4.0 FITMENT BENEFIT OF 78.2% IN REVISED PAY SCALES W.E.F. 1.1.2007:

4.1 We need to recollect all that happened ever since the DPE orders on Second Pay revision for Executives and Non-unionised supervisors of CPSEs were issued on 26.11.2008. We need not overemphasize the fact that it was AIBSNLOA which first pointed out the deficiency in DPE orders dated and wrote to DPE. In its letter dated 8.12.2008, AIBSNLOA wrote that, "Further, as per the order issued by DPE, the fitment will now be uniform @ 30 % on basic pay plus DA at 68.8% as on 01-01-2007. Now w.e.f. 01-01-2007, 50% of DA is merged with basic pay in most of CPSEs. Thus on 01-01-2007, an Executive was actually drawing his basic pay in the scale + 50 % D.P. + 18.8 % DA on pay plus DP. That is, they were drawing, in effect 9.4 % of pay more due to DA merger. But the 2nd Pay Revision Committee did not consider the DA merger while suggesting fitment formula and had recommended fitment benefit of 30 % on basic pay plus 68.8% DA only. And this fitment benefit recommended by 2nd Pay Revision Committee has been accepted by the Government without any improvement. It is worth mentioning here that the 6th Central Pay Commission also recommended a fitment benefit on basic pay plus 74% DA on 01-01-2006 for all Central Government Employees and did not take into consideration the DA merger for fitment. It has even specifically stated that DA merger is not taken for pay fixation. But the Government improved over the recommendation of the 6th Central Pay Commission for Central Government Employees in respect of fitment formula. It took the DA merger into consideration and allowed a multiplication factor of 1.86 as against the multiplication factor of 1.74 recommended by 6th CPC and added the grade pay which was 40 % of maximum of the pay band. Unfortunately, such an improvement on fitment formula has not been considered by the Government for the Executives of CPSEs. In view of the above stated position, the DA merger needs to be considered for fitment benefit in respect of all the CPSEs where 50% of DA was merged. In respect of other CPSEs where merger did not take place, the same fitment formula can be applied by considering as if the DA merger had taken place."

4.2 Subsequently the Associations of Oil PSU officers and employees went on a strike on various issues which included the above demand. Although the Government acted harsh trying to crush the strike, it constituted a Group of Ministers to go into the issues raised in the strike. On the recommendations of the GoM, the Department of Public Enterprises, vide its O M No. 2(70)/08-DPE(WC)-GLVII/09 dated 02.04.2009 issued certain modifications to its earlier O.M. dated 26.11.2008 introducing revised IDA pay scales for the Board level & below Board level posts including non-unionized supervisors in the CPSEs. In its O.M. dated 02.04.2009, had conveyed its decision under Para 2 sub-Para i) that,

"Benefit of merger of 50% DA with Basic Pay for fitment purpose: The benefit of merger of 50% DA with Basic Pay w.e.f.01.01.2007, **effectively amounting to 78.2%,** would be allowed for the purpose of fitment and pay fixation in the revised pay scales (para 2 (i) of DPE O.M. dated 26.11.2008)." and under Para 3 that,

"Government has also decided that benefits under this O.M. read with the earlier decision as conveyed vide O.M. dated 26.11.2008 and 09.02.2009 has to be viewed as a total package. It has also been decided that the pay revision package as communicated by earlier O.Ms. along with **the above modifications would be applicable to all the CPSEs**."

4.3 We took up the matter immediately with BSNL, DoT and then the MoC. But BSNL was in no mood to implement the DPE instructions. The two Executive Associations which had the facilities and patronage of the BSNL Management chose not to raise the issue. In a joint letter to the then CMD they wrote on 13.8.2009: "**Yes, if for the moment we are playing down so many genuine requirements of ours including the implementation of DPE O.M. dated 02.04.2009 for 78.2% IDA fitment, perks on revised pay scales etc. it is not because of our weakness but because of our immense strength, both moral and physical. Yes, it takes great Associations to convince its members to put the interest of this Company before their own interests, genuine, though they be**."

4.4 In September 2009 the two associations had a meeting with Director (HR), which was reported as a meeting to discuss the bonus issue. **But information from their own camp revealed that the Management wanted downward revision of 30% fitment benefit if 78.2% is approved and the two associations agreed not to press for 78.2% for not reducing 30% fitment benefit**. We exposed this in our write-up 'Guru-3' which was never disputed. The non-executive representative association also, while signing an agreement for pay revision later in the year 2009 also failed to clinch the issue, with a clause added to the agreement that "as and when BSNL management decides for 78.2% DA merger for executives, the same benefit may be extended to non-executives also." Justifying the addition of the clause, the representative union wrote that, "**Due to the present financial situation, the BSNL management restricted this fitment benefit to 30% on pay + 68.8% DA. But due to our struggles and pressure, the management agreed to consider the issue of granting 30% fitment benefit on pay +78.2% DA after some time, for executives and non-executives together. Hence this clause is added in the agreement. In case the management agrees for this, our revised pay will further increase.**" It is worth mentioning that, at the time of signing of the agreement, BSNL had earned a profit of 575 crores.

4.5 While AIBSNLOA had been taking up the issue with BSNL, DoT, the DPE and the MoC time and again, others maintained a studied silence on this issue. The two Executive associations enjoying the facilities and patronage of the Management now and then raised the issue during agitations but every time agreed that it will be settled when BSNL's financial position improved. On 2.12.2010 they withdrew the strike based on an agreement with the Management, that "**On the issue of Benefit of 50% IDA merger in pay fixation (effectively amounting to 78.2%), CMD BSNL informed that the case has been deliberated in the 130th meeting of the Board held on 25.8.2010 wherein the Board taking into account all the pros and cons decided to defer the implementation of the benefit of 50% of IDA merger for pay fixation till the Company's financial position improves considerably and there are visible signs of recovery. On further insistence by the JAC members, CMD requested the union leaders to provide fresh inputs on this issue which could be examined by the management before submitting the case to BSNL Board for its consideration."** NFTE reported that on 6.7.2010 constituents of the JAC had a meeting with the committee formed for the purpose under the Chairmanship of Shri S.R.Kapoor the then ED (Finance) **wherein the management proposed 78.2% merger benefit without arrears but the JAC rejected this proposal**.

4.6 On 13.6.2012, these unions and associations signed an agreement with the management that

"1. Revision of pay is agreed as per fitment benefit @ 78.2% w.e.f. 1.1.2007 subject to approval by the competent authority. However actual payment will be made prospectively and arrears thereof will be deferred for the time being and will be paid only

when the financial position of the company improves. This will be applicable for the Pensioners also.
2.Medical reimbursement with voucher for outdoor treatment, Professional Upgradation Allowance and HRA will continue to be paid at basic pay with 68.8% fitment. Payment of these allowances will be reviewed on 1.4.2013, subject to financial position of the company.
4.7 But the DoT, the competent authority was not willing to approve the proposal, observing that, "**DPE's O.M. dated 26.11.2008 as well as 02.04.2009 on revision of pay for Board level and below board level executives/non-executives stipulates that lower limits against the maximum prescribed limit can be provided in the Presidential Directives depending upon affordability, capacity to pay and sustainability of the concerned CPSE**." AIBSNLOA alone reacted sharply vide its letter dated 7.2.2013 that, "DoT has conveniently omitted the first line which states regarding the **uniform fitment benefit of 30% on basic pay** plus DA @ 68.8% as on 1.1.2007 (Para 2 (i) of DPE O.M. dated 26.11.2008). **The freedom given to the CPSE concerned to prescribe a lower ceiling limit other than 30% was as on 1.1.2007 only and not from a subsequent date. BSNL was certainly earning profit on 1.1.2007 and therefore there was no question of prescribing a lower limit and hence 30% fitment benefit was given. No CPSE was given any freedom to continue with 68.8% by the DPE." 4.8** Then, the DoT tried to delay the issue by referring the matter to BRPSE (Bureau for Rehabilitation of Public Sector Enterprises) unwarrantedly. AIBSNLOA took up the matter with the BRPSE strongly rebutting DoT's move and pointing out that, "**granting of fitment formula amounting to 78.2% of DA is not a case of further pay revision. This is actually to implement the DPEs Order on the subject correcting the mistake in its original Order for pay revision concerning the fitment benefit which was wrongly prescribed as 68.8% of DA.** DPE has given no option to the PSUs to give fitment benefit of either 68.2% of 78.2% or DA.

"As per the operational modalities for BRPSE, on reference by the administrative Ministry, other loss making CPSEs can be considered by BRPSE if it is of the opinion that revival/restructuring is necessary for checking the incipient sickness (incurring loss for two consecutive years) and making the CPSE profitable, keeping the industry specific business environment in view. **Thus it would be seen that BRPSE can advise the CPSE on revival/restructuring strategies and not on implementing earlier directions of DPE on pay related matter."**

4.9 Finally DoT issued the Presidential directive on 10.6.2013 that, "Accordingly in partial modification of this Department's order dated 27.2.2009, the benefit of merger of 50% DA effectively amounting to 78.2% as on 1.1.2007 for the purpose of fitment in respect of the Board level & below Board lever executives and Non-unionised Supervisors and Non-executives of BSNL is hereby allowed from the date of issue of this order. **No arrears will be paid** and the revised fitment on the basis of DPE OM dated 2.4.2009 will be paid with prospective effect only."

4.10 The unions and association which had signed the agreement on 13.6.2012 for **deferment of arrears** silently accepted the DoT stipulation that '**no arrears will be paid'** and withdrew their call for agitation from 12.6.2013. Subsequently BSNL issued orders disallowing the benefit of 78.2% fixation for Medical reimbursement with voucher for outdoor treatment, Professional Upgradation Allowance, HRA and other allowances, although the Presidential directive did not lay down such condition.

4.11 AIBSNLOA alone has taken up with DoT that arrears cannot be denied and different fixation method cannot be allowed for pay and for other allowances. We have pointed out that, "Under Para 6 of its OM No.2 (70)/08-DPE (WC) dated 26.11.2008, the DPE, while conveying the Government decisions of the revised pay scales recommended by the II PRC, has specified that, "Dearness Allowance: 100% DA neutralization will be adopted for all the executives and non-unionised supervisors, who are on IDA pattern of scales of pay, w.e.f. 01.01.2007." Thus DoT itself has violated the DPE instructions by denying payment of benefit of 50% merger of IDA, with effect from 1.1.2007, thereby denying 100% neutralization by ordering that no arrears will be paid."

4.12 After allowing the management to delay the benefit of 50% IDA merger effectively amounting to 78.2% w.e.f. 1.1.2007 for years together and now agreeing to forego the arrears, these unions and associations claim this to be a major achievement, forgetting that 78.2% is the compensation provided to us for price rise and not a pay hike.

4.13 Since the Presidential directive allows the benefit of merger of 50% DA effectively amounting to 78.2% as on 1.1.2007 for the purpose of fitment in revised pay scales, all those who were in service on 1.1.2007 are eligible for revised pay fixation. Consequently all those who retired after 1.1.2007 but before the date of issue of Presidential directive viz.10.6.2013 are eligible for revised pensionary benefits. AIBSNLOA therefore took up the issue with CMD BSNL. But the unions and associations of serving as well as retired employees have sought to create confusion by propagating different modalities allowing BSNL and DoT to deny the fixation benefit as on 1.1.2007 to the retired employees. One Executive Association even proposed that actual payment on the basis of revised fixation may be made for the last month on which an employee retires, seeking to further complicate the issue. But later it changed tag and has fallen in line with our stand. **We would like to recollect that confusion in similar manner was created for revision of pension for pre-2007 pensioners after second pay revision, wherein these associations proposed pension revision in CDA scale. Later they had to make amends and whirl around to our consistent view that pension revision has to be in IDA scales only.**

4.14 Recently DoT in its Action Taken Report on the minutes of the 22nd meeting of SCOVA () has stated that 'The proposal for revision of pension/ family pension of pre-2007 and post-2007 BSNL IDA pensioners/family pensioners by allowing the benefit of merger of 50% of DA/DR effectively amounting to 78.2% as on 01.01.2007 **w.e.f 10.06.2013** based on the pay revision of BSNL serving employees w.e.f. 10.06.2013 is under consideration.' We have reacted strongly to this unlawful and patent discrimination.

4.15 All the complications in this regard are a result of the agreement entered into without foresight by the unions and associations. AIBSNLOA believes that there is no justification for denial of arrears on this count. We will continue our efforts to have the benefit with arrears from 1.1.2007 ensured.

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