

Admn.I Section
Corporate Office
Bharat Sanchar Bhawan
New Delhi



भारत संचार निगम लिमिटेड
(भारत सरकार का उपक्रम)
BHARAT SANCHAR NIGAM LIMITED
(A Govt. of India Enterprise)

No. BSNL/Admn.I/15-5/07

Dated: October 22, 2009
38

Office Memorandum

Sub: Extension of CGHS benefits to PSU absorbees.

Department of Health and Family Welfare have extended CGHS benefits to PSU absorbees vide their OM No. C-14012/11/2003-CGHS-Desk I dated 18th August 2009. Copy of the OM enclosed for reference. As per the directions in the OM, the contributions to be made will be decided by the Grade Pay that they would now have drawn in the Government in the post held by them but for their absorption in the PSU. The instructions shall be followed in the cases of CGHS optees.


(J.P. Meena)

Assistant General Manager (Admn.I)
Tel. No. 23037241 fax No. 23734260

To

1. All the CGMs, BSNL
2. PS to CMD, PPS/PS to all Directors/EDs of BSNL Board
3. All PGMs/GMs, CS & GM (Legal), BSNL Corporate Office
4. DG P&T Audit
5. All recognised Associations/ unions of BSNL.

C.14012/11/2003-CGHS-Desk I
Ministry of Health & Family Welfare
Department of Health & Family Welfare

Nirman Bhawan, New Delhi
Dated the 18th August, 2009

OFFICE MEMORANDUM

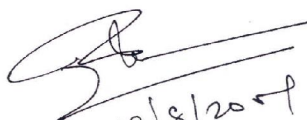
SUBJECT: Extension of CGHS benefits to PSU absorbees.

The Government of India, as per its' the policy, created many CPSUs to cater to the needs of various sectors of the economy and industry. Officials working in different Ministries were permitted to proceed to CPSUs on deputation basis initially and according to their option either got absorbed in the CPSU or returned back to the Ministry / Department from where they proceeded on deputation. In respect of Government servants who opted to get absorbed in CPSUs, were allowed to commute 100% of their pension, as per the provisions contained in the then Rule 37-A of CCS (Pension) Rules, 1972.

2. After receipt of the lump sum commuted amount, the pensioner stood to loose 1/3rd portion of his pension for his entire life. Aggrieved by the lapsing of 1/3rd portion of the pension for life, Common Cause, a Society in the field of social service, filed a Petition in the Hon'ble Supreme Court of India, which vide its judgement dated 9th December, 1986, in Writ Petition Nos. 3958-61 of 1983 ordered that Central Government Pensioners governed by CCS (Commutation of Pension) Rules, 1981, and other corresponding commutation rules and who had commuted the admissible portion of the pension were entitled to have the commuted portion restored on the expiry of 15 years from the date of retirement. By way of implementing the judgement of the Hon'ble Supreme Court, Department of Pensions and Pensioners' Welfare issued an Office Memorandum No. 34/2/86-P&PW on 23rd June, 1987. Para 4 of the Office Memorandum mentioned that the restoration of the commuted amount will not be applicable to those CPSU absorbees who had commuted 100% of their pension as they were not 'pensioners' because they were not receiving any pension from the Government.

3. Aggrieved, again, by the denial of the restoration of pension by the Department of Pensions and Pensioners' Welfare, a group of PSU absorbees approached the Hon'ble Supreme Court for restoration of full pension, medical facility, etc. After going through the rule position, the Hon'ble Supreme Court held that PSU absorbees who had commuted 100% of the pension stood on a different pedestal when it came to the balance portion of pension left after the commutation of 1/3rd portion of the pension in as much as they have surrendered their right to draw 2/3rd portion of the pension in lieu of receipt of a lump sum amount. Based on the order of Hon'ble Supreme Court, the Department of Pensions and Pensioners' Welfare issued orders for restoration of 1/3rd portion of commuted pension of PSU absorbees. The Hon'ble Supreme Court vide its order dated the 1st May, 1998, ordered that PSU absorbees along with the restoration of 1/3rd portion of the pension were entitled to other attendant benefits.

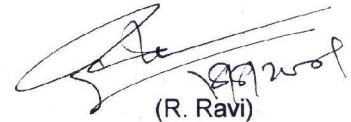
4. In the case of PSU absorbees, who had commuted 100% of their pension, they do not draw any pension for fifteen years and start getting 1/3rd portion of their pension with


18/8/2009

dearness relief on 100% of their notionally fixed pension. PSU absorbees who had commuted 100% of their pension were not extended CGHS facility, as they were not availing CGHS facility at the time of their retirement from the PSUs. Shri G. Jayaraman, a PSU absorbee, filed an OA, No: 628 / 2004, in the Central Administrative Tribunal, Chennai, requesting for the extension of CGHS facility to him. CAT, Chennai Bench, vide its order dated the 15th September, 2005, ordered that since the applicant has become a pensioner after the restoration of 1/3rd portion of his pension, he is entitled to CGHS facility. The decision of Chennai Bench of CAT was first challenged by the Government, first in the High Court of Judicature in Chennai and then in the Hon'ble Supreme Court. The Hon'ble Supreme Court dismissed the SLP, No: 21225/2007 by its order dated the 9th February, 2009.

5. The matter has been examined in consultation with the Ministry of Law & Justice and IFD in the Ministry of Health & Family Welfare and it has been decided with the approval of the competent authority that CGHS facility may be extended to those PSU absorbees who had commuted 100% of their pension and they have been restored 1/3rd portion of their pension after 15 years in terms of the order of the Hon'ble Supreme Court of India dated the 1st May, 1998, referred to above. The contributions to be made will be decided by the Grade Pay that they would now have drawn in the Government in the post held by them but for their absorption in the PSU

6. This issues with the concurrence of IFD (Health), vide Dy. No: 892/AS&FA dated the 26th May, 2009.



(R. Ravi)

Deputy Secretary to the Government of India
(Telefax: 2306 3483)

To

1. Director, CGHS, Nirman Bhawan, New Delhi
2. All Pay and Accounts Officers under CGHS
3. Additional Directors / Joint Directors of CGHS outside Delhi
4. Secretary (AR & PG & Pension & Pensioners' Welfare), Sardar Patel Bhawan (5th Floor), Parliament Street, New Delhi 110 001.
5. Deputy Secretary (Civil Service News), Department of Personnel & Training, 5th Floor, Sardar Patel Bhawan, New Delhi
6. Swamy Publishers (P) Ltd., P. B. No.2468, R. A. Puram, Chennai- 600028.
7. M/s Bahri Brothers, 742 Lajpat Rai Market, Delhi 110 006
8. Shri Umraomal Purohit, Secretary, Staff Side, 13-C, Ferozshah Road, New Delhi 110 001
9. All Staff Side members of National Council (JCM).
10. NIC, Nirman Bhawan with the request that the Office Memorandum be uploaded in the website of CGHS.
11. Office Order folder
12. Guard file