

Challenging Finance Act 2025 as Unconstitutional

The S 30 pensioners have successfully made their WP listed in the SC on 23-5-2025. One can understand the felt urgency of other CG pensioners' Associations joining the court rooms with S30, but fail to understand the interests shown by BSNL absorbed Combined Pensioners joining this chorus. BSNL pensioners are not at all in the ambit of the provisions of this Act which clearly defines who are the pensioners, for whom the act is framed. So their spending at this juncture is sheer wastage of money.

The prayer of S 30 is on three aspects. They want their Delhi judgment upheld by SC dated 4-10-2024 must be implemented with arrears, also with 12 % interest for the delayed period. The other aspect is praying an appropriate writ or order declaring “ validation of CCS pension rules and principles for Expenditure on pension liabilities from the consolidated fund of India “ as inserted by the Finance Act as unconstitutional, ultra vires, and illegal. This only becomes a hurdle for them to get their Delhi judgment implemented.

The point missed by many is, this validating act validated the complete parity OM 12-5-2017 also without any prejudice, and the benefits obtained by the past pensioners as on 1-1-2016 untouched.

When one accepts CCS Pension Rules which have been in operation since 1972 and subsequently 2021, then how the validation of the same becomes illegal , ultra vires and unconstitutional .

One can understand ‘questioning the Govt.’ on the issue of distinction, because there was an option to seek complete parity as per pay matrix; like that of existing pensioners to the past pensioners given vide its OM May 12, 2017. But one should also understand, it was the recommendation of 7 th CPC only, implemented by this same government. Up to 7th CPC, and even in the 7th CPC , the distinction between existing pensioners and past pensioners as per the cutoff date was also there vide OM 4-8-2016. The distinction was, while existing pensioners got their change of pension through pay revision, the past pensioners got pension revision as per the recommendation.

What is the issue or main contention?

Treatment of existing and past pensioners- right to impose distinctions

Govt's felt 'Necessity to deal with the interpretation of the courts' and to address the issue relating to pensioners of the Central Government and expedient to retain the relevance of having such distinction by validation legislation, dealing with pension rules and instructions issued from time to time in this regard.

How distinctions emanate?

May be as per recommendations of CPC; one as Pay revision to the existing pensioners and the other pension revision to the past pensioners on a particular cutoff date.

So the distinction emanates - On the date of retirement or the date of operationalisation of an accepted recommendation of a CPC

The central govt checked the distinctions prevailed all along as per various CPCs and OMs issued and validated the same through this Act.

Though the Act has its power brought to CG retrospectively back from 1972, previous court cases or the benefits accrued and implemented as per the directions on or after 1972 till the date of enactment of this act viz 29-3-2025 were untouched by this Act. But citing them in the future cases becomes questionable by this act.

To validate means ...

- To make officially acceptable or approved, especially after examining it
- To state or show that something is legal or official
- To prove or confirm that it is true or correct
- To put mark on to show that it has been checked and is official
- Validate implies establishing validity by authoritative affirmation or by factual proof

This act only defines who is a pensioner vide its Para 148 a , b.- and **as per this definition BSNL combined service Retirees getting pension as per CCS pension rules are not covered in this act. Spending money for an ACT which is not directly involving is not a prudent act.**

BSNL absorbed pensioners were already distinct pensioners since 1-10-2000, comparing the CG Retirees pensioners. No new distinction is found amongst them. There was also distinction maintained amongst BSN Combined Service Pensioners on 1-1-2007 between the existing and past pensioners on that date. So distinctions were there. The Gov. is validating the distinctions amongst C.G. Pensioners thro this act, challenging the court cases that smashed distinctions. Even after Nagara case, the distinctions between existing and past pensioners were there till 7th CPC OM dated 12-5-2017.

Govt. has power to legislate and bring an ACT. Court may challenge that as per their wisdom of the constitution. Govt. may set the gaps filled and enact a new one. This one is cyclic in any democratic republic. Associations can exercise their democratic right to challenge the Govt. or lower courts. Relevance of doing is debatable in any organization...

As usual I understand my limitations, that does not also mean that I am undermining the worth of my views.

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