right before appointment:-** The applicants have been admittedly appointed in BSNL on or after 01.10.2000. Before their appointment, the legal entity of DTS/DTO converted from Govt. to PSU as per notification dated 30.09.2000 issued by the Government of India in the official gazette. CCS (Pension) Rules, 1972 and GPF Rules, 1960 do not apply to the appointments made in PSU. Therefore, applicants who did not have any vested right over pension/GPF before their appointment in Government, may not claim benefits of CCS (Pension) Rules, 1972 and GPF Rules, 1960 in view of the change in policy before their appointment and their appointment in PSU. Reliance is placed upon **Mohd Faiyaz Ahmad & Ors versus State of Jharkhand (2025:JHHC:12879-DB)**, wherein the Hon'ble High Court of Jharkhand at Ranchi, categorically held that no vested right accrues on pay scale etc before the actual appointment of the employee. The Court held that if any policy changes before actual appointment, the incumbents would be covered by the said amendment instead of rules of pay, which were in force when advertisement or notification for the posts were issued. In the precedent,

the Court rejected the case of the Petitioners, who were appointed on lower pay scale instead of the higher pay scale due to change in the pay scale before their actual appointment.

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.

It is pertinent to also mention that **Ld. CAT, Chandigarh Bench in OA No. 76/2016 (Mast Ram versus BSNL)** adjudicated the akin issue, wherein the applicant (who joined BSNL against advertisement issued by the DoT) was aggrieved from conversion from GPF to EPF. He claimed restoration of GPF by inter-alia placing reliance upon advertisement for the post of Lorry Driver issued by the erstwhile DTS/DTO. The Ld. Tribunal vide order dated 28.07.2016 while dismissing the OA categorically held that merely advertisement was issued by the erstwhile DTS/DTO would not the applicant entitled for pension/GPF as the applicant was not in services as on 30.09.2000 and his appointment letter was issued by the BSNL, where he was allowed to join after 01.10.2000.

(f) ***Sub silentio* in Bharat Kumar Kumawat case (High Court Rajasthan in DB Civil Writ Petition No. 3941/2015 decided on 27.07.2015) and Abdul Rasheed case (High Court of Kerala in OP CAT No.63 of 2017 decided**

on 13.11.2019) - The dictum of the Hon'ble High Court of Rajasthan, which was followed in Abdul Rasheed case by the Hon'ble High Court of Kerala, **could not notice the following points of law**, while extending the benefits of Pension/GPF to the wards of the DoT employees, who underwent pre-appointment training before incorporation and actually appointed in BSNL,;-

(i) *Whether any vested right on pay scale or pension or service benefits, accrues before the actual appointment of the employee;*

(ii) *Whether any appointment made in PSU for which an advertisement or notification was issued or exercise was initiated before corporatization of Govt., would extend the benefits of Pension/GPF to the appointees who were neither holding pensionable post nor had subscription towards GPF in Govt. Department;*

(iii) *Whether in the absence of holding any pensionable post in the Govt., the employee can claim benefits of Pension or GPF, when due to changes in policy, the Govt. department converts into PSU;*

(iv) *Whether mere issuance of erroneous Order of permanent absorption would create any legal right on the petitioners to receive pension or GPF, when they were neither holding pensionable post in Govt. nor covered by the GPF or pension rules in Govt.*

(v) *Whether Permanent or Temporary Govt. servant under Rule 37A of CCS (Pension) Rules would include the persons, who were not holding pensionable post in Govt. but were participating in recruitment process and their formal appointment was contingent on various other factors;*

It is submitted that the above-mentioned judgements of the Hon'ble High Courts were challenged before the Hon'ble Apex Court, wherein the Hon'ble Court in Civil Appeal No. 51/2016 and tagged matters, dismissed the cases on 12.02.2026 without speaking or reasoned order, by merely finding the similarity in the cases with case of Shri Raj Kumar i.e in the peculiar facts and circumstances. No legal reasons for deviation from statutory rules and settled principles pronounced in Prabhu Narain vs. State of U.P.19, (2004) 13 SCC 662 and UP Roadways Retired Officials and officers Association versus State of UP and Anr (Civil Appeal No. 894/2020 decided on 26.07.2024), have been assigned.

In this connection, it is pertinent to mention that unreasoned order either passed in Civil Appeal/Appellate jurisdiction or SLP does not amount to declaration of law within Art. 141 of the Constitution of India. Reliance is placed upon **Arnit Das versus State of Bihar (2000) 5 SCC 488**, wherein the Hon'ble

Apex Court has held as under.

"A decision not expressed, not accompanied by reasons and not proceeding on conscious consideration of an issue cannot be deemed to be a law declared to have a binding effect as is contemplated by Article 141. That which has escaped in the judgment is not ratio decidendi. This is the rule of sub-silentio, in the technical sense when a particular point of law was not consciously determined. (See State of U.P. Vs. Synthetics & Chemicals Ltd. 1991 (4) SCC 138, para 41).

The Hon'ble Supreme Court, in **Parveen Kumar @ Parveen Chauhan v. State of Haryana & Ors. (2026 INSC 667)**, while discussing the doctrine of *per incuriam*, has reiterated that a judgment rendered **in ignorance of a statutory provision, rule or regulation, or whose ratio is irreconcilable with an earlier decision of a Bench of co-equal or larger strength**, may **not satisfy the test of a binding precedent (Refer para 14)**. The Hon'ble Court has further observed that judicial discipline requires a Bench disagreeing with a co-equal Bench to refer the matter to a larger Bench, and that the decision of a Bench of larger strength is binding on subsequent Benches of co-equal or lesser strength.

(g) **Issue no longer res integra:-** The Ld. CAT, Jabalpur Bench in OAs No 847/2017 and 864/2017, while examining the akin issues in Naval Singh Kuswaha and Shivraj Singh Thakur, have dismissed the OAs on the grounds that the applicants, who were appointed in BSNL on Compassionate Ground upon demise of their family member (Govt. employee), would fall under the category of employees of CPSE and eligible for EPF instead of GPF. The ratio of the above-mentioned order is squarely applicable to instant issues.

(h) **Scope and ambit of Rule 37A of CCS (Pen) Rules-** Rule 37A of CCS (Pension) Rules were amended and notified in comprehensive form vide notification dated 30.09.2000 in the wake of decision of Government of India for corporatization of erstwhile DTS/DTO. The afore-said Rule allowed pension to the Government employees (Permanent/temporary), who would be transferred on deemed deputation to PSU and got permanently absorbed in PSU. It further provided that posts which they were holding in Govt. would be abolished upon their permanent absorption in PSU. The said rule further provided that in case of BSNL, the pension would be paid by the Government of India to the permanently absorbed employees on the combined services in Govt. pay scale (Govt. services) and IDA pay scale (PSU services).

(i) **Expressio unius est exclusio alterius-** Express mention of "Government employees (Refer sub rules -1 to 4)" and "holding posts in

Government (Refer Sub Rule 5)” under Rule 37A of CCS (Pension) Rules impliedly excludes the other category of employees, who were not holding pensionable post in Govt and thereafter, appointed in PSU, to receive pension upon their regularization/appointment in PSU. Since the latter category of employees were not holding pensionable post in the Government, they are not covered by the Rule 37A of CCS (Pension) Rules.

(j) **DOT letter dated 27.02.2020 upheld by the Division Bench of the Hon’ble High Court of Madras vide judgement dated 29.06.2026-** In context of Rule 37A of CCS (Pension) Rules and considering situation where Presidential orders for permanent absorption in BSNL were issued in favour of employees who were formally appointed by the BSNL against the recruitment process begun in erstwhile DTS/DTO (i.e Government of India), the DoT Hqrs vide letter dated 27.02.2020 read with corrigendum 23.02.2021 clarified that Government employees (permanent or temporary) only who were on rolls of the Government before the corporatization and transferred on deemed deputation upon corporatization of Government department are covered under pension rules for payment of pension from the Consolidate fund of India. It was further clarified by the DoT Hqrs that any employee formally appointed by the BSNL on or after 01.10.2000 and joined BSNL is BSNL appointee. The DoT further stated that any erroneous administrative order vide which any ineligible employee has been erroneously covered by Rule 37A of CCS (Pension) Rules is ab initio void and corrective action may be taken by passing speaking order cancelling/withdrawing the ab initio void order.

Being aggrieved, a batch of employees whose recruitment process begun before corporatization but formal appointment was made in BSNL, challenged the above-mentioned letter dated 27.02.2020 of the DoT by filing various OA Nos. 88/2023, 68/2023, 87/2023, 67/023, 86/2023, 1076/2022, 137/2023 and 961/2022 before the Ld. CAT, Chennai Bench. The said OAs were dismissed on merits by upholding the legal validity of the above-mentioned letter dated 27.02.2020 of the DoT Hqrs.

Thereafter, various Writ Petition Nos. 30234, 31611, 38589, 42795, 43595, 43780 and 44428 of 2025 and 22658 of 2026 were preferred by the original applicants before the Hon’ble High Court of Madras, which were dismissed on 29.06.2026. The Hon’ble High Court while upholding legal validity of the above-mentioned letter dated 27.02.2020 of DoT has held as under.

*“7. The issue to be considered is whether the writ petitioners have been appointed by DoT or appointed by BSNL. **Admittedly, the recruitment***

notification alone was issued by DoT on 29.05.2000, thereafter, BSNL was constituted and the selection process was in progress during that relevant point of time. Accordingly, the selection process was not completed before constitution of BSNL, nor any order of appointment was issued by DoT. Admittedly, the orders of appointment to all the writ petitioners were issued by BSNL Authorities and their probation also commenced from the date of appointment into service.

8. Regarding the service rights of the writ petitioners, the legal principles are settled. Mere issuance of recruitment notification or participation in the process of selection would not confer any right on the candidates either to seek selection or appointment. Commencement of process of selection would not confer any right to claim service benefits. Only after appointment of a candidate into service, right accrues and the date of appointment will be taken into consideration for grant of service rights to the employee.

10.Mere issuance of recruitment notification by DoT would not confer any right to claim that they are to be treated as the employees of DoT, Union of India. Such a claim is not only stale, but also not in consonance with the principles established.

12.....The writ petitioners have been continuously in service under BSNL ever since from the date of their appointments and they are BSNL employees and not absorbed personnel from DoT. Pertinently, the writ petitioners cannot be treated as absorbed employees from DoT, they have been at the roles of BSNL and governed solely by BSNL service conditions”

(k) Recently, the Hon'ble High Court of Delhi vide judgement dated 16.04.2026 in WP (Civil) No. 7270/2019 (Ram Ratan Verma & Ors versus UOI and Ors) adjudicated the similar claim of pension by the FCI recruits. The writ petition was filed by retired direct recruits of the Food Corporation of India seeking a mandamus directing the Respondents to grant them the benefit of pension on the footing that they were wrongly excluded from the regime available to the employees who had come into FCI from the **erstwhile Food Department**. FCI was established in the year 1965. The FCI Staff Regulations came into force in the year 1971. According to the Petitioners, employees recruited prior to the coming into force of those Regulations were initially governed by the Central Civil Services Rules. They

further stated that, till the year 1983, both the employees transferred from the erstwhile Food Department and the direct recruits of FCI continued on the Central Dearness Allowance pattern, with pay and allowances broadly aligned to those of Central Government employees.

Rejecting their claim, the Hon'ble High Court vide order/judgement dated [16.04.2026](#) has held as under (Relevant paras [10](#) , [20](#) and [21](#)) .

*10..... **The pensionary benefit in question extended to food transferees originated from antecedent Government service and was expressly preserved through a specific statutory arrangement.** Consequently, this benefit cannot be detached from its statutory origin and extended as a general entitlement for all employees who under FCI. The Petitioners' argument, therefore, founded on functional similarity alone is insufficient to claim pensionary benefits as a matter of legal right.*

*20. **Here, the food transferees entered FCI with antecedent Government service and were dealt with under the special statutory arrangement governing such transfer. The Petitioners, by contrast, entered as direct recruits under the Corporation's own service and provident fund framework. That difference goes to the root of the claim.** It inheres in the legal origin of the two classes and bears directly upon the source of the pensionary benefit asserted.*

*21. **Once the difference between direct recruits and food transferees of the Corporation is properly understood, the challenge under Article 14 largely loses its persuasive strength.** The Petitioners' grievance is not that there has been unequal treatment within a single, homogenous legal class, but rather that the pension-switch benefit has not been extended to them. However, this benefit originated from a different legal source and applied only to a specific class of employees governed by the Central Government CPF Rules or similar frameworks issued by the relevant administrative authorities. **Therefore, the claim is not one of discrimination within the same legal class, but of non-extension of a benefit to a class not originally contemplated within its scope.***

On merits

(i) That 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) That 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) The letter of BSNL issued during 2003, was ab initio void as wards/nominees of deceased of DTS/DTO employees were formally appointed in BSNL (which incepted upon corporatization of DTS/DTO) and not in Central Government 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.

(v) 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.

(vi) **Delay and latches:** By placing reliance upon the orders of Ld. Tribunal in Raj Kumar case, various similarly situated wards/nominees 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 laches 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 claims 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 Presidential Order (P.O.) for permanent absorption in BSNL of any employee has been issued, he may not claim pension/GPF as matter of right as the erroneous Presidential Order 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 Presidential Order 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.

(xii) **The Hon'ble High Court of Jharkhand at Ranchi in Mohd Faiyaz Ahmad & Ors versus State of Jharkhand (2025:JHHC:12879-DB)** examined the issue, where the Jharkhand Staff Selection Commission published an advertisement inviting applications for appointment on the post of Compounder and Pharmacist. As per the advertisement, the pay scale of Compounder was shown as Rs.5200-20200, Grade Pay Rs.2800. The petitioners being eligible, applied for the advertised posts. They appeared in the examination and after document verification, final result was published on 16.4.2019 where petitioners were declared successful. However, in the meanwhile, the Department, Home, Jail and Disaster Management, vide notification dated 4.9.2019 amended Rule 16 (ii) of the ***Jharkhand Para Medical Staff Cadre (Appointment, Promotion and other Service Conditions), 2016*** and reduced the pay scale of Compounder to Grade Pay Rs.1900 from Rs.2800.

It was contended by the State that the petitioners joined the post on the reduced scale of pay. Therefore, they cannot claim for a higher pay scale since the decision to reduce the scale of pay was taken before the petitioners joined the post.

By placing reliance upon observations of the Hon'ble Supreme Court in MGB Gramin Bank v. Chakrawarti Singh and Chairman, Railway Board v. C.R. Rangadhamaiah, the Court held that prior to their formal appointment, they did

not have any vested right over the higher pay scale. Due to change in policy in the meanwhile, they were appointed in lower pay scale.

It was held by the court that prior to issuance of offer of appointment the pay scale has been reduced by amending the rule. Therefore, there is no accrual of right. It was further held that no appointment letter had been issued in favour of the petitioners, when unamended rules were in force. In such a case, the pay scale cannot be granted solely on the basis of what was mentioned in the advertisement as they did not have any vested right over the higher pay scale before their actual appointment and instead, the pay scale that existed at the time of appointment will be applicable, as per the amended rules.

It is also pertinent to mention that **Ld. CAT, Chandigarh Bench in OA No. 76/2016 (Mast Ram versus BSNL)** adjudicated the akin issue, wherein the applicant (who joined BSNL against advertisement issued by the DoT) was aggrieved from conversion from GPF to EPF. He claimed restoration of GPF by inter-alia placing reliance upon advertisement for the post of Lorry Driver issued by the erstwhile DTS/DTO. The Ld. Tribunal vide order dated 28.07.2016 while dismissing the OA categorically held that merely advertisement was issued by the erstwhile DTS/DTO would not entitle the applicant for pension/GPF as the applicant was not in services as on 30.09.2000 and his appointment letter was issued by the BSNL, where he was allowed to join after 01.10.2000.

In present case, the Employer's legal authority has changed from Government (DoT) to PSU (BSNL), which was duly notified and published in the Gazette of India and also widely published in Newspapers etc. The applicant(s) was/were also aware of the above-mentioned change of position and policy decision as well as status of the Organisation (i.e BSNL, which was PSU), where the Applicants were being offered appointment, and thereafter, the Applicants accepted the appointment in BSNL. Therefore, the Applicants may not be allowed to turn back and claim the status of Government employee as the Applicants did not have vested interest on pensionable post in Government of India. Since the Applicants did not have any vested right over pension/GPF before their actual appointment in Government, they may not claim the benefits of GPF/Pension in the absence of any vested right especially when they have been formally appointed in BSNL, which is a CPSE (Not a Central Government Department).

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.

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