

File No.36-9/2002-Pen(T)Pt.
Government of India
Ministry of Communications
Department of Telecommunications
(Pension Section)

516, Sanchar Bhawan,
20, Ashoka Road, New Delhi
Dated: 12th June, 2020

OFFICE MEMORANDUM

Subject: Release of pensionary benefits to employees against whom Personal Court Case (other than departmental) is pending in the court

The undersigned is directed to refer to DoT letter No. 36-9/2002-Pen(T) dated 24.03.2003 (copy enclosed) vide which clarification was issued regarding the above mentioned subject.

2. The matter has been examined afresh and the DoT letter dated 24.03.2003 has been superseded by DoT letter No. 36-9/2002-Pen(T)Pt. dated 05.06.2020 (copy enclosed).

Encl: As above.



(Asha Wadhvani)

Under Secretary to the Govt. of India
Ph. 011 23036260

To

1. All the Pr. CCAs/ CCAs
2. DDG(Accounts). DoT, Hqrs, New Delhi.
3. Director (Accounts. I) & Director (Accounts. II), DoT, Hqrs, New Delhi.
4. ADG(Staff), DoT(HQ), for uploading the same on the DoT website.(through e-mail)

No. 36-9/2002-Pen(T)Pt.
Government of India
Ministry of Communication
Department of Telecommunication
(Pension Section)

516, Sanchar Bhawan, 20, Ashoka Road,
New Delhi-110001, dated 5th June, 2020

To,

The Chairman and Managing Director,
Bharat Sanchar Nigam Ltd (BSNL),
Bharat Sanchar Bhavan, Harish Chandra Mathur Lane,
Janpath, New Delhi-110 001.

Subject: Release of Pensionary benefits to employees against whom Personal Court Case (other than departmental) is pending in the court.

Sir,

This refers BSNL letters No. 1-15/2019-PAT (BSNL) (Part) dated 30.01.2020, No. 22-22/2017/General/Vol.I dated 5.7.2018 mentioned therein, and earlier references from BSNL on the subject.

2. The matter has been examined in light of the advice rendered by Department of Pension & Pensioners' Welfare vide ID Note No. 4-9/2018-Vig.I (pt) dated 28.09.2018 (copy enclosed).

3. Department of Pension & Pensioners' Welfare vide the above referred ID Note - on the question whether judicial proceedings initiated against a Government servant by the state police on the basis of a complaint by a private party for any action other than in any official capacity would come under the ambit of Rule 69 of CCS (Pension) Rules 1972 - conveyed the following:

(a) If a Government servant is convicted during the period of service, action is taken under Rule 19 of the CCS (CCA) Rules and a penalty under Rule 11 of the CCS (CCA) Rules is imposed. Such action under said Rules is taken irrespective of whether the conviction is on account of charges connected with his official capacity or otherwise. Once a Government servant retires, action cannot be taken against him under CCS (CCA) Rules. After retirement, if the Government servant is found guilty of misconduct during service action can be taken under Rule 9(i) of the CCS (Pension) rules and his pension/ gratuity can be withhold/ withdrawn.

(b) DoP&PW is of the view that all misconduct under CCS (Conduct) Rules for which the Government servant could be punished under the CCS (CCA) Rules, during the period of service would be covered by the provisions of Rule 9 and Rule 69 of the CCS (Pension) Rules, 1972. Therefore, after retirement, in cases where the judicial proceedings for any act during service (whether in official capacity or otherwise) which could be termed as misconduct under the provisions of CCS (Conduct) Rules are continued after retirement, such judicial proceedings shall come under the purview of Rule 9 and Rule 69 of CCS (Pension) Rules, 1972.

Asht
5/6/20

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4. The applicability of the above advice on other cases of similar nature has been examined. In view of the explicit advice rendered by Department of Pension & Pensioners' Welfare reproduced above, the previous DoT letter No. 36-9/2002-Pen(T) dated 24.03.2003 in this regard is hereby superseded by the above advice rendered by Department of Pension & Pensioners' Welfare.

5. As regards the applicability of the above to VRS optees under BSNL VRS-2019, it is to intimate that there is no ruling for any differential treatment to these retirees.

6. This issues with the approval of Secretary (T).

Encl: As above.

Ash
5/6/20

(Asha Wadhvani)

Under Secretary to the Govt. of India

Ph. 011 2303 6260

To

1. The CVO, DoT for information and record.
2. The CMD, MTNL, 9 CGO Complexes, 5th Floor, Lodhi Road, New Delhi for similar necessary action.

Note No. #3

Department of Pension & Pensioners' Welfare
[Desk-A]

Ref. preceding notes of D/o Telecommunications.

2. It has been stated that an FIR was filed on 01.05.2013 against Shri P.K. Srivastava, PGM, BSNL, by Ms. Jagrani Rastogi, the then JTO, BSNL, alleging sexual harassment and the case is under trial in the court of Shri Manjeet Pal, JMFC, Faridabad. Shri Srivastava retired on superannuation on 31.7.2018.

3. As per Rule 9 (i) of the CCS (Pension) Rules, the President reserves to himself the right of withholding/withdrawing pension or gratuity or both, if, in any departmental or judicial proceedings the pensioner is found guilty of grave misconduct or negligence during the period of service. Rule 9 (4) read with Rule 69, further provides that in the case of Government servant against whom departmental/judicial proceedings are continued after retirement, a provisional pension shall be sanctioned to him and no gratuity shall be paid until the conclusion of the departmental/judicial proceedings and issue of final orders thereon.

4. DoT has sought advice/clarification whether judicial proceedings initiated against a Government servant by the state police (Haryana Police in this case) on the basis of a complaint by a private party for any action other than in any official capacity would come under the ambit of Rule 69 of CCS (Pension) Rules, 1972.

5. In this connection, it may be mentioned that if a Government servant is convicted during the period of service, action is taken under Rule 19 of the CCS (CCA) Rules and a penalty under Rule 11 of the CCS (CCA) Rules is imposed. Such action under CCS (CCA) Rules is taken irrespective whether the conviction is on account of charges connected with his official capacity or otherwise. Once a Government servant retires, action cannot be taken against him under CCS (CCA) Rules. After retirement, if the Government servant is found guilty of misconduct during service action can be taken under Rule 9 (i) of the CCS (Pension) Rules, referred to above and his pension/gratuity can be withhold/withdrawn.

6. This Department is of the view that all acts of misconduct under CCS (Conduct) Rules for which the Government servant could be punished under the CCS (CCA) Rules, during the period of service would be covered by the provisions of Rule 9 and 69 of the CCS (Pension) Rules. Therefore, after retirement, in cases where the judicial proceedings for any act during service (whether in official capacity or otherwise) which could be termed as misconduct under the provisions of CCS (Conduct) rules are continued after retirement, such judicial proceedings shall come under the purview of Rule 9 and 69 of the CCS (Pension) Rules.

7. We may advise DoT as above. We may also advise them to obtain legal advice from Department of Legal Affairs in this regard.

(S R. Malhotra)
U S (A)/28.05.2018